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Active State Medical Marijuana Programs

Alaska | California | Colorado | District of Columbia | Hawaii | Maine | Maryland | Michigan | Montana | Nevada | New Jersey | New Mexico | Oregon | Rhode Island | Vermont | Washington

Alaska

SUMMARY: Fifty-eight percent of voters approved Ballot Measure #8 on November 3, 1998. The law took effect on March 4, 1999. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess written documentation from their physician advising that they "might benefit from the medical use of marijuana." Patients diagnosed with the following illnesses are afforded legal protection under this act: *cachexia*; *cancer*; *chronic pain*; *epilepsy and other disorders characterized by seizures*; *glaucoma*; *HIV or AIDS*; *multiple sclerosis and other disorders characterized by muscle spasticity*; and *nausea*. Other conditions are subject to approval by the Alaska Department of Health and Social Services. Patients (or their primary caregivers) may legally possess no more than one ounce of usable marijuana, and may cultivate no more than six marijuana plants, of which no more than three may be mature. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients.

The medical use provisions in Alaska do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: Yes.

Senate Bill 94, which took effect on June 2, 1999, mandates all patients seeking legal protection under this act to enroll in the state patient registry and possess a valid identification card. Patients not enrolled in the registry will no longer be able to argue the "affirmative defense of medical necessity" if they are arrested on marijuana charges.

MEDICAL MARIJUANA STATUTES: Alaska Stat. §§ 17.37.10 - 17.37.80 (2007).

CONTACT INFORMATION: For more information on Alaska's medical marijuana law, please contact:

Alaskans for Medical Rights
P.O. Box 102320
Anchorage, AK 99510
(907) 277-AKMR (2567)

Application information for the Alaska medical marijuana registry is available by writing or calling:

Alaska Department of Health and Social Services
P.O. Box 110699
Juneau, AK 99811-0699
(907) 465-5423
Attention: Terry Ahrens
terry_ahrens@health.state.ak.us

California

SUMMARY: Fifty-six percent of voters approved Proposition 215 on November 5, 1996. The law took effect the following day. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess a "written or oral recommendation" from their physician that he or she "would benefit from medical marijuana." Patients diagnosed with any debilitating illness where the medical use of marijuana has been "deemed appropriate and has been recommended by a physician" are afforded legal protection under this act. Conditions typically covered by the law include but are not limited to: *arthritis*; *cachexia*; *cancer*; *chronic pain*; *HIV or AIDS*; *epilepsy*; *migraine*; and *multiple sclerosis*. No set limits regarding the amount of marijuana patients may possess and/or cultivate were provided by this act, though the California Legislature adopted guidelines in 2003.

The medical use provisions in California do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: Yes. Senate Bill 420, which was signed into law in October 2003 and took effect on January 1, 2004, imposes statewide guidelines outlining how much medicinal marijuana patients may grow and possess. Under the guidelines, qualified patients and/or their primary caregivers may possess no more than eight ounces of dried marijuana and/or six mature (or 12 immature) marijuana plants. However, S.B. 420 allows patients to possess larger amounts of marijuana when such quantities are recommended by a physician. The legislation also allows counties and municipalities to approve and/or maintain local ordinances permitting patients to possess larger quantities of medicinal pot than allowed under the new state guidelines.

Senate Bill 420 also mandates the California Department of State Health Services to establish a voluntary medicinal marijuana patient registry, and issue identification cards to qualified patients. To date, however, no such registry has been established.

Senate Bill 420 also grants implied legal protection to the state's medicinal marijuana dispensaries, stating, "Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients ... who associate within the state of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions."

MEDICAL MARIJUANA STATUTES: California Compassionate Use Act 1996, Cal. Health & Saf. Code, § 11362.5 (1996) (codifying voter initiative Prop. 215).

Cal. Health & Saf. Code, §§ 11362.7 - 11362.83 (2003) (codifying SB 420).

CONTACT INFORMATION: For more information on California's medical marijuana law, please contact:

California NORML
2215-R Market Street #278
San Francisco, CA 94144
(415) 563-5858
http://www.canorml.org/

For detailed information on county or municipal medical marijuana guidelines, please visit: http://www.canorml.org/prop/local215policies.html

For a list of California doctors who recommend medical cannabis, please visit:

www.canorml.org/prop/215physicians.html

For a list of California medical cannabis providers, please visit:
www.canorml.org/prop/cbclist.html

http://www.canorml.org/prop/local215policies.html

Colorado

SUMMARY: Fifty-four percent of voters approved Amendment 20 on November 7, 2000, which amends the state's constitution to recognize the medical use of marijuana. The law took effect on June 1, 2001. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess written documentation from their physician affirming that he or she suffers from a debilitating condition and advising that they "might benefit from the medical use of marijuana." (Patients must possess this documentation prior to an arrest.) Patients diagnosed with the following illnesses are afforded legal protection under this act: *cachexia*; *cancer*; *chronic pain*; *chronic nervous system disorders*; *epilepsy and other disorders characterized by seizures*; *glaucoma*; *HIV or AIDS*; *multiple sclerosis and other disorders characterized by muscle spasticity*; and *nausea*. Other conditions are subject to approval by the Colorado Board of Health. Patients (or their primary caregivers) may legally possess no more than two ounces of usable marijuana, and may cultivate no more than six marijuana plants. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients. Patients who do not join the registry or possess greater amounts of marijuana than allowed by law may argue the "affirmative defense of medical necessity" if they are arrested on marijuana charges.

The medical use provisions in Colorado do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: Yes. House Bill 1284, signed into law on June 7, 2010, establishes state provisions regulating medical cannabis dispensaries. The law requires medical marijuana dispensing facilities to obtain state and local licensing approval and to be in compliance with all local zoning codes. Dispensaries must pay a state licensing fee, shall be located no closer than 1,000 feet from a school or daycare (municipalities have the authority to issue exemptions to this rule), and operators must oversee the cultivation at least 70 percent of the marijuana dispensed at the center. Licensed dispensary owners will be required to undergo criminal background checks by the state.

House Bill 1284 imposes a statewide moratorium on the establishment of new dispensaries, beginning in July 2010. HB 1284 also grants local municipalities the authority to prohibit the establishment of dispensaries in their community. Individual caregivers are legally permitted to provide medical cannabis for up to five patients in localities that have formally banned dispensaries.

Full text of the law is available here.

AMENDMENTS: Yes. Senate Bill 109, signed into law on June 7, 2010, limits the authority of physicians to recommend cannabis therapy to patients with which the doctor has had a prior counseling relationship.

Full text of the law is available here.

MEDICAL MARIJUANA STATUTES: C.O. Const. art. XVIII, §14 (2001) (codified as §0-4-287 art. XVIII).

Colo. Rev. Stat. § 18-18-406.3 (2001) (interpreting the provisions of the ballot initiative and

constitutional amendment).

Colo. Rev. Stat. § 25-1.5-106 (2003) (originally enacted as § 25-1-107(1)(jj) (2001)) (describing the powers and duties of the Colorado Department of Public Health).

CONTACT INFORMATION: Application information for the Colorado medical marijuana registry is available online or by writing:

Colorado Department of Public Health and Environment
HSVR-ADM2-A1
4300 Cherry Creek Drive South
Denver, CO 80246-1530
Phone: 303-692-2184
http://www.cdphe.state.co.us/hs/medicalmarijuana/fullpacket.pdf

District of Columbia

SUMMARY: D.C. Council Members enacted legislation in May 2010 authorizing the establishment of regulated medical marijuana dispensaries in the District of Columbia. On Monday, July 26, members of Congress allowed the measure to become law without federal interference.

The law amends the Legalization of Marijuana for Medical Treatment Initiative, a 1998 municipal ballot measure which garnered 69 percent of the vote yet was never implemented. Until 2010, D.C. city lawmakers had been barred from instituting the measure because of a Congressional ban on the issue. Congress finally lifted the ban in 2009.

Under the law, D.C. Health Department officials will oversee the creation of as many as eight facilities to dispense medical cannabis to authorized patients. Medical dispensaries would be limited to growing no more than 95 plants on site at any one time.

Both non-profit and for-profit organizations will be eligible to operate the dispensaries.

Qualifying D.C. patients will be able to obtain medical cannabis at these facilities, but will not be permitted under the law to grow their own medicine. Patients diagnosed with the following illnesses are afforded legal protection under this act: *HIV or AIDS; glaucoma; conditions characterized by severe and persistent muscle spasms, such as multiple sclerosis; cancer; or any other condition, as determined by rulemaking, that is: "(i) chronic or long-lasting; "(ii) debilitating or interferes with the basic functions of life; and (iii) A serious medical condition for which the use of medical marijuana is beneficial: (I) That cannot be effectively treated by any ordinary medical or surgical measure; "(II) For which there is scientific evidence that the use of medical marijuana is likely to be significantly less addictive than the ordinary medical treatment for that condition.* The maximum amount of medical marijuana that any qualifying patient may possess at any moment is 2 ounces of dried medical marijuana, though this limit is subject to revision by the Mayor.

A separate provision enacted as part of the 2011 D.C. budget calls for the retail sales of medical cannabis to be subject to the District's six percent sales tax rate. Low-income will be allowed to purchase medical marijuana at a greatly reduced cost under the plan.

It will likely be several months before Health officials establish a patient registry and/or begin accepting applications from the public to operate the City's medical marijuana production and distribution centers.

The medical use provisions in the District of Columbia do not include reciprocity provisions protecting visitors from other medical use states.

CONTACT INFORMATION: DC City Council Committee on Health or DC Department of Health

Hawaii

SUMMARY: Governor Ben Cayetano signed Senate Bill 862 into law on June 14, 2000. The law took effect on December 28, 2000. The law removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess a signed statement from their physician affirming that he or she suffers from a debilitating condition and that the "potential benefits of medical use of marijuana would likely outweigh the health risks." Patients diagnosed with the following illnesses are afforded legal protection under this act*: cachexia*; *cancer*; *chronic pain*; *Crohn's disease*; *epilepsy and other disorders characterized by seizures*; *glaucoma*; *HIV or AIDS*; *multiple sclerosis and other disorders characterized by muscle spasticity*; and *nausea*. Other conditions are subject to approval by the Hawaii Department of Health. Patients (or their primary caregivers) may legally possess up to 3 ounces of usable marijuana, and may cultivate no more than seven marijuana plants, of which no more than three may be mature. The law establishes a mandatory, confidential state-run patient registry that issues identification cards to qualifying patients.

The medical use provisions in Hawaii do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: No, although Hawaii has a separate statute allowing patients arrested on marijuana charges to present a "choice of evils" defense arguing that their use of marijuana is medically necessary.

MEDICAL MARIJUANA STATUTES: Haw. Rev. Stat. §§ 329-121 to 329-128 (2008).

CONTACT INFORMATION: Administrative rules for Hawaii's medical marijuana program are available online from the Drug Policy Forum of Hawaii website at: http://www.dpfhi.org/

Application information for the Hawaii medical marijuana registry is available by writing or calling:

Hawaii Department of Public Safety
919 Ala Moana Boulevard
Honolulu, HI 96814
(808) 594-0150

Maine

SUMMARY: Sixty-one percent of voters approved Question 2 on November 2, 1999. The law took effect on December 22, 1999. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess an oral or written "professional opinion" from their physician that he or she "might benefit from the medical use of marijuana." Patients diagnosed with the following illnesses are afforded legal protection under this act: *epilepsy and other disorders characterized by seizures*; *glaucoma*; *multiple sclerosis and other disorders characterized by muscle spasticity*; and *nausea or vomiting as a result of AIDS or cancer chemotherapy.* Patients (or their primary caregivers) may legally possess no more than one and one-quarter ounces of usable

marijuana, and may cultivate no more than six marijuana plants, of which no more than three may be mature. Those patients who possess greater amounts of marijuana than allowed by law are afforded a "simple defense" to a charge of marijuana possession. The law does not establish a state-run patient registry.

RECIPROCITY: Yes. Authorizes visiting qualifying patient with valid registry identification card (or its equivalent), to engage in conduct authorized for the registered patient (the medical use of marijuana) for 30 days after entering the State, without having to obtain a Maine registry identification card. Visiting qualifying patients are not authorized to obtain in Maine marijuana for medical use. Me. Rev. Stat. Tit. 22, §2423-D (2010).

AMENDMENTS: Yes. Senate Bill 611, which was signed into law on April 2, 2002, increases the amount of useable marijuana a person may possess from one and one-quarter ounces to two and one-half ounces. Question 5, approved by 59 percent of voters on November 3, 2009, mandates the Department of Health to enact rules within 120 days establishing a confidential patient registry and identification card system, and allowing for the dispensing of medicinal cannabis via state-licensed nonprofit dispensaries. The act also expands the list of qualifying illnesses for which a physician may recommend medical cannabis to include: "A. cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail-patella syndrome or the treatment of these conditions; B. a chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months; C. a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or D. any other medical condition or its treatment approved by the department as provided." Read the full text.

ADDITIONAL AMENDMENTS: Yes.

LD. 1811, signed into law on April 9, 2010, authorizes the creation of up to eight nonprofit medical cannabis dispensaries – one for each of the state's public health districts. Under the measure, dispensaries may legally "acquire, possess, cultivate, manufacture, deliver, transfer, transport, sell, supply or dispenses marijuana or related supplies and educational materials" to state-authorized medical marijuana patients. The Maine Department of Health and Human Services will oversee the licensing of these facilities.

The law also requires, for the first time, that authorized patients join a confidentially state registry. Cardholding patients will not be subject to “arrest, prosecution or penalty in any manner, including but not limited to a civil penalty or disciplinary action by any business or occupational or professional licensing board or bureau, or denied any right or privilege,” for their possession, use, or cultivation of authorized amounts of medical cannabis (2 and one-half ounces and/or six plants).

Full text of the law is available here.

MEDICAL MARIJUANA STATUTES: Me. Rev. Stat. tit. 22, § 2383-B(5), (6) (1999) (amended 2001).

Me. Rev. Stat. tit. 22, § 2383-B(3)(e) (amended 2001) (increasing amount of marijuana a patient may posses to two and one-half ounces).

CONTACT INFORMATION: Brochures outlining Maine’s medical marijuana law are available from:

www.mainecommonsense.org

Maine Citizens for Patients Rights
PO Box 1074
Lewiston, ME 04243

Maryland

SUMMARY: Maryland's legislature passed a medical marijuana affirmative defense law in 2003. This law requires the court to consider a defendant's use of medical marijuana to be a mitigating factor in marijuana-related state prosecution. If the patient, post-arrest, successfully makes the case at trial that his or her use of marijuana is one of medical necessity, then the maximum penalty allowed by law would be a $100 fine.

MEDICAL MARIJUANA STATUTES: Maryland Darrell Putman Compassionate Use Act, Md. Code Ann., Crim. Law §5-601(c)(3)(II) (2003).

Michigan

SUMMARY: Sixty-three percent of voters approved Proposal 1 on November 4, 2008. The law took effect on December 4, 2008. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess written documentation from their physicians authorizing the medical use of marijuana. Patients diagnosed with the following illnesses are afforded legal protection under this act: *Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella*, or the treatment of these conditions. Patients are also offered legal protection if they have *a chronic or debilitating disease or medical condition or treatment of said condition that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis*. Patients (or their primary caregivers) may possess no more than 12 marijuana plants kept in an enclosed, locked facility or 2.5 ounces of usable marihuana. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients. The state officially began accepting applications for the program on April 6, 2009.

RECIPROCITY: Yes. Authorizes visiting qualifying patient with registry identification card (or its equivalent) from a State that also allows the medical use of marijuana by visiting qualifying patients, to engage in the medical use of marijuana. Also authorizes a person to assist with a visiting qualifying patient's medical use of marijuana. Mich. Comp. Law § 333.26424(j) (2008).

(other state, district, territory, commonwealth, or insular possession of the U.S. must offer reciprocity to have reciprocity in Michigan)

AMMENDMENTS: Yes

Administrative rules for the program took effect on April 4, 2009. A copy of the regulations is available here.

MEDICAL MARIJUANA STATUTES: Michigan Medical Marihuana Act, Mich. Comp. Law §§ 333.26421 - 333.26430 (2008).

CONTACT INFORMATION:

Michigan Medical Marihuana Program (MMMP)
Michigan.gov/mmp

Michigan Medical Marijuana Association
http://michiganmedicalmarijuana.org/

Montana

SUMMARY: Sixty-two percent of voters approved Initiative 148 on November 2, 2004. The law took effect that same day. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess written documentation from their physicians authorizing the medical use of marijuana. Patients diagnosed with the following illnesses are afforded legal protection under this act: *cachexia or wasting syndrome; severe or chronic pain; severe nausea; seizures, including but not limited to seizures caused by epilepsy; or severe or persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis or Crohn's disease.* Patients (or their primary caregivers) may possess no more than six marijuana plants. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients.

Valid medical marijuana registry cards from other medical marijuana states are recognized in this state, so long as the cardholder is in compliance with the possession limits imposed on cardholders in this state.

RECIPROCITY: Yes. Authorizes qualifying patient with registry identification card (or its equivalent) to engage in the medical use of marijuana. Also authorizes a person to assist with a qualifying patient's medical use of marijuana. Mont. Code Ann. §50-46-201(8) (2009).

AMENDMENTS: No

MEDICAL MARIJUANA STATUTES: Montana Medical Marijuana Act, Mont. Code Ann. §§ 50-46-1 to 50-46-2 (2007).

CONTACT INFORMATION: www.dphhs.mt.gov/medicalmarijuana/

Nevada

SUMMARY: Sixty-five percent of voters approved Question 9 on November 7, 2000, which amends the states' constitution to recognize the medical use of marijuana. The law took effect on October 1, 2001. The law removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who have "written documentation" from their physician that marijuana may alleviate his or her condition. Patients diagnosed with the following illnesses are afforded legal protection under this act: *AIDS; cancer; glaucoma*; and *any medical condition or treatment to a medical condition that produces cachexia, persistent muscle spasms or seizures, severe nausea or pain*. Other conditions are subject to approval by the health division of the state Department of Human Resources. Patients (or their primary caregivers) may legally possess no more than one ounce of usable marijuana, and may cultivate no more than seven marijuana plants, of which no more than three may be mature. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients. Patients who do not join the registry or possess greater amounts of marijuana than allowed by law may argue the "affirmative defense of

medical necessity" if they are arrested on marijuana charges.

The medical use provisions in Nevada do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: No.

MEDICAL MARIJUANA STATUTES: Nev. Rev. Stat. §§ 453A.010 - 453A.240 (2008).

CONTACT INFORMATION: Application information for the Nevada medical marijuana registry is available by writing or calling:

Nevada Department of Health and Human Services, Nevada State Health Division
1000 East Williams St., Ste. 209
Carson City, NV 89701
775-687-7590
Contact: Jennifer

New Jersey

SUMMARY: Governor Jon Corzine signed the New Jersey Compassionate Use Medical Marijuana Act into law on January 18, 2010. As initially passed, the law was scheduled to take effect in July 2010. However, lawmakers in June amended the legislation at the behest of Republican Gov. Chris Christie to delay the enactment of the law until October 1, 2010. The law mandates the state to promulgate rules governing the distribution of medical cannabis to state-authorized patients. These rules shall address the creation of up to six state-licensed "alternative treatment centers." Patients diagnosed with the following illnesses are afforded legal protection under this act: *cancer, glaucoma, seizure and/or spasticity disorders (including epilepsy), Lou Gehrig's disease, multiple sclerosis, muscular dystrophy, HIV/AIDS, inflammatory bowel disease (including Crohn's disease), any terminal illness if a doctor has determined the patient will die within a year.* Other conditions are subject to approval by the state Department of Health. Patients authorized to use marijuana under this act will not be permitted to cultivate their own cannabis, and are limited to the possession of two ounces of marijuana per month. Additional information on this measure is available here.

The medical use provisions in New Jersey do not include reciprocity provisions protecting visitors from other medical use states.

FOR MORE INFORMATION:

New Jersey NORML
http://www.normlnj.org

Coalition for Medical Marijuana — New Jersey
http://www.cmmnj.org/

New Mexico

SUMMARY: Governor Bill Richardson signed Senate Bill 523, "Lynn and Erin Compassionate Use Act," into law on April 2, 2007. The new law took effect on July 1, 2007. The law mandates the state Department of Health by October 1, 2007, to promulgate rules governing the use and distribution of medical cannabis to state-authorized patients. These rules shall address the creation

of state-licensed "cannabis production facilities," the development of a confidential patient registry and a state-authorized marijuana distribution system, and "define the amount of cannabis that is necessary to constitute an adequate supply" for qualified patients.

The medical use provisions in New Mexico do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: Yes. In January 2009, the New Mexico Department of Health finalized rules governing the production, distribution, and use of medicinal cannabis under state law. Patients registered with the state Department of Health and who are diagnosed with the following illnesses are afforded legal protection under these rules:

- Arthritis
- Severe chronic pain
- Painful peripheral neuropathy
- Intractable nausea/vomiting
- Severe anorexia/cachexia
- Hepatitis C infection currently receiving antiviral treatment
- Crohn's disease
- Post-traumatic Stress Disorder
- Amyotrophic Lateral Sclerosis (Lou Gehrig's disease)
- Cancer
- Glaucoma
- Multiple sclerosis
- Damage to the nervous tissue of the spinal cord with intractable spasticity
- Epilepsy
- HIV/AIDS
- Hospice patients

Other conditions are subject to approval by the Department of Health. Patients may legally possess six ounces of medical cannabis (or more if authorized by their physician) and/or 16 plants (four mature, 12 immature) under this act.

State regulations also authorize non-profit facilities to apply with the state to produce and dispense medical cannabis. State licensed producers may grow up to 95 mature plants at one time.

Patient applicant information is available here [PDF].

Applications for nonprofit providers are available here [PDF].

MEDICAL MARIJUANA STATUTES: Lynn and Erin Compassionate Use Act, N.M. Stat. Ann. § 30-31C-1 (2007).

CONTACT INFORMATION: Please contact the Medical Cannabis Program Coordinator at (505) 827-2321 or medical.cannabis@state.nm.us or visit www.nmhealth.org/marijuanahtml for more information.

Oregon

SUMMARY: Fifty-five percent of voters approved Measure 67 on November 3, 1998. The law took effect on December 3, 1998. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess a signed recommendation from their physician stating that marijuana "may mitigate" his or her debilitating symptoms. Patients diagnosed with the

following illnesses are afforded legal protection under this act: *cachexia*; *cancer*; *chronic pain*; *epilepsy and other disorders characterized by seizures; glaucoma*; *HIV or AIDS*; *multiple sclerosis and other disorders characterized by muscle spasticity*; and *nausea*. Other conditions are subject to approval by the Health Division of the Oregon Department of Human Resources. Patients (or their primary caregivers) may legally possess no more than three ounces of usable marijuana, and may cultivate no more than seven marijuana plants, of which no more than three may be mature. The law establishes a confidential state-run patient registry that issues identification cards to qualifying patients. Patients who do not join the registry or possess greater amounts of marijuana than allowed by law may argue the "affirmative defense of medical necessity" if they are arrested on marijuana charges.

The Oregon law does not include a reciprocity provision**.** However, the Oregon Court of Appeals has ruled (and the Oregon Medical Marijuana Program has confirmed) that patients from out of state are permitted to register with the Oregon Medical Marijuana Program to obtain a registry identification card, the same as an Oregon resident, which will protect them from arrest or prosecution while in Oregon. These out of state patients are required to obtain a recommendation for the medical use of marijuana from an Oregon licensed physician. *State v. Berringer,* 229 P3d 615 (2010).

AMENDMENTS: Yes.

House Bill 3052, which took effect on July 21, 1999, mandates that patients (or their caregivers) may only cultivate marijuana in one location, and requires that patients must be diagnosed by their physicians at least 12 months prior to an arrest in order to present an "affirmative defense." This bill also states that law enforcement officials who seize marijuana from a patient pending trial do not have to keep those plants alive. Last year the Oregon Board of Health approved agitation due to *Alzheimer's disease* to the list of debilitating conditions qualifying for legal protection.

In August 2001, program administrators filed established temporary procedures further defining the relationship between physicians and patients. The new rule defines attending physician as "a physician who has established a physician/patient relationship with the patient; … is primarily responsible for the care and treatment of the patients; … has reviewed a patient's medical records at the patient's request, has conducted a thorough physical examination of the patient, has provided a treatment plan and/or follow-up care, and has documented these activities in a patient file."

Also, Senate Bill 1085, which took effect on January 1, 2006, raises the quantity of cannabis that authorized patients may possess from seven plants (with no more than three mature) and three ounces of cannabis to six mature cannabis plants, 18 immature seedlings, and 24 ounces of usable cannabis. However, those state-qualified patients who possess cannabis in amounts exceeding the new state guidelines will no longer retain the ability to argue an "affirmative defense" of medical necessity at trial. Patients who fail to register with the state, but who possess medical cannabis in amounts compliant with state law, still retain the ability to raise an "affirmative defense" at trial.

Other amendments to Oregon's medical marijuana law redefine "mature plants" to include only those cannabis plants that are more than 12 inches in height and diameter, and establish a state-registry for those authorized to produce medical cannabis to qualified patients.

MEDICAL MARIJUANA STATUTES: Oregon Medical Marijuana Act, Or. Rev. Stat. § 475.300 (2007).

CONTACT INFORMATION: Application information for the Oregon medical marijuana registry is available online or by writing:

Oregon Department of Human Services
800 NE Oregon St.
Portland, OR 97232
(503) 731-4000

http://egov.oregon.gov/DHS/ph/ommp/index.shtml

Oregon Cannabis Patients registry: 1 (877) 600-6767

Oregon NORML Medical Marijuana Act Handbook (PDF)

Rhode Island

SUMMARY: The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act took effect immediately upon passage on January 3, 2006. The law removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess "written certification" from their physician stating, "In the practitioner's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient." Patients diagnosed with the following illnesses are afforded legal protection under this act: cachexia; cancer; glaucoma; Hepatitis C; severe, debilitating, chronic pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or Crohn's Disease; or agitation of Alzheimer's Disease. Other conditions are subject to approval by the Rhode Island Department of Health. Patients (and/or their primary caregivers) may legally possess 2.5 ounces of cannabis and/or 12 plants, and their cannabis must be stored in an indoor facility. The law establishes a mandatory, confidential state-run patient registry that issues identification cards to qualifying patients. Patients who do not register with the Department of Health, but have received certification from their physician to use medicinal cannabis, may raise an affirmative defense at trial.

RECIPROCITY: Yes. Authorizes a patient with a debilitating medical condition, with a registry identification card (or its equivalent), to engage in the medical use of marijuana. Also authorizes a person to assist with the medical use of marijuana by a patient with a debilitating medical condition. R.I. Gen. Laws § 21-28.6-4(k) (2006).

AMENDMENTS: Yes.

In June 2007, the Rhode Island House and Senate enacted legislation eliminating the sunset clause of the The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, making the provisional program permanent

ADDITIONAL AMENDMENTS: Yes,

In 2009, lawmakers enacted legislation authorizing the establishment of state-licensed not-for-profit 'compassion centers' to "acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers." The Rhode Island Department of Health will oversee the licensing and regulating of these facilities. Copies of the regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island, on the Department's website: http://www.health.ri.gov/ or the Secretary of State's website: http://www.sos.ri.gov/rules/, by calling 401-222-7767 or by e-mail to Bill.Dundulis@health.ri.gov.

ADDITIONAL AMENDMENTS: Yes.

In 2010, lawmakers enacted legislation, House Bill 8172, ensuring the confidentiality of medical marijuana patients' records. The law states, in part, "Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and

practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall be exempt from the provisions of the RIGL chapter 38-2 et seq. the Rhode Island access to public records act and not subject to disclosure, except to authorized employees of the department as necessary to perform official duties of the department."

MEDICAL MARIJUANA STATUTES: The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. Gen. Laws § 21-28.6 (2006).

CONTACT INFORMATION: http://www.health.state.ri.us/
Application Forms are available at www.health.ri.gov/hsr/mmp/index.php or by visiting room 104 at the Health Department, 3 Capitol Hill, Providence.

More helpful information can be found here: http://ripatients.org/.

Vermont

SUMMARY: Senate Bill 76became law without Gov. James Douglas' signature on May 26, 2004. The law takes effect on July 1, 2004. The law removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients diagnosed with a "debilitating medical condition." Patients diagnosed with the following illnesses are afforded legal protection under this act: HIV or AIDS, cancer, and Multiple Sclerosis. Patients (or their primary caregiver) may legally possess no more than two ounces of usable marijuana, and may cultivate no more than three marijuana plants, of which no more than one may be mature. The law establishes a mandatory, confidential state-run registry that issues identification cards to qualifying patients.

The medical use provisions in Vermont do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: Yes.

Senate Bill 7, which took effecton JULY 1, 2007, expands the definition of "debilitating medical condition" to include: "(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or (B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome; severe pain; severe nausea; or seizures."

The measure also raises the quantity of medical cannabis patients may legally possess under state law from one mature and/or two immature plants to two mature and/or seven immature plants. Senate Bill 7 also amends state law so that licensed physicians in neighboring states can legally recommend cannabis to Vermont patients.

MEDICAL MARIJUANA STATUTES: Therapeutic Use of Cannabis, Vt. Stat. Ann. tit. 18, §§ 4471- 4474d (2003).

CONTACT INFORMATION:

Marijuana Registry
Department of Public Safety
03 South Main Street
Waterbury, Vermont 05671

802-241-5115
www.safeaccessnow.org/article.php?id=2012

Washington

SUMMARY: Fifty-nine percent of voters approved Measure 692 on November 3, 1998. The law took effect on that day. It removes state-level criminal penalties on the use, possession and cultivation of marijuana by patients who possess "valid documentation" from their physician affirming that he or she suffers from a debilitating condition and that the "potential benefits of the medical use of marijuana would likely outweigh the health risks." Patients diagnosed with the following illnesses are afforded legal protection under this act: *cachexia*; *cancer*; *HIV or AIDS*; *epilepsy*; *glaucoma*; *intractable pain* (defined as pain unrelieved by standard treatment or medications); and *multiple sclerosis*. Other conditions are subject to approval by the Washington Board of Health. Patients (or their primary caregivers) may legally possess or cultivate no more than a 60-day supply of marijuana. The law does not establish a state-run patient registry.

The medical use provisions in Washington do not include reciprocity provisions protecting visitors from other medical use states.

AMENDMENTS: Yes.

Senate Bill 6032, mandated the Department of Health to "adopt rules defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients." In October 2008, the department finalized guidelines allowing patients to cultivate up to 15 cannabis plants and/or possess up to 24 ounces of usable marijuana. The new limits took effect on November 2, 2008.

Patients who possess larger quantities of cannabis than those approved by the Department will continue to receive legal protection under the law if they present evidence indicating that they require such amounts to adequately treat their qualifying medical condition.

Senate Bill 6032 also affirmed changes previously recommended by the state's Medical Quality Assurance Commission to expand the state's list of qualifying conditions to include Crohn's disease, hepatitis c, and any "diseases, including anorexia, which results in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, and/or spasticity, when these symptoms are unrelieved by standard treatments or medications."

It also limits the ability of police to seize medicinal cannabis that is "determined ... [to be] possessed lawfully [by an authorized patients] under the ... law."

ADDITIONAL AMMENDMENTS: Yes.

Senate Bill 5798 allows additional health care professionals including naturopaths, physician's assistants, osteopathic physicians, osteopathic physicians assistants, and advanced registered nurse practitioners to legally recommend marijuana therapy to their patients. The new law will take effect on June 10, 2010

MEDICAL MARIJUANA STATUTES: Wash. Rev. Code §§ 69.51A - 69.51A.901 (2007).

CONTACT INFORMATION: Fact sheets outlining Washington's medical marijuana law are available from:

Washington State Department of Health
1112 SE Quince St.

P.O. Box 47890
Olympia, WA 98504-7890
(800) 525-0127 or (360) 236-4052
Attention: Glenda Moore
http://www.doh.wa.gov/

ACLU of Washington, Drug Reform Project
(206) 624-2184
http://www.aclu-wa.org/detail.cfm?id=182

California Senate Bill 420 (HS 11362.7)
Medical Marijuana Implementation

- Benefits of state law change are retroactive
- Read the text of SB 420
- Read the amended text passed in June, 2004
- Analysis: A green light for cities and counties to adopt more equitable guidelines
- Published statement of legislative intent from the authors of SB 420
- Effect on charges of HS 11359, possession with intent to distribute
- Collectives and charges of HS 11359, possession with intent to distribute
- Learn the status of current California legislation

AUTHOR(S): Vasconcellos (Principal co-author: Assembly Member Leno).

Safe Access Now sees many beneficial sections in the bill, including that it empowers communities to adopt scientific guidelines. However, SAN is concerned that the unrealistic floor amounts in section HS 11362.77 are being misconstrued and treated as a *de facto* ceiling in most counties, despite the CA Supreme Court's *Wright Decision* that they are a floor. This makes it more important than ever that local people work to get their own cities and counties to adopt the reasonable SAN garden guidelines. The author's letter of legislative intent supports increasing those floor amounts to make life easier for patients and caregivers.

Proposition 215 now HS11362.5, the voter approved law, did not protect people from arrest, it gives them a defense in Court. The CA Supreme Court in the Mower Decision interpreted that to mean any amount reasonably related to the patients medical need. That standard still applies and supercedes SB 420.

Bill Status: SB 420

Passed 9/20/03, signed by Governor 10/13/2003, effective January 1, 2004

TITLE: An act to add Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

Bill history / Full text / Letter of Legislative Intent

Overview and analysis of SB 420

SB 420 was a compromise that considered much input from patients and reformers. It clears up certain implementation issues surrounding Prop 215 (HS11362.5) and formulates a voluntary system to protect patients from arrest. It sets biased and unrealistic standards as the default baseline for protection, but also empowers localities to adopt scientific local medical marijuana guidelines.

SB 420 positive effects:

• SB 420 recognizes all patient's rights as embodied in Prop 215 as summarized in SB420 Section 1(a)(1)

• Participation in the voluntary ID program is not a requirement for full protection under Prop 215 11362.71(f)

• It asserts medical marijuana as a matter of states rights 420 (1)(e)

• It extends the power of recommendation/approval to osteopaths 11362.7(a)

• It allows agencies to provide medical marijuana to qualified patients 11362.7(d)(2)

• It allows caregivers to have more than one patient in the same county 11362.7(d)(3)

• It allows caregivers to have one out-of-county patient 11362.7(d)(3)

• It creates a protective and completely voluntary 1-year photo ID program for participating patients and/or caregivers. 11362.71(a)(1)

• It provides "around the clock" validation of participation in the program when police confront a patient or caregiver 11362.71(a)(2)

• It allows non-governmental agencies to process the cards 11362.71(c)

• It promises confidentiality of records 11362.71(d)(1)

• It stops arrests -- not just prosecution -- of card-holding individuals for possession, transportation, delivery or cultivation up to a very minimal level of 6 mature plants per patient and 8 oz of bud or conversion (that could arguably be hash or hash oil, or equivalent amounts of foods and tinctures, which have a lot of liquid weight) 11362.71(e)

• It includes the right for an individual to appeal if rejected for a patient ID card 11362.74 (b)

• It gives Medi-Cal patients a 50% fee discount 11362.755(a)

• It allows transportation and processing (HS 11360) 11362.765 (b)

• It reduces the risk of a patient being charged with intent to sell (11359) maintaining a place where cannabis is produced, provided or used (HS11366, 11366.5, 11570) 11362.765(b)

• It allows reimbursement for a caregiver's material and labor 11362.765(c)

• It empowers physicians to grant exemptions for quantities 11362.77 (b)

• It allows communities to adopt more realistic amounts but does not allow them to go below the "floor" amounts 11362.77(c)

• It codifies the medical use of dried cannabis flowers rather than leaf 11362.77(d)

• It opens the door for us to work with the AG to amend these levels upward 11362.77(e)

• It recognizes collectives and coop gardens, without regard to county boundaries 11362.775

• It requires police to comply with these provisions 11362.78

• It recognizes that inmates can use medical marijuana 11362.785(c)

• It exempts patients in their homes from the penalties associated with using cannabis within 1000 feet of a school 11362.79(b)

• It enables parolees, defendants and probates to retain full access to MMJ 11362.795

• It criminalizes breach of confidentiality (eg., gives patient info to the feds) 11362.81(b)(4)

SB 420 negative effects:

• SB420 creates a wholly voluntary card system that may become "de facto" mandatory by legitimizing some patients at a higher level than others (i.e., if you have a card you get more respect)

• It sets a wholly inadequate default guideline limit of 8 ounces of dry bud and 6 mature OR 12 immature plants, which is not scientific or reasonable. While it allows counties to increase these amounts, again these may become "de facto" limits that counties adopt rather than use scientific SAN guidelines.

Legislative Intent Regarding SB 420

September 10, 2003

The Honorable John Burton
President pro Tempre of the Senate
State Capitol, Room 205, Sacramento, CA 95814

Re: Legislative Intent Regarding SB 420 (as amended September 4, 2003)

JOHN --

In order to clarify the Legislature's intent in enacting Senate Bill 420, I respectfully request that this letter be published in the Senate Daily Journal.

Fully recognizing that **Proposition 215 cannot be amended by the Legislature**, we have resisted all efforts to make the new identification card system created by SB 420 mandatory &endash; and at least two times SB 420 contains specific language declaring our intent that **this program is wholly voluntary**.

In addition, **the guidelines in SB 420 establish permissible amounts that are intended to be the threshold, and not a ceiling**.

Furthermore, SB 420 specifically **allows localities with higher possession or cultivation amounts to retain them, and other local jurisdictions to establish new guidelines to exceed what has been set forth** in this bill. No jurisdiction may establish amounts lower than those set forth in SB 420.

Altogether, we believe that our final version of SB 420 is the very best we could hope to get enacted into law and that it provides (pursuant to the California voters' will in enacting Proposition 215) broad protection to tens of thousands of ill Californians without jeopardizing any ill Californians.

Thank you for allowing us to clarify our legislative intent regarding SB 420.

Sincerely,

JOHN VASCONCELLOS / MARK LENO
Senator, 13th District / Assemblyman, 13th District

BILL NUMBER: SB 420 -- BILL TEXT

INTRODUCED FEBRUARY 20, 2003 BY Senator Vasconcellos

PASSED SENATE SEPTEMBER 11, 2003

PASSED ASSEMBLY SEPTEMBER 10, 2003

(Principal coauthor: Assembly Member Leno. Coauthors: Assembly Members Goldberg, Hancock, and Koretz)

An act to add Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 420, Vasconcellos. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a patient, or to a patient' s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

This bill would require the State Department of Health Services to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and would establish procedures under which a qualified patient with an identification card may use marijuana for medical purposes. The bill would specify the department's duties in this regard, including developing related protocols and forms, and establishing application and renewal fees for the program.

The bill would impose various duties upon county health departments relating to the issuance of identification cards, thus creating a state-mandated local program.

The bill would create various crimes related to the identification card program, thus imposing a state-mandated local program. This bill would authorize the Attorney General to set forth and clarify details concerning possession and cultivation limits, and other regulations, as specified. The bill would also authorize the Attorney General to recommend modifications to the possession or cultivation limits set forth in the bill. The bill would require the Attorney General to develop and adopt guidelines to ensure the security and nondiversion of marijuana grown for medical use, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that no reimbursement is required by this act for specified reasons.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) On November 6, 1996, the people of the State of California enacted the Compassionate Use Act of 1996 (hereafter the act), codified in Section 11362.5 of the Health and Safety Code, in order to allow seriously ill residents of the state, who have the oral or written approval or recommendation of a physician, to use marijuana for medical purposes without fear of criminal liability under Sections 11357 and 11358 of the Health and Safety Code.

(2) However, reports from across the state have revealed problems and uncertainties in the act that have impeded the ability of law enforcement officers to enforce its

provisions as the voters intended and, therefore, have prevented qualified patients and designated primary caregivers from obtaining the protections afforded by the act.

(3) Furthermore, the enactment of this law, as well as other recent legislation dealing with pain control, demonstrates that more information is needed to assess the number of individuals across the state who are suffering from serious medical conditions that are not being adequately alleviated through the use of conventional medications.

(4) In addition, the act called upon the state and the federal government to develop a plan for the safe and affordable distribution of marijuana to all patients in medical need thereof.

(b) It is the intent of the Legislature, therefore, to do all of the following:

(1) Clarify the scope of the application of the act and facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers.

(2) Promote uniform and consistent application of the act among the counties within the state.

(3) Enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.

(c) It is also the intent of the Legislature to address additional issues that were not included within the act, and that must be resolved in order to promote the fair and orderly implementation of the act.

(d) The Legislature further finds and declares both of the following:

(1) A state identification card program will further the goals outlined in this section.

(2) With respect to individuals, the identification system established pursuant to this act must be wholly voluntary, and a patient entitled to the protections of Section 11362.5 of the Health and Safety Code need not possess an identification card in order to claim the protections afforded by that section.

(e) The Legislature further finds and declares that it enacts this act pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution.

SEC. 2. Article 2.5 (commencing with Section 11362.7) is added to Chapter 6 of Division 10 of the Health and Safety Code, to read:

Article 2.5. Medical Marijuana Program

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

(b) "Department" means the State Department of Health Services.

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

(1) Acquired immune deficiency syndrome (AIDS).

(2) Anorexia.

(3) Arthritis.

(4) Cachexia.

(5) Cancer.

(6) Chronic pain.

(7) Glaucoma.

(8) Migraine.

(9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

(10) Seizures, including, but not limited to, seizures associated with epilepsy.

(11) Severe nausea.

(12) Any other chronic or persistent medical symptom that either:

(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

(1) The name of the person, and proof of his or her residency within the county.

(2) Written documentation by the attending physician in the person' s medical records stating that the person has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate.

(3) The name, office address, office telephone number, and California medical license number of the person's attending physician.

(4) The name and the duties of the primary caregiver.

(5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

(1) A conservator with authority to make medical decisions.

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

11362.72. (a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county' s designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

11362.735. (a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

(1) A unique user identification number of the cardholder.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.

(5) Photo identification of the cardholder.

(b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.

11362.74. (a) The county health department or the county's designee may deny an application only for any of the following reasons:

(1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.

(2) The county health department or the county's designee determines that the information provided was false.

(3) The applicant does not meet the criteria set forth in this article.

(b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county's designee or by a court of competent jurisdiction.

(c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the department. The county health department or the county's designee shall make available a telephone number or address to which the denied applicant can direct an appeal.

11362.745. (a) An identification card shall be valid for a period of one year.

(b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed. (c) The county health department or the county's designee shall transmit its determination of approval or denial of a renewal to the department.

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the

department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

11362.76. (a) A person who possesses an identification card shall:

(1) Within seven days, notify the county health department or the county's designee of any change in the person's attending physician or designated primary caregiver, if any.

(2) Annually submit to the county health department or the county' s designee the following:

(A) Updated written documentation of the person's serious medical condition.

(B) The name and duties of the person's designated primary caregiver, if any, for the forthcoming year.

(b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.

(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county's designee.

(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county's designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

Click here to read the amended language passed by the legislature in 2004:

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient' s medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.

(f) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana consistent with this article.

11362.775. Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

11362.785. (a) Nothing in this article shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of

employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) Nothing in this article shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the medical use of marijuana.

11362.79. Nothing in this article shall authorize a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of the following circumstances:

(a) In any place where smoking is prohibited by law.

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

(c) On a schoolbus.

(d) While in a motor vehicle that is being operated.

(e) While operating a boat.

11362.795. (a) (1) Any criminal defendant who is eligible to use marijuana pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medical marijuana while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medical marijuana, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medical marijuana.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medical marijuana pursuant to Section 11362.5 may request that he or she be allowed to use medical marijuana during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medical marijuana was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medical marijuana, the parolee may request a modification of the conditions of the parole to authorize the use of medical marijuana.

(3) Any parolee whose request to use medical marijuana while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

11362.8. No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of marijuana to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars ($1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars ($1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute marijuana.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), any person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996.

11362.82. If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs mandated by the state because this act includes additional revenue that is specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate, within the meaning of Section 17556 of the Government Code.

* ***Footnotes to the above:***

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

11366.5. (a) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

(b) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly allows the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the sale of any amount of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide and who obtains excessive profits from the use of the building, room, space, or enclosure shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who violates subdivision (a) after previously being convicted of a violation of subdivision (a) shall be punished by imprisonment in the state prison for two, three, or four years.

(d) For the purposes of this section, "excessive profits" means the receipt of consideration of a value substantially higher than fair market value.

11570. Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division, and every building or place wherein or upon which those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

Medical Marijuana Research program

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering marijuana as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Marijuana Research Program. (2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana. (b) The program may immediately solicit proposals for research projects to be included in the marijuana studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding marijuana's general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on marijuana.

(3) Proposals shall contain provisions for a patient registry. (4) Proposals shall contain provisions for an information system

that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on marijuana, addressing patients diagnosed with the acquired immunodeficiency syndrome (AIDS) or the human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of marijuana.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research

under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.
(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.
(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.
(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.
(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.
(f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.
(g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, marijuana. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.
(h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.
(i) The marijuana studies shall employ state-of-the-art research methodologies.
(j) The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.
(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.
(l) (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana.
(2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.
(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as

encouraging or sanctioning the social or recreational use of marijuana.
(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.
(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.
(n) In order to maximize the scope and size of the marijuana studies, the program may do any of the following:
(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the marijuana studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.
(2) Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.
(o) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the marijuana studies.
(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:
(A) The names and number of diseases or conditions under study.
(B) The number of patients enrolled in each study by disease.
(C) Any scientifically valid preliminary findings.
(p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.
(q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section. (r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act..

CA: Benefits of law change are retroactive

The argument is made in California State Court that although criminal penalties are not retroactive, any beneficial change in law can be retroactively applied in criminal cases.

People v. Rossi , 18 Cal.3d 295[Crim. No. 19292. Supreme Court of California. November 10, 1976.]

THE PEOPLE, Plaintiff and Respondent, v. SHEILA ISABELLE ROSSI, Defendant and Appellant

(In Bank. Opinion by Tobriner, J., with Wright, C. J., Mosk and Sullivan, JJ., concurring. Richardson, J., concurred in the judgment. Separate dissenting opinion by Clark, J., with McComb, J., concurring.)

COUNSEL

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OPINION

TOBRINER, J.

Defendant appeals from a judgment of conviction entered after a nonjury trial in which the court found her guilty of five counts charging violation of section 288a of the Penal Code. Defendant contends that her conviction should be reversed because, before the conviction became final, the Legislature amended section 288a of the Penal Code so as to legalize her conduct. We conclude that in light of the intervening amendment the conviction must be reversed.

The relevant facts are undisputed. Defendant, a part-time instructor in psychology at UCLA, is a married woman with two children. During the filming of several low-budget movies, she committed several sexual acts which constituted violations of former section 288a. fn. 1 After the trial court rendered its judgment of conviction, it suspended proceedings and placed defendant on probation for three years. Defendant has appealed.

At the time defendant committed the charged acts, Penal Code section 288a broadly proscribed all oral copulation, even between consenting adults. fn. 2 On January 1, 1976, after the rendition of judgment but before its finality by the lapse of the period for appeal, amended section 288a took effect. (Stats. 1975, ch. 71, § 10, p. 134; Stats. 1975, ch. 877, § 2, p. 1958.) The People concede that the acts which defendant committed are not criminal under section 288a as amended. fn. 3

At common law, a statute mitigating punishment applied to acts committed before its effective date as long as no final judgment had been rendered. (See People v. Hayes (1894) 140 N.Y. 484 [35 N.E. 951].) Similarly, when a statute proscribing certain designated acts was repealed without a saving clause, all prosecutions for such act that had not been reduced to final judgment were barred. (United States v. [18 Cal.3d 299] Schooner Peggy (1801) 5 U.S. (1 Cranch) 103, 110 [2 L.Ed. 49, 51] (Marshall, C. J.).) Until a decade ago, however, a line of California cases -- primarily Court of Appeal decisions -- had interpreted the general saving clause embodied in Government Code section 9608 fn. 4 and its predecessors as completely abrogating these common law rules. fn. 5

In In re Estrada (1965) 63 Cal.2d 740 [48 Cal.Rptr. 172, 408 P.2d 948], this court undertook an extensive review of this entire line of authority and concluded that the earlier cases had improperly extended the application of Government Code section 9608 far beyond its intended scope. In Estrada we observed that at common law when a statute was passed that increased the punishment for a crime, a defendant who committed the proscribed acts prior to the effective date of the new law could not be punished under the old law because it no longer existed, and he could not be punished under the new law because its attempted application would render it an ex post facto law. (See Sekt v. Justice's Court (1945) 26 Cal.2d 297 [159 P.2d 17, 167 A.L.R. 833].)

[1] Section 9608, we explained in Estrada, was enacted simply to authorize prosecutions under the former statute in order to avoid this technically absurd result by which a defendant could be prosecuted under no law, simply because the Legislature had decided to increase the punishment for his crime. (See People v. McNulty (1892) 93 Cal. 427, 437 [26 P. 597, 29 P. 61].) We concluded, however, that the provision was not intended to abrogate the well-established common law rule which, in the absence of clear legislative intent to the contrary, accorded a criminal

defendant the benefit of a mitigation of punishment adopted before his criminal conviction became final. Thus, we held that "[w]here the amendatory statute mitigates punishment and there is no saving clause, [18 Cal.3d 300] **the rule is that the amendment will operate retroactively so that the lighter punishment is imposed.**" (63 Cal.2d at p. 748.) fn. 6

The Estrada court's conclusion as to the limited reach of Government Code section 9608 finds direct support in a line of United States Supreme Court decisions construing the comparable language of the general federal "saving" provision. (1 U.S.C. § 109.) fn. 7 In Hamm v. Rock Hill (1964) 379 U.S. 306 [13 L.Ed.2d 300, 85 S.Ct. 384], for example, the Supreme Court concluded that, notwithstanding the general saving provision, the Civil Rights Act of 1964, by removing criminal sanctions for "sit-in" demonstrations in public accommodations, would mandate the abatement of any federal trespass conviction rendered, but not finalized, prior to the passage of the Civil Rights Act. As the Hamm court explained: "The federal saving statute was originally enacted in 1871, 16 Stat. 432. It was meant to obviate mere technical abatement such as that illustrated by the application of the rule in Tynen [United States v. Tynen (1871) 78 U.S. (11 Wall.) 88, 95 (20 L.Ed. 153, 155)] decided in 1871. **There a substitution of a new statute with a greater schedule of penalties was held to abate the previous prosecution.** In contrast, the Civil Rights Act works no such technical abatement. It substitutes a right for a crime. So drastic a change is well beyond the narrow language of amendment and repeal [of the federal saving statute]. It is clear, therefore, that if the convictions were under a federal statute they would be abated." (Italics added.) (379 U.S. at p. 314 [13 L.Ed.2d at p. 306]. See also United States v. Chambers (1934) 291 U.S. 217, 224 [78 L.Ed. 763, 766, 54 S.Ct. 434, 89 A.L.R. 1510].) Estrada teaches that section 9608 must properly be accorded a similar limited scope, and thus is inapplicable in the instant case.

The People contend, however, that the case at bar is distinguishable from Estrada, pointing out that in the instant case the intervening [18 Cal.3d 301] amendment has entirely eliminated any criminal sanction for defendant's acts while in Estrada the intervening amendment merely reduced the punishment for the conduct. Although it is true that Estrada and recent California cases applying Estrada have involved intervening enactments which merely reduced, rather than entirely eliminated, penal sanctions (see, e.g., People v. Francis (1969) 71 Cal.2d 66 [75 Cal.Rptr. 199, 450 P.2d 591]; In re Fink (1967) 67 Cal.2d 692, 693 [63 Cal.Rptr. 369, 433 P.2d 161]; In re Ring (1966) 64 Cal.2d 450, 452 [50 Cal.Rptr. 530, 413 P.2d 130]), numerous precedents demonstrate that the common law principles reiterated in Estrada apply a fortiorari when criminal sanctions have been completely repealed before a criminal conviction becomes final.

In Spears v. County of Modoc (1894) 101 Cal. 303 [35 P. 869], for example, defendant was convicted in justice court of violating a local penal ordinance prohibiting "the keeping of a saloon where spiritous liquors were sold" and was fined $500. Pending his appeal to the superior court, the local ordinance was repealed but the superior court nonetheless affirmed the conviction. In subsequent proceedings, this court determined that the superior court had been in error and explicitly held that the repeal of the ordinance before the judgment became final invalidated the conviction.

Citing numerous respected authorities, the Spears court explained its conclusion at some length: "[T]he effect of repealing a statute is 'to obliterate it as completely from the records of the parliament as if it had never passed; and it must be considered as a law that never existed, except for the purpose of those actions which were commenced, prosecuted and concluded while it was an existing law.' This principle has been applied more frequently to penal statutes, and it may be regarded as an established rule that the repeal of a penal statute without any saving clause has the effect to deprive the court in which any prosecution under the statute is pending of all power to

proceed further in the matter. 'The repeal of a statute puts an end to all prosecutions under the statute repealed, and to all proceedings growing out of it pending at the time of the repeal.' (Sedgwick's Statutory and Constitutional Law, 130. ...) 'If a penal statute is repealed pending an appeal, and before the final action of an appellate court, it will prevent an affirmance of a conviction, and the prosecution must be dismissed, or judgment reversed.' (Sutherland on Statutory Construction, sec. 166.)" (101 Cal. at p. 305.) [18 Cal.3d 302]

The opinion specifies when this general principle applies. "The proceeding is arrested at the very point where it is at the date of the repeal; if before indictment no indictment can be found; if after the indictment, and before trial, no conviction can be had; if after conviction and before judgment, no judgment can be rendered. If the judgment is appealed from and its enforcement is suspended until the determination of the appeal, the power to enforce the judgment falls with the repeal of the statute, and the appellate court will direct a dismissal of the proceedings. Until the determination of the appeal, the proceeding is pending in court, and the judgment does not become final until affirmed by the appellate court. If, during the interim, the Legislature repeals the statute under which the prosecution is had, it operates as a discharge of the defendant. 'The repeal of the law imposing the penalty is of itself a remission.' (Per Taney, C. J., State v. R. R. Co., 3 How. 552.)" (101 Cal. at pp. 305-306.) (See, e.g., Sekt v. Justice's Court, supra, 26 Cal.2d 297, 304-308 [159 P.2d 17, 167 A.L.R. 833]; Yeaton v. United States (1809) 9 U.S. (5 Cranch) 281, 283 [3 L.Ed. 101, 102]; United States v. Tynen, supra, 78 U.S. (11 Wall.) 88, 95; United States v. Chambers, supra, 291 U.S. 217, 222-223 [78 L.Ed. 763, 765-766]; Hamm v. Rock Hill, supra, 379 U.S. 306, 312-313 [13 L.Ed.2d 300, 305-306].)

In light of these numerous authorities, it is clear that the People can gain no comfort from the fact that the intervening amendment of section 288a completely repealed the provisions under which defendant was convicted instead of simply mitigating the punishment for defendant's conduct. fn. 8 Indeed, in Estrada itself we noted that "[i]t is the rule at common law and in this state that when the old law in effect when the act is committed is repealed, and there is no saving clause, all prosecutions not reduced to final judgment are barred." (63 Cal.2d at p. 747.)

[2a] The People alternatively claim that, assuming the governing common law rules call for a reversal of defendant's conviction in the [18 Cal.3d 303] absence of a contrary legislative directive, the legislation amending section 288a does evidence a legislative intent to depart from the common law rule and to retain the prior criminal sanctions with respect to defendants whose convictions had not become final at the time of the repeal. Although the Legislature retains the constitutional authority to preserve criminal sanctions for acts committed prior to repeal, we can find nothing in the amending legislation to suggest that the Legislature intended such a result here.

[3] The People concede that the portions of the recent legislation relating to the amendment of Penal Code section 288a give no indication that the Legislature intended to alter the established common law rules, fn. 9 but they argue that the Legislature's intent to depart from such rules can be gleaned from an entirely separate section of the amending legislation, which added a new provision to the Education Code. (See Stats. 1975, ch. 71, § 1, p. 131-132.) A number of provisions of the Education Code restrict or negate the eligibility of those convicted of "sex offenses" to serve as teachers or other school employees (see, e.g., Ed. Code, §§ 13175, 13207, 13220.16, 13218, 13255, 13586), and, under the terms of Education Code section 12912, former section 288a constituted one such "sex offense." The provision of the recent legislation upon which the People now rely simply added a new subdivision (subd. (g)) to section 12912, specifying that the definition of "sex offense" includes "[a]ny offense defined in section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at

the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment." [18 Cal.3d 304]

Although the People maintain that this provision demonstrates a legislative intent to alter the established common law rule relating to abatement of criminal convictions, we believe the People have simply misconceived the effect of the Education Code amendment in question. The amendment does not purport to establish whether or not pending criminal prosecutions shall abate or not, but simply specifies that all individuals who have in fact been convicted of "offenses" -- i.e., who have suffered final judgments of convictions -- under the prior Penal Code provisions, shall continue to be treated as falling within the purview of section 12912. Thus, the amendment at issue merely evidences a legislative determination that individuals whose convictions under former section 286 and 288a have become final, and who may have been dismissed from employment on that basis years ago, are not presently entitled to reinstatement even though the former criminal sanctions have now been repealed. (Cf. Monroe v. Trustees of the California State Colleges (1971) 6 Cal.3d 399 [99 Cal.Rptr. 129, 491 P.2d 1105].) Accordingly, the amendment to Education Code section 12912 affords no basis for upholding defendant's current conviction.

[2b] As the United States Supreme Court has observed, it is "the universal common-law rule that when the legislature repeals a criminal statute or otherwise removes the State's condemnation from conduct that was formerly deemed criminal, this action requires the dismissal of a pending criminal proceeding charging such conduct. The rule applies to any such proceeding which, at the time of the supervening legislation, has not yet reached final disposition in the highest court authorized to review it." (Bell v. Maryland (1964) 378 U.S. 226, 230 [12 L.Ed.2d 822, 826, 84 S.Ct. 1814].) In the instant case, this "universal common-law rule" mandates the reversal of defendant's conviction.

The judgment is reversed.

Wright, C. J., Mosk, J., and Sullivan, J., concurred.

RICHARDSON, J.

I concur in the judgment under the compulsion of In re Estrada (1965) 63 Cal.2d 740 [48 Cal.Rptr. 172, 408 P.2d 948].

CLARK, J.

The question presented by this appeal is whether our general saving statute (Gov. Code, § 9608) is applicable when the statute under which the defendant was convicted is, in effect, repealed before judgment becomes final. The majority, relying on In re Estrada (1965) 63 [18 Cal.3d 305] Cal.2d 740 [48 Cal.Rptr. 172, 408 P.2d 948], hold section 9608 inapplicable. I dissent. Estrada, properly understood, does not support their conclusion. To the contrary, when Justice Peters' majority opinion in Estrada is read in light of his concurring and dissenting opinion in People v. Harmon (1960) 54 Cal.2d 9, 27-33 [4 Cal.Rptr. 161, 351 P.2d 329], it becomes clear that Estrada supports the opposite conclusion.

The fundamental premise of Justice Peters' argument, which was unsuccessful in Harmon but

prevailed in Estrada, is that section 9608 "tells us that the Legislature intended that the offender be punished, but it offers no clue as to what statute shall be applied." (Harmon, at p. 30.) Permitting defendant to entirely escape punishment for her offense is, of course, inconsistent with this premise.

In Harmon, Justice Peters distinguished three types of cases: (1) The statute under which the defendant was convicted is repealed pending appeal. (2) The statute under which the defendant was convicted is amended, pending appeal, by increasing the punishment. (3) The statute under which the defendant was convicted is amended, pending appeal, by decreasing the punishment. Justice Peters' ultimate conclusion in Harmon, as well as Estrada, is that the considerations leading to the application of section 9608 in case (2) do not compel its application in case (3). However, in the course of reaching this conclusion, Justice Peters expressly affirmed that section 9608 applies to case (1), i.e., this case.

Case (2) is unlike case (3) in this respect: the constitutional prohibition against ex post facto laws prevents application of an amended statute increasing punishment to crimes already committed, but does not prevent application to such crimes of an amended statute decreasing punishment. Therefore, Justice Peters concluded, the Legislature's intent, expressed in section 9608, that the offender be punished can only be given effect in case (2) under the old law whereas in case (3) it can be given effect under the new law as well.

"In both situations, that is, where the amendment increases or decreases the punishment, we are required to ascertain the legislative intent. The saving clause tells us that the Legislature intended that the offender be punished, but it offers no clue as to what statute shall be applied. Where the amended statute increases the punishment the amended statute cannot constitutionally be applied to the punishment of [18 Cal.3d 306] crimes already committed, because of the constitutional inhibition against ex post facto laws. Therefore, it is obvious that the saving clause must be interpreted as disclosing an intent that the offender shall be punished under the old law because that is the only law, constitutionally, under which he can be punished. In such a situation the saving clause is the conclusive factor. But that is not so where the amendment mitigates the punishment. In such a situation the offender, constitutionally, can be punished under either the old or the amended law. Now the saving clause is of no help at all. It simply tells us that the Legislature intended that the offender should be punished, but it gives no indication at all as to which statute shall apply." (Harmon at pp. 30-31.)

Case (1) is like case (2) in this respect: there is no question as to which law the Legislature intended the offender to be punished under. The prohibition against ex post facto laws eliminates the new law from consideration when an amendment increases the punishment. When a statute is repealed there is no new law to enter into consideration. In both cases, therefore, the Legislature's intent that the offender be punished, expressed in section 9608, can only be given effect under the old law. "In both of the situations ..., if there is a saving clause, the offender may be punished under the old law. This is so because the saving clause has expressed an intent that, even though the old statute has been repealed or amended, the offender is to be punished, and since the only law under which he can be punished is the old law, he is to be punished under that law." (Harmon at p. 28.)

Justice Peters reaffirmed this principle in Estrada. "A reading of [section 9608] demonstrates that the Legislature ... positively expressed its intent that an offender of a law that has been repealed or amended should be punished ...." (63 Cal.2d at pp. 747-748.) Reversing defendant's conviction, therefore, is inconsistent with Estrada.

The majority profess to find support for their thesis -- that general saving statutes such as 9608 are intended to apply only to instances of "technical abatement," i.e., amendment of a statute to increase the punishment -- in Hamm v. Rock Hill (1964) 379 U.S. 306 [13 L.Ed.2d 300, 85 S.Ct. 384]. In relying on Hamm, the majority lean on a slender reed. The high court there interpreted the federal saving statute in light of its understanding of Congress' intent in enacting that particular statute. The court could not, and did not purport to, render an opinion as to what other legislatures must have intended in enacting their own saving [18 Cal.3d 307] statutes. Certainly nothing in Hamm gives us reason to overrule Estrada by interpreting section 9608 contrary to its plain meaning. Moreover, the consensus of the commentators is that the high court misinterpreted the federal saving statute in a transparent attempt to avoid the constitutional question presented by Hamm. (See, e.g., Note, Constitutional Law: Supreme Court Avoids Constitutional Question of State Action in Sit-In Cases by Extending the Doctrine of Abatement, 1965 Duke L.J. 640, 645-648; Note, Constitutional Law -- Statutory Construction -- Application of the Principle of Abatement To Avoid the Constitutional Question (1965) 50 Iowa L.Rev. 1254; Note, Constitutional Law -- Civil Rights Act of 1964 Prevents Convictions for Peaceful Sit-Ins and Abates All Such Convictions That Are Subject to Direct Review at the Time of Its Passage (1965) 43 Texas L.Rev. 964, 967; Note, Constitutional Law -- Abatement of Convictions Occurring Prior to Passage of Civil Rights Act of 1964 (1965) 18 Vand.L.Rev. 1574, 1579.)

Defendant's conviction should be affirmed.

McComb, J., concurred.

-FN 1. The People adduced no evidence that defendant received compensation for her roles in these films. One of the films bore a commercial logo and a suggestive title, and some of the films were apparently unsuccessfully offered for sale.

-FN 2. Prior to January 1, 1976, section 288a read in pertinent part: "Any person's parcticipating in an act of copulating the mouth of one person with the sexual organ of another is punishable by imprisonment in the state prison for not exceeding 15 years, or by imprisonment in the county jail not to exceed one year. ..."

-FN 3. As amended, section 288a proscribes acts of oral copulation only when affected by force, committed while confined in a state prison, or committed with a minor. (See fn. 8, post.)

-FN 4. Section 9608 provides in full: "The termination or suspension (by whatsoever means effected) of any law creating a criminal offense does not constitute a bar to the indictment or information and punishment of an act already committed in violation of the law so terminated or suspended, unless the intention to bar such indictment or information and punishment is expressly declared by an applicable provision of law."

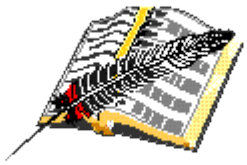
-FN 5. See People v. Harmon (1960) 54 Cal.2d 9 [4 Cal.Rptr. 161, 351 P.2d 329]; People v. Fowler (1959) 175 Cal.App.2d 808, 812 [346 P.2d 792]; In re Crane (1935) 4 Cal.App.2d 265 [41 P.2d 179]; People v. King (1934) 136 Cal.App. 717 [29 P.2d 870]; People v. Lindsay (1925) 75 Cal.App. 115, 121 [242 P. 87]; People v. Pratt (1924) 67 Cal.App. 606, 608 [228 P. 47]; People v. Davis (1924) 67 Cal.App. 210, 215 [227 P. 494]; People v. Williams (1914) 24 Cal.App. 646 [142 P. 124].

-FN 6. Estrada explained the rationale for the rule in the following terms: "When the Legislature amends a statute so as to lessen the punishment it has obviously expressly determined that its former penalty was too severe and that a lighter punishment is proper as punishment for the commission of the prohibited act. It is an inevitable inference that the Legislature must have intended that the new statute imposing the new lighter penalty now deemed to be sufficient should apply to every case to which it constitutionally could apply." (63 Cal.2d at p. 745).

-FN 7. The federal provision reads in relevant part: "The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability."

-FN 8. A contrary reading of Estrada which confined its holding to amendments which mitigated punishment and excluded amendments which repealed all criminal sanction would clearly lead to absurd results. Under the dissent's interpretation, if the Legislature had simply amended section 288a to reduce the maximum punishment to one day in jail defendant would be accorded the benefit of that mitigation; since the Legislature completely repealed all criminal penalties for a violation of former section 288a, however, the dissent would find a Legislative intent that defendant be subjected to the full punishment prescribed by the repealed legislation. With all respect, such a reading of legislative intent belies reality.

-FN 9. The relevant portion of the recent bill reads in full: "Section 288a of the Penal Code is amended to read: (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ of another person. (b) Any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison for a period of not more than 15 years or in a county jail for a period of not more than one year. (c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of oral copulation by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison for a period not less than three years. (d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for a period of five years to life. (e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison for a period of not more than five years, or in a county jail for a period of not more than one year."



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ASSEMBLY BILL UPDATES

Updates for September 22, 2010 (00:22 PDT)

AB 39	**Status**	**History**
AB 49	**Status**	**History**
AB 80	**Status**	**History**
AB 157	**Status**	**History**
AB 182	**Status**	**History**
AB 190	**Status**	**History**
AB 211	**Status**	**History**
AB 219	**Status**	**History**
AB 301	**Status**	**History**

AB 308	Status	History	
AB 391	Status	History	
AB 434	Status	History	
AB 471	Status	History	
AB 537	Status	History	
AB 542	Status	History	
AB 609	Status	History	
AB 702	Status	History	
AB 814	Status	History	
AB 853	Status	History	
AB 933	Status	History	
AB 967	Status	History	
AB 979	Status	History	
AB 987	Status	History	
AB 1106	Status	History	
AB 1155	Status	History	
AB 1223	Status	History	
AB 1239	Status	History	
AB 1254	Status	History	
AB 1280	Status	History	
AB 1315	Status	History	
AB 1341	Status	History	
AB 1369	Status	History	
AB 1436	Status	History	
AB 1451	Status	History	
AB 1487	Status	History	Text
AB 1506	Status	History	
AB 1542	Status	History	
AB 1609	Status	History	
AB 1639	Status	History	
AB 1652	Status	History	
AB 1659	Status	History	
AB 1671	Status	History	
AB 1674	Status	History	
AB 1690	Status	History	
AB 1736	Status	History	
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AB 1997	Status	History
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AB 2784	Status	History	
ABX6 9	Status	History	Text
ACA 2	Status	History	
ACA 3	Status	History	
ACA 5	Status	History	
ACA 6	Status	History	
ACA 9	Status	History	
ACA 10	Status	History	
ACA 13	Status	History	
ACA 15	Status	History	
ACA 21	Status	History	
ACR 126	Status	History	
ACR 138	Status	History	

SENATE BILL UPDATES

Updates for September 22, 2010 (00:22 PDT)

SB 10	Status	History
SB 12	Status	History
SB 51	Status	History
SB 61	Status	History
SB 64	Status	History
SB 74	Status	History
SB 78	Status	History
SB 79	Status	History
SB 80	Status	History
SB 87	Status	History
SB 127	Status	History
SB 165	Status	History
SB 208	Status	History
SB 220	Status	History
SB 229	Status	History
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SB 346	Status	History
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SB 524	Status	History
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SB 1093	Status	History	
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SB 1394	Status	History	
SB 1399	Status	History	
SB 1401	Status	History	
SB 1425	Status	History	
SB 1435	Status	History	
SB 1451	Status	History	
SB 1456	Status	History	
SB 1460	Status	History	
SBX6 20	Status	History	Text
SBX6 21	Status	History	Text
SCR 101	Status	History	
SCR 107	Status	History	
SJR 14	Status	History	
SR 45	Status	History	

SR 52	Status	History
SR 53	Status	History

Safe Access Now

Reasonable Medical Marijuana Guidelines

Notice: We are a community based organization dedicated to the implementation of fair and consistent guidelines in all California counties as a safe harbor from arrest under HS Code 11362.5, the Compassionate Use Act of 1996. We do not supply medicine.

Why canopy is a reliable control / Local guidelines / ID Cards / Local reps / Physicians / Attorneys / Links / Notice of Change in Law / Newsletter Archives / Site map / Send an Email / State Cannabis ID Card Contacts /

Click here to read online *Cannabis Yields and Dosage*, Chris Conrad's guide to the science and legalities of calculating medical marijuana. The 2009 edition is available as a PDF (1.3MB) by clicking here, or you can order a printed copy by clicking here: SAN booklet orders. For help in defending a medical marijuana case, see this URL from Americans for Safe Access.

The California Attorney General has issued his own set of guidelines. These are not binding law, but give an idea of how prosecutors will consider the circumstances of a medical marijuana patient or garden.

Protecting Medical Marijuana Patients and Caregivers

Under California state law, **SB 420 (HS 11362.7)** , local cities and counties are empowered to adopt medical marijuana possession and garden guidelines, so long as the per patient. amounts are greater than 8 ounces of dried female marijuana flowering tops plus 12 immature or 6 mature cannabis plants. Safe Access Now (SAN) promotes reasonable guidelines for medical marijuana patients to be presumed in compliance with voter-approved **Prop 215 (HS 11362.5)** , also known as the Compassionate Use

Act of 1996.

Several localities have adopted guidelines based on those proposed on this site. The **factual basis** for SAN offers a rational basis criminal defense for reasonable dosages and "Sea of Green" gardens. Our proposal is based on the Sonoma County Garden Guidelines adopted by District Attorney Michael Mullins. These were the first amounts to be based on actual scientific research by the US government. The research has been compiled and summarized by court-qualified cannabis expert Chris Conrad . We have local point persons in various counties who work with community residents to get a SAN Resolution adopted by their City Council or County Board of Supervisors.

This proposal is designed to save tax money and make enforcement of California marijuana laws easier for police officers by providing a simple way to measure a garden or supply of medicine and quickly determine if there is presumed compliance within community standards. We encourage people to work with local sheriffs and district attorneys, as well.

Read more about this project on this website. Many items can be downloads as PDF files you can print and present to others to advance this discussion.

Thank you,

Chris Conrad and Ralph Sherrow, Safe Access Now

Contact us to learn more about your local county and our point people.

Read our newsletter online or subscribe to receive it by email

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US Constitution: Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

The basic elements of the proposed SAN Garden Guidelines

Law enforcement shall presume compliance with HS 11362.5 (Prop 215) and make no arrest when a California patient presents authentication of their physician's recommendation and they are found to possess:

Up to three pounds of manicured cannabis bud per patient per year.

Up to 100 square feet of garden canopy (the actual area covered by the leaves) per patient.

No more than 99 plants, contained within the canopy square footage (so that patients can use sea of green or conventional garden techniques).

Patients who need more may receive a physician's note that will exempt them from the above.

A caregiver may provide for more than one patient and may be remunerated for their work when they provide authentication for the number of patients they assist.

Here's why: Not all plants are created equal:
Plant *counts* don't count: It's *size* that matters!

This plant produced under 3 grams (about 1/10 ounce) of cannabis bud.
At 9" diameter; the dry whole plant weighed 9 grams, as shown in the photo.

The plant below produced more than 220 grams (almost 8 ounces) of cannabis bud (the diameter was about 4.5' in diameter, its actual canopy covered almost 16 square feet!).

That amounts to 64 times as much usable marijuana from this single plant as from the plant above shown on the scale!

On this site you will find:

You can read the "Tools for Activists" text files online as html files , but you will need Adobe Acrobat reader to view or print the PDF files. Download here:

1. Current county and local guidelines
2. Model County or City ordinance to protect patients / Download as PDF (28k)
3. California local SAN reps
4. Sample cover letter from Point Person / Download as PDF (16k)
5. SAN introductory letter / Download as PDF (36k)
   SAN introductory letter citing SB 420 as PDF (72k)
   SB 420 Notification of change in law per as PDF (28k)
   SB 420 Informational flyer for patients as PDF (20k)
   SB420 Explanatory letter from the authors of the bill.
6. Sonoma County DA Mike Mullins letter / Download as PDF (36k)
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12. If you need an experienced medical marijuana attorney
13. If you need a court-qualified cannabis expert ...
14. Mower Decision: Cal Supreme Court validates HS 11362.5, places burden on prosecution, sets groundwork for pre-trial motion to dismiss charges per code section 995 / Download as PDF file from the linked URL
15. Federal National Academy of Science / Institute on Medicine recommendations
16. Statewide ASA conference endorse SAN garden guidelines

17. Look up any California state law
18. Outside of California
19. 80 Related Web Resources on medical marijuana
20. Links

Not all counties have contact persons, but if you would like to help us, contact Safe Access Now .

DrugSense Drug War Clock	
Current Time	
Federal Spent	
State Spent	
Total Spent	
All Drug Arrests	
Cannabis Arrests	
Imprisoned	
HIV Infected	

For a further look at marijuana laws, visit ChrisConrad.com

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