

ASSEMBLY BILL

No. 2465

Introduced by Assembly Member Campos

February 24, 2012

An act to amend Sections 11362.71, 11362.715, and 11362.735 of, and to add Section 11362.776 to, the Health and Safety Code, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

AB 2465, as introduced, Campos. Medical marijuana: identification cards.

Existing law, the Compassionate Use Act of 1996, an initiative measure, prohibits prosecution for the possession or cultivation of marijuana of a patient or 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. Existing law, the Medical Marijuana Program Act, establishes a voluntary identification card program to exempt qualified patients who hold an identification card issued pursuant to the program, and the caregivers of those persons, from certain state criminal sanctions related to the possession, cultivation, transportation, processing, or use of limited amounts of marijuana, as specified. Existing law requires that each county health department comply with various duties relating to the issuance of identification cards. Violation of certain provisions relating to the procurement of an identification card is a misdemeanor.

This bill would make it mandatory for a qualified patient or his or her designated primary caregiver to hold an identification card to engage in the medical use of marijuana. The bill also would require that the identification card include additional information relating to the

cultivation of medical marijuana. By expanding the scope of a crime, and by increasing the duties on local agencies, this bill would impose a state-mandated local program.

This bill would require a medical marijuana cooperative, collective, dispensary, operation, establishment, or provider to have available at all times a copy of the identification card for each person to whom medical marijuana is provided.

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.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

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. Section 11362.71 of the Health and Safety Code
2 is amended to read:

3 11362.71. (a) (1) The department shall establish and maintain
4 a ~~voluntary~~ program for the issuance of identification cards to
5 qualified patients who satisfy the requirements of this article and
6 ~~voluntarily~~ apply to the identification card program.

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

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

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

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

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

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

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

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

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

23 (e) ~~No~~ A person or designated primary caregiver in possession
24 of a valid identification card shall *not* be subject to arrest for
25 possession, transportation, delivery, or cultivation of medical
26 marijuana in an amount established pursuant to this article, unless
27 there is reasonable cause to believe that the information contained
28 in the card is false or falsified, the card has been obtained by means
29 of fraud, or the person is otherwise in violation of the provisions
30 of this article.

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

34 SEC. 2. Section 11362.715 of the Health and Safety Code is
35 amended to read:

36 11362.715. (a) A person who *is a qualified patient who wishes*
37 *to engage in the medical use of marijuana and the person's*
38 *designated primary caregiver, as applicable, shall apply for an*
39 *identification card pursuant to the provisions of this article.*

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

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

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

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

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

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

19 (6) A statement regarding whether the person applying for the
20 identification card intends to cultivate, or to have cultivated on
21 his or her behalf, medical marijuana and, if so, the physical
22 address of the location where the medical marijuana will be
23 cultivated.

24 ~~(b)~~

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

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

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

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

35 (4) A statement regarding whether the person applying for the
36 identification card intends to cultivate, or to have cultivated on
37 his or her behalf, medical marijuana and, if so, the physical
38 address of the location where the medical marijuana will be
39 cultivated.

40 ~~(e)~~

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

5 ~~(d)~~

6 (e) The person or legal representative submitting the written
7 information and documentation described in subdivision ~~(a)~~ (b)
8 shall retain a copy thereof.

9 SEC. 3. Section 11362.735 of the Health and Safety Code is
10 amended to read:

11 11362.735. (a) An identification card issued by the county
12 health department shall be serially numbered and shall contain all
13 of the following:

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

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

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

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

23 (5) Photo identification of the cardholder.

24 (6) *Information indicating whether the cardholder applied to*
25 *cultivate, or have cultivated on his or her behalf, medical*
26 *marijuana, as applicable.*

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

30 SEC. 4. Section 11362.776 is added to the Health and Safety
31 Code, to read:

32 11362.776. Notwithstanding any other law, a medical marijuana
33 cooperative, collective, dispensary, operator, establishment, or
34 provider that possesses, cultivates, or distributes medical marijuana
35 and that has a storefront or mobile retail outlet shall have available
36 at all times a copy of the identification card for each person to
37 whom medical marijuana is provided.

38 SEC. 5. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution for certain
40 costs that may be incurred by a local agency or school district

1 because, in that regard, this act creates a new crime or infraction,
2 eliminates a crime or infraction, or changes the penalty for a crime
3 or infraction, within the meaning of Section 17556 of the
4 Government Code, or changes the definition of a crime within the
5 meaning of Section 6 of Article XIII B of the California
6 Constitution.

7 However, if the Commission on State Mandates determines that
8 this act contains other costs mandated by the state, reimbursement
9 to local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

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