

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN SENATE MAY 27, 2003

SENATE BILL

No. 420

Introduced by Senator Vasconcellos
(Principal coauthor: Assembly Member Leno)

February 20, 2003

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, as amended, 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.

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 ~~with regard to certain mandates~~ no reimbursement is required by this act for a specified ~~reason~~ *reasons*.

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) On November 6, 1996, the people of the State of California
- 4 enacted the Compassionate Use Act of 1996 (hereafter the act),
- 5 codified in Section 11362.5 of the Health and Safety Code, in order
- 6 to allow seriously ill residents of the state, who have the oral or
- 7 written approval or recommendation of a physician, to use
- 8 marijuana for medical purposes without fear of criminal liability
- 9 under Sections 11357 and 11358 of the Health and Safety Code.
- 10 (2) However, reports from across the state have revealed
- 11 problems and uncertainties in the act that have impeded the ability
- 12 of law enforcement officers to enforce its provisions as the voters
- 13 intended and, therefore, have prevented qualified patients and
- 14 designated primary caregivers from obtaining the protections
- 15 afforded by the act.
- 16 (3) Furthermore, the enactment of this law, as well as other
- 17 recent legislation dealing with pain control, demonstrates that



1 more information is needed to assess the number of individuals
2 across the state who are suffering from serious medical conditions
3 that are not being adequately alleviated through the use of
4 conventional medications.

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

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

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

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

17 (3) Collect data to ascertain the extent of serious medical
18 conditions that are not being adequately relieved in order to plan
19 for future research and resource allocation.

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

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

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

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

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

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

38



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 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 a registry 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 a registry an identification card.



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

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

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

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

22 (g) “Identification card” means a document issued by the State
23 Department of Health Services that document identifies a person
24 authorized to engage in the medical use of marijuana and the
25 person’s designated primary caregiver, if any.

26 (h) “Serious medical condition” means all of the following
27 medical conditions:

- 28 (1) Acquired immune deficiency syndrome (AIDS).
- 29 (2) Anorexia.
- 30 (3) Arthritis.
- 31 (4) Cachexia.
- 32 (5) Cancer.
- 33 (6) Chronic pain.
- 34 (7) Glaucoma.
- 35 (8) Migraine.
- 36 (9) Persistent muscle spasms, including, but not limited to,
37 spasms associated with multiple sclerosis.
- 38 (10) Seizures, including, but not limited to, seizures associated
39 with epilepsy.
- 40 (11) Severe nausea.



1 (12) Any other chronic or persistent medical symptom that
2 either:
3 (A) Substantially limits the ability of the person to conduct one
4 or more major life activities as defined in the Americans with
5 Disabilities Act of 1990 (Public Law 101-336).
6 (B) If not alleviated, may cause serious harm to the patient’s
7 safety or physical or mental health.
8 (i) “Written documentation” means accurate reproductions of
9 those portions of a patient’s medical records that have been created
10 by the attending physician, that contain the information required
11 by paragraph (2) of subdivision (a) of Section 11362.715, and that
12 the patient may submit to a county health department or its
13 designee as part of an application for an identification card.
14 11362.71. (a) The department shall establish and maintain a
15 voluntary program for the issuance of identification cards to
16 qualified patients who satisfy the requirements of this article and
17 voluntarily apply to the identification card program.
18 (b) Every county health department shall do all of the
19 following:
20 (1) Provide applications upon request to individuals seeking to
21 join the identification card program.
22 (2) Receive and process completed applications in accordance
23 with Section 11362.72.
24 (3) Maintain records of identification card programs.
25 (4) Utilize protocols developed by the department pursuant to
26 paragraph (1) of subdivision (d).
27 (5) Issue identification cards developed by the department to
28 approved applicants and designated primary caregivers.
29 (c) The county health department may designate another
30 governmental or a nongovernmental entity or organization to
31 perform the functions described in subdivision (b), except for an
32 entity or organization that cultivates or distributes marijuana.
33 (d) The department shall develop all of the following:
34 (1) Protocols that shall be used by county health departments
35 and their designees to implement the responsibilities described in
36 subdivision (b), including, but not limited to, protocols to confirm
37 the accuracy of information contained in an application and to
38 protect the confidentiality of program records.
39 (2) Application forms that shall be issued to requesting
40 applicants.



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

6 (e) No person or designated primary caregiver in possession of
7 a valid identification card shall be subject to arrest for possession,
8 transportation, delivery, or cultivation of medical marijuana in an
9 amount approved by the department pursuant to Section 11362.77,
10 unless there is reasonable cause to believe that the information
11 contained in the card is false or falsified, the card has been obtained
12 by means of fraud, or the person is otherwise in violation of the
13 provisions of this article.

14 (f) It shall not be necessary for a person to obtain an
15 identification card in order to claim the protections of Section
16 11362.5.

17 11362.715. (a) A person who seeks an identification card
18 shall pay the fee, as provided in Section 11362.755, and provide
19 all of the following to the county health department or its designee
20 on a form developed and provided by the department:

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

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

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

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

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

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

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



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

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

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

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

13 11362.72. (a) Within 30 days of receipt of an application for
14 an identification card, a county health department or its designee
15 shall do all of the following:

16 (1) For purposes of processing the application, as well as for the
17 purpose of obtaining data to assess the number of individuals in
18 this state suffering from serious medical conditions that are not
19 being adequately alleviated through the use of conventional
20 medications, verify that the information contained in the
21 application is accurate. If the person is less than 18 years of age,
22 the county health department or its designee shall also contact the
23 parent with legal authority to make medical decisions, legal
24 guardian, or other person or entity with legal authority to make
25 medical decisions, to verify the information.

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

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

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

39 (5) Approve or deny the application. If an applicant who meets
40 the requirements of Section 11362.715 can establish that an



1 identification card is needed on an emergency basis, the county or
2 its designee shall issue a temporary identification card that shall be
3 valid for 30 days from the date of issuance. The county, or its
4 designee, may extend the temporary identification card for no
5 more than 30 days at a time, so long as the applicant continues to
6 meet the requirements of this paragraph.

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

- 11 (1) A unique user identification number of the applicant.
- 12 (2) The date of expiration of the identification card.
- 13 (3) The name and telephone number of the county health
14 department or its designee that has approved the application.

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

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

23 11362.735. (a) An identification card issued by the county
24 health department shall be serially numbered and shall contain all
25 of the following:

- 26 (1) A unique user identification number of the cardholder.
- 27 (2) The date of expiration of the identification card.
- 28 (3) The name and telephone number of the county health
29 department or its designee that has approved the application.
- 30 (4) A 24-hour, toll-free telephone number that will enable state
31 and local law enforcement officers to have immediate access to
32 information necessary to verify the validity of the card.
- 33 (5) Photo identification of the cardholder.

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

37 11362.74. (a) The county health department or its designee
38 may deny an application only for any of the following reasons:

- 39 (1) The applicant did not provide the information required by
40 Section 11362.715, and upon notice of the deficiency pursuant to



1 subdivision (d) of Section 11362.72, did not provide the
2 information within 30 days.

3 (2) The county health department or its designee determines
4 that the information provided was false.

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

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

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

16 11362.745. (a) An identification card shall be valid for a
17 period of one year.

18 (b) Upon annual renewal of an identification card, the county
19 health department or its designee shall verify all new information
20 and may verify any other information that has not changed.

21 (c) The county health department or its designee shall transmit
22 its determination of approval or denial of a renewal to the
23 department.

24 11362.755. The department shall establish application and
25 renewal fees for persons seeking to obtain or renew identification
26 cards that are sufficient to cover the expenses incurred by the
27 department and each county health department of administering
28 the identification card program and fees waived under this section.
29 Not less than one-half of the fees collected pursuant to this section
30 shall be made available to county health departments for
31 reimbursement for costs incurred ~~for operating the program by~~
32 *each county health department for administering the program,*
33 *pursuant to this article.* However, upon satisfactory proof of
34 indigence, these fees shall be waived. The department shall
35 reimburse each county health department for its costs of
36 administering the program from the revenue generated by the fees.

37 11362.76. (a) A person who possesses an identification card
38 shall:



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

4 (2) Annually submit to the county health department or its
5 designee the following:

6 (A) Updated written documentation of the person’s serious
7 medical condition.

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

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

14 (c) If the designated primary caregiver has been changed, the
15 previous primary caregiver shall return his or her identification
16 card to the department or to the county health department or its
17 designee.

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

25 11362.765. (a) Subject to the requirements of this article, the
26 individuals specified in subdivision (b) shall not be subject, on that
27 sole basis, to criminal liability under Section 11357, 11358, 11359,
28 11360, 11366, 11366.5, or 11570. However, nothing in this section
29 shall authorize the individual to smoke or otherwise consume
30 marijuana unless otherwise authorized by this article.

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

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

35 (2) A designated primary caregiver who transports, processes,
36 administers, delivers, or gives away marijuana for medical
37 purposes, in amounts not exceeding those established by
38 regulations that shall be adopted by the department pursuant to
39 Section 11362.77, only to the qualified patient of the primary



1 caregiver, or to the person with an identification card who has
2 designated the individual as a primary caregiver.

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

9 (c) Any individual who receives reasonable compensation for
10 services provided to an eligible qualified patient or person with an
11 identification card to enable that person to use marijuana under this
12 article, or for payment for out-of-pocket expenses incurred in
13 providing those services, or both, shall not, on the sole basis of that
14 fact, be subject to prosecution or punishment under Section 11359
15 or 11360.

16 11362.77. The department shall issue emergency regulations
17 by July 1, 2004, after public comment and consultation with
18 interested organizations, including, but not limited to, patients,
19 health professionals, researchers, and law enforcement, to
20 determine appropriate amounts of marijuana for the qualified
21 patient's or person's own personal medical use. The regulations
22 shall be based on currently available scientific research and
23 knowledge and shall be reviewed annually to determine if revision
24 is necessary to reflect material changes in research and knowledge.
25 A qualified patient or a person holding a valid identification card,
26 or the designated primary caregiver of that qualified patient or
27 person, may possess amounts of marijuana consistent with the
28 emergency regulations.

29 11362.775. Qualified patients, persons with valid
30 identification cards, and the designated primary caregivers of
31 qualified patients and persons with identification cards, who
32 associate within the State of California in order collectively or
33 cooperatively to cultivate marijuana for medical purposes, shall
34 not solely on the basis of that fact be subject to state criminal
35 sanctions under Section 11357, 11358, 11359, 11360, 11366,
36 11366.5, or 11570. The department shall adopt regulations, after
37 public comment and consultation with interested organizations,
38 governing the operation and supervision of these cooperatives, no
39 later than December 31, 2004. The regulations shall specify only
40 the methods, procedures, and criteria that the cultivation projects



1 will employ to ensure the consistency of composition,
2 noncontamination and nondiversion of medical marijuana. The
3 department shall have the right to inspect the cultivation projects
4 to ensure compliance with the methods, procedures, and criteria.

5 11362.78. A state or local law enforcement agency or officer
6 shall not refuse to accept an identification card issued by the
7 department unless the state or local law enforcement agency or
8 officer has reasonable cause to believe that the information
9 contained in the card is false or fraudulent, or the card is being used
10 fraudulently.

11 11362.785. (a) Nothing in this article shall require any
12 accommodation of any medical use of marijuana on the property
13 or premises of any place of employment or during the hours of
14 employment or on the property or premises of any jail, correctional
15 facility, or other type of penal institution in which prisoners reside
16 or persons under arrest are detained.

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

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

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

34 11362.79. Nothing in this article shall authorize a qualified
35 patient or person with an identification card to engage in the
36 smoking of medical marijuana under any of the following
37 circumstances:

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



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

4 (c) On a schoolbus.

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

6 (e) While operating a boat.

7 11362.795. (a) (1) Any criminal defendant who is eligible to
8 use marijuana pursuant to Section 11362.5 may request that the
9 court confirm that he or she is allowed to use medical marijuana
10 while he or she is on probation or released on bail.

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

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

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

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

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

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



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

4 11362.8. No professional licensing board may impose a civil
5 penalty or take other disciplinary action against a licensee based
6 solely on the fact that the licensee has performed acts that are
7 necessary or appropriate to carry out the licensee's role as a
8 designated primary caregiver to a person who is a qualified patient
9 or who possesses a lawful identification card issued pursuant to
10 Section 11362.72. However, this section shall not apply to acts
11 performed by a physician relating to the discussion or
12 recommendation of the medical use of marijuana to a patient.
13 These discussions or recommendations, or both, shall be governed
14 by Section 11362.5.

15 11362.81. (a) A person specified in subdivision (b) shall be
16 subject to the following penalties:

17 (1) For the first offense, imprisonment in the county jail for no
18 more than six months or a fine not to exceed one thousand dollars
19 (\$1,000), or both.

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

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

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

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

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

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

38 (c) In addition to the penalties prescribed in subdivision (a),
39 any person described in subdivision (b) may be precluded from



1 attempting to obtain, or obtaining or using, an identification card
2 for a period of up to six months at the discretion of the court.

3 11362.82. If any section, subdivision, sentence, clause,
4 phrase, or portion of this article is for any reason held invalid or
5 unconstitutional by any court of competent jurisdiction, that
6 portion shall be deemed a separate, distinct, and independent
7 provision, and that holding shall not affect the validity of the
8 remaining portion thereof.

9 11362.83. Nothing in this article shall prevent a city or other
10 local governing body from adopting and enforcing laws consistent
11 with this article.

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

21 ~~However, notwithstanding Section 17610 of the Government~~
22 ~~Code, if the Commission on State Mandates determines that this~~
23 ~~act contains other costs mandated by the state, reimbursement to~~
24 ~~local agencies and school districts for those costs shall be made~~
25 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
26 ~~4 of Title 2 of the Government Code. If the statewide cost of the~~
27 ~~claim for reimbursement does not exceed one million dollars~~
28 ~~(\$1,000,000), reimbursement shall be made from the State~~
29 ~~Mandates Claims Fund.~~

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

