

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY SEPTEMBER 4, 2003

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)

(Coauthors: Assembly Members Goldberg, Hancock, and Koretz)

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.

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.

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.



1 (2) However, reports from across the state have revealed
2 problems and uncertainties in the act that have impeded the ability
3 of law enforcement officers to enforce its provisions as the voters
4 intended and, therefore, have prevented qualified patients and
5 designated primary caregivers from obtaining the protections
6 afforded by the act.

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

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

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

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

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

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

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

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

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

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



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

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

8
9 Article 2.5. Medical Marijuana Program

10
11 11362.7. For purposes of this article, the following definitions
12 shall apply:

13 (a) “Attending physician” means an individual who possesses
14 a license in good standing to practice medicine or osteopathy
15 issued by the Medical Board of California *or the Osteopathic*
16 *Medical Board of California* and who has taken responsibility for
17 an aspect of the medical care, treatment, diagnosis, counseling, or
18 referral of a patient and who has conducted a medical examination
19 of that patient before recording in the patient’s medical record the
20 physician’s assessment of whether the patient has a serious
21 medical condition and whether the medical use of marijuana is
22 appropriate.

23 (b) “Department” means the State Department of Health
24 Services.

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

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

33 (1) In any case in which a qualified patient or person with an
34 identification card receives medical care or supportive services, or
35 both, from a clinic licensed pursuant to Chapter 1 (commencing
36 with Section 1200) of Division 2, a health care facility licensed
37 pursuant to Chapter 2 (commencing with Section 1250) of
38 Division 2, a residential care facility for persons with chronic
39 life-threatening illness licensed pursuant to Chapter 3.01
40 (commencing with Section 1568.01) of Division 2, a residential



1 care facility for the elderly licensed pursuant to Chapter 3.2
2 (commencing with Section 1569) of Division 2, a hospice, or a
3 home health agency licensed pursuant to Chapter 8 (commencing
4 with Section 1725) of Division 2, the owner or operator, or no
5 more than three employees who are designated by the owner or
6 operator, of the clinic, facility, hospice, or home health agency, if
7 designated as a primary caregiver by that qualified patient or
8 person with an identification card.

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

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

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

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

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

34 (h) “Serious medical condition” means all of the following
35 medical conditions:

- 36 (1) Acquired immune deficiency syndrome (AIDS).
- 37 (2) Anorexia.
- 38 (3) Arthritis.
- 39 (4) Cachexia.
- 40 (5) Cancer.



- 1 (6) Chronic pain.
- 2 (7) Glaucoma.
- 3 (8) Migraine.
- 4 (9) Persistent muscle spasms, including, but not limited to,
- 5 spasms associated with multiple sclerosis.
- 6 (10) Seizures, including, but not limited to, seizures associated
- 7 with epilepsy.
- 8 (11) Severe nausea.
- 9 (12) Any other chronic or persistent medical symptom that
- 10 either:
 - 11 (A) Substantially limits the ability of the person to conduct one
 - 12 or more major life activities as defined in the Americans with
 - 13 Disabilities Act of 1990 (Public Law 101-336).
 - 14 (B) If not alleviated, may cause serious harm to the patient’s
 - 15 safety or physical or mental health.
- 16 (i) “Written documentation” means accurate reproductions of
- 17 those portions of a patient’s medical records that have been created
- 18 by the attending physician, that contain the information required
- 19 by paragraph (2) of subdivision (a) of Section 11362.715, and that
- 20 the patient may submit to a county health department or ~~its~~ *the*
- 21 *county’s* designee as part of an application for an identification
- 22 card.
- 23 11362.71. (a) (1) The department shall establish and
- 24 maintain a voluntary program for the issuance of identification
- 25 cards to qualified patients who satisfy the requirements of this
- 26 article and voluntarily apply to the identification card program.
- 27 (2) *The department shall establish and maintain a 24-hour,*
- 28 *toll-free telephone number that will enable state and local law*
- 29 *enforcement officers to have immediate access to information*
- 30 *necessary to verify the validity of an identification card issued by*
- 31 *the department, until a cost-effective Internet Web-based system*
- 32 *can be developed for this purpose.*
- 33 (b) Every county health department, *or the county’s designee,*
- 34 shall do all of the following:
 - 35 (1) Provide applications upon request to individuals seeking to
 - 36 join the identification card program.
 - 37 (2) Receive and process completed applications in accordance
 - 38 with Section 11362.72.
 - 39 (3) Maintain records of identification card programs.



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

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

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

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

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

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

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

24 (e) No person or designated primary caregiver in possession of
25 a valid identification card shall be subject to arrest for possession,
26 transportation, delivery, or cultivation of medical marijuana in an
27 ~~amount approved by the department pursuant to Section 11362.77,~~
28 *amount established pursuant to this article*, unless there is
29 reasonable cause to believe that the information contained in the
30 card is false or falsified, the card has been obtained by means of
31 fraud, or the person is otherwise in violation of the provisions of
32 this article.

33 (f) It shall not be necessary for a person to obtain an
34 identification card in order to claim the protections of Section
35 11362.5.

36 11362.715. (a) A person who seeks an identification card
37 shall pay the fee, as provided in Section 11362.755, and provide
38 all of the following to the county health department or ~~its~~ *the*
39 *county's* designee on a form developed and provided by the
40 department:



- 1 (1) The name of the person, and proof of his or her residency
2 within the county.
- 3 (2) Written documentation by the attending physician in the
4 person's medical records stating that the person has been
5 diagnosed with a serious medical condition and that the medical
6 use of marijuana is appropriate.
- 7 (3) The name, office address, office telephone number, and
8 California medical license number of the person's attending
9 physician.
- 10 (4) The name and the duties of the primary caregiver.
- 11 (5) A government-issued photo identification card of the
12 person and of the designated primary caregiver, if any. If the
13 applicant is a person under 18 years of age, a certified copy of a
14 birth certificate shall be deemed sufficient proof of identity.
- 15 (b) If the person applying for an identification card lacks the
16 capacity to make medical decisions, the application may be made
17 by the person's legal representative, including, but not limited to,
18 any of the following:
- 19 (1) A conservator with authority to make medical decisions.
- 20 (2) An attorney-in-fact under a durable power of attorney for
21 health care or surrogate decisionmaker authorized under another
22 advanced health care directive.
- 23 (3) Any other individual authorized by statutory or decisional
24 law to make medical decisions for the person.
- 25 (c) The legal representative described in subdivision (b) may
26 also designate in the application an individual, including himself
27 or herself, to serve as a primary caregiver for the person, provided
28 that the individual meets the definition of a primary caregiver.
- 29 (d) The person or legal representative submitting the written
30 information and documentation described in subdivision (a) shall
31 retain a copy thereof.
- 32 11362.72. (a) Within 30 days of receipt of an application for
33 an identification card, a county health department or ~~its~~ *the*
34 *county's* designee shall do all of the following:
- 35 (1) For purposes of processing the application, verify that the
36 information contained in the application is accurate. If the person
37 is less than 18 years of age, the county health department or its
38 designee shall also contact the parent with legal authority to make
39 medical decisions, legal guardian, or other person or entity with



1 legal authority to make medical decisions, to verify the
2 information.

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

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

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

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

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

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

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

30 (3) The name and telephone number of the county health
31 department or ~~its~~ *the county's* designee that has approved the
32 application.

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

37 (d) In any case involving an incomplete application, the
38 applicant shall assume responsibility for rectifying the deficiency.
39 The county shall have 14 days from the receipt of information



1 from the applicant pursuant to this subdivision to approve or deny
2 the application.

3 11362.735. (a) An identification card issued by the county
4 health department shall be serially numbered and shall contain all
5 of the following:

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

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

8 (3) The name and telephone number of the county health
9 department or ~~its~~ *the county's* designee that has approved the
10 application.

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

15 (5) Photo identification of the cardholder.

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

19 11362.74. (a) The county health department or ~~its~~ *the*
20 *county's* designee may deny an application only for any of the
21 following reasons:

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

26 (2) The county health department or ~~its~~ *the county's* designee
27 determines that the information provided was false.

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

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

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



1 11362.745. (a) An identification card shall be valid for a
2 period of one year.

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

6 (c) The county health department or ~~its~~ *the county's* designee
7 shall transmit its determination of approval or denial of a renewal
8 to the department.

9 11362.755. (a) The department shall establish application
10 and renewal fees for persons seeking to obtain or renew
11 identification cards that are sufficient to cover the expenses
12 incurred by the department, including *the startup cost*, the cost of
13 reduced fees for Medi-Cal beneficiaries ~~and in accordance with~~
14 *subdivision (b), the cost of identifying and developing a*
15 *cost-effective Internet Web-based system, and the cost of*
16 maintaining the 24-hour toll-free telephone number. Each county
17 health department *or the county's designee* may charge an
18 additional fee for all ~~county department costs incurred~~ *costs*
19 *incurred by the county or the county's designee* for administering
20 the program pursuant to this article. ~~However, upon~~

21 (b) Upon satisfactory proof of participation and eligibility in
22 the Medi-Cal program, ~~these fees shall be reduced by 50 percent.~~
23 *a Medi-Cal beneficiary shall receive a 50 percent reduction in the*
24 *fees established pursuant to this section.*

25 11362.76. (a) A person who possesses an identification card
26 shall:

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

30 (2) Annually submit to the county health department or ~~its~~ *the*
31 *county's* designee the following:

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

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

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



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

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

12 11362.765. (a) Subject to the requirements of this article, the
13 individuals specified in subdivision (b) shall not be subject, on that
14 sole basis, to criminal liability under Section 11357, 11358, 11359,
15 11360, 11366, 11366.5, or 11570. However, nothing in this section
16 shall authorize the individual to smoke or otherwise consume
17 marijuana unless otherwise authorized by this article, *nor shall*
18 *anything in this section authorize any individual or group to*
19 *cultivate or distribute marijuana for profit.*

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

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

24 (2) A designated primary caregiver who transports, processes,
25 administers, delivers, or gives away marijuana for medical
26 purposes, in amounts not exceeding those established ~~by~~
27 ~~regulations that shall be adopted by the department pursuant to~~ *in*
28 *subdivision (a) of Section 11362.77*, only to the qualified patient
29 of the primary caregiver, or to the person with an identification
30 card who has designated the individual as a primary caregiver.

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

37 ~~(e) Any individual who receives reasonable compensation for~~

38 (c) *A primary caregiver who receives compensation for actual*
39 *expenses, including reasonable compensation incurred for*
40 *services provided to an eligible qualified patient or person with an*



1 identification card to enable that person to use marijuana under this
2 article, or for payment for out-of-pocket expenses incurred in
3 providing those services, or both, shall not, on the sole basis of that
4 fact, be subject to prosecution or punishment under Section 11359
5 or 11360.

6 ~~11362.77. The department may adopt, if necessary,~~
7 ~~emergency regulations pursuant to this article after public~~
8 ~~comment and consultation with interested organizations,~~
9 ~~including, but not limited to, patients, health professionals,~~
10 ~~researchers, and law enforcement, to determine appropriate~~
11 ~~amounts of marijuana for the qualified patient's or person's own~~
12 ~~personal medical use. The regulations shall be consistent with the~~
13 ~~intent of this chapter, and shall be based on currently available~~
14 ~~scientific research and knowledge. A qualified patient or a person~~
15 ~~holding a valid identification card, or the designated primary~~
16 ~~caregiver of that qualified patient or person, may possess amounts~~
17 ~~of marijuana consistent with the emergency regulations.~~

18 *11362.77. (a) A qualified patient or primary caregiver may*
19 *possess no more than eight ounces of dried marijuana per qualified*
20 *patient. In addition, a qualified patient or primary caregiver may*
21 *also maintain no more than six mature or 12 immature marijuana*
22 *plants per qualified patient.*

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

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

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

34 *(e) The Attorney General may recommend modifications to the*
35 *possession or cultivation limits set forth in this section. These*
36 *recommendations, if any, shall be made to the Legislature no later*
37 *than December 1, 2005, and may be made only after public*
38 *comment and consultation with interested organizations,*
39 *including, but not limited to, patients, health care professionals,*
40 *researchers, law enforcement, and local governments. Any*



1 *recommended modification shall be consistent with the intent of*
2 *this article and shall be based on currently available scientific*
3 *research.*

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

8 11362.775. Qualified patients, persons with valid
9 identification cards, and the designated primary caregivers of
10 qualified patients and persons with identification cards, who
11 associate within the State of California in order collectively or
12 cooperatively to cultivate marijuana for medical purposes, shall
13 not solely on the basis of that fact be subject to state criminal
14 sanctions under Section 11357, 11358, 11359, 11360, 11366,
15 11366.5, or 11570.

16 11362.78. A state or local law enforcement agency or officer
17 shall not refuse to accept an identification card issued by the
18 department unless the state or local law enforcement agency or
19 officer has reasonable cause to believe that the information
20 contained in the card is false or fraudulent, or the card is being used
21 fraudulently.

22 11362.785. (a) Nothing in this article shall require any
23 accommodation of any medical use of marijuana on the property
24 or premises of any place of employment or during the hours of
25 employment or on the property or premises of any jail, correctional
26 facility, or other type of penal institution in which prisoners reside
27 or persons under arrest are detained.

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

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



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

5 11362.79. Nothing in this article shall authorize a qualified
6 patient or person with an identification card to engage in the
7 smoking of medical marijuana under any of the following
8 circumstances:

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

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

13 (c) On a schoolbus.

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

15 (e) While operating a boat.

16 11362.795. (a) (1) Any criminal defendant who is eligible to
17 use marijuana pursuant to Section 11362.5 may request that the
18 court confirm that he or she is allowed to use medical marijuana
19 while he or she is on probation or released on bail.

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

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

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

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



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

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

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

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

23 11362.81. (a) A person specified in subdivision (b) shall be
24 subject to the following penalties:

25 (1) For the first offense, imprisonment in the county jail for no
26 more than six months or a fine not to exceed one thousand dollars
27 (\$1,000), or both.

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

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

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

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



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

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

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

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

15 11362.82. If any section, subdivision, sentence, clause,
16 phrase, or portion of this article is for any reason held invalid or
17 unconstitutional by any court of competent jurisdiction, that
18 portion shall be deemed a separate, distinct, and independent
19 provision, and that holding shall not affect the validity of the
20 remaining portion thereof.

21 11362.83. Nothing in this article shall prevent a city or other
22 local governing body from adopting and enforcing laws consistent
23 with this article.

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

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



1 state mandate, within the meaning of Section 17556 of the
2 Government Code.

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