

AMENDED IN ASSEMBLY AUGUST 29, 2000

AMENDED IN ASSEMBLY AUGUST 16, 1999

AMENDED IN ASSEMBLY JULY 8, 1999

SENATE BILL

No. 848

Introduced by Senator Vasconcellos

February 25, 1999

An act to *repeal Section 11362.705 of, and 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 848, as amended, Vasconcellos. ~~Medicinal~~ *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 care giver, 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 registry identification cards to qualified patients and would establish procedures under which a qualified

patient with a registry identification card may use marijuana for medical purposes.

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

The bill would create various crimes related to the registry 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.

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



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

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

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

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

21 (1) Clarify the scope of the application of the act and
22 facilitate the prompt identification of qualified patients
23 and their designated primary care givers in order to avoid
24 unnecessary arrest and prosecution of these individuals
25 and provide needed guidance to law enforcement
26 officers.

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

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

33 (4) Enhance the access of patients and care givers to
34 medical marijuana through collective, cooperative
35 cultivation projects.

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



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

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

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

11 SEC. 2. Article 2.5 (commencing with Section
12 11362.7) is added to Chapter 6 of Division 10 of the Health
13 and Safety Code, to read:

14

15 Article 2.5. Medical Marijuana Program

16

17 11362.7. For purposes of this article, the following
18 definitions shall apply:

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

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

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

35 (d) "Primary care giver" means the individual,
36 designated by a qualified patient or by a person with a
37 registry identification card, who has consistently assumed
38 responsibility for the housing, health, or safety of that
39 patient or person, and may include any of the following:



1 (1) The owner or operator, or no more than three
2 employees who are designated by the owner or operator
3 of a clinic licensed pursuant to Chapter 1 (commencing
4 with Section 1200) of Division 2, a health care facility
5 licensed pursuant to Chapter 2 (commencing with
6 Section 1250) of Division 2, a residential care facility for
7 persons with chronic life-threatening illness licensed
8 pursuant to Chapter 3.01 (commencing with Section
9 1568.01) of Division 2, a residential care facility for the
10 elderly licensed pursuant to Chapter 3.2 (commencing
11 with Section 1569) of Division 2, a hospice, or a home
12 health agency licensed pursuant to Chapter 8
13 (commencing with Section 1725) of Division 2, and from
14 which a qualified patient or person with a registry
15 identification card receives medical care or supportive
16 services, or both.

17 (2) An individual who has been designated as a
18 primary care giver by one or more qualified patients or
19 persons with a registry identification card, or who has
20 been designated as a primary care giver by only one
21 qualified patient or person with a registry identification
22 card if the designated primary care giver is in a city or
23 county other than that in which the qualified patient or
24 person with a registry identification card resides.

25 (3) A primary care giver shall be at least 18 years of
26 age, unless the primary care giver is the parent of a minor
27 child who is a qualified patient or a person with a registry
28 identification card or the primary care giver is a person
29 otherwise entitled to make medical decisions under state
30 law pursuant to Sections 6922, 7002, 7050, or 7120 of the
31 Family Code.

32 (e) “Qualified patient” means a person who is entitled
33 to the protections of Section 11362.5, but who does not
34 have a registry identification card issued pursuant to this
35 article.

36 (f) “Registry identification card” means a document
37 issued by the State Department of Health Services which
38 identifies a person authorized to engage in the medical
39 use of marijuana and the person’s designated primary
40 care giver, if any.



- 1 (g) “Serious medical condition” means all of the
2 following medical conditions:
- 3 (1) Acquired immune deficiency syndrome (AIDS).
 - 4 (2) Anorexia.
 - 5 (3) Arthritis.
 - 6 (4) Cachexia.
 - 7 (5) Cancer.
 - 8 (6) Chronic pain.
 - 9 (7) Glaucoma.
 - 10 (8) Migraine.
 - 11 (9) Persistent muscle spasms, including, but not
12 limited to, spasms associated with multiple sclerosis.
 - 13 (10) Seizures, including, but not limited to, seizures
14 associated with epilepsy.
 - 15 (11) Severe nausea.
 - 16 (12) Any other chronic or persistent medical symptom
17 that either:
 - 18 (A) Substantially limits the ability of the person to
19 conduct one or more major life activities as defined in the
20 Americans with Disabilities Act of 1990 (Public Law
21 101-336).
 - 22 (B) If not alleviated, may cause serious harm to the
23 patient’s safety or physical or mental health.
- 24 (h) “Written documentation” means accurate
25 reproductions of those portions of a patient’s medical
26 records that have been created by the attending
27 physician, containing the information required by
28 paragraph (2) of subdivision (a) of Section 11362.715,
29 which the patient may submit to a county health
30 department or its designee as part of an application for a
31 registry identification card. *If, and during such time as,*
32 *Section 11362.705 is implemented, a photocopy of a*
33 *completed and signed physician assessment form, as*
34 *defined in subdivision (b) of Section 11362.705, shall*
35 *satisfy the definition of written documentation.*
36 *11362.705. (a) (1) The Attorney General of*
37 *California shall certify that the federal authorities cannot*
38 *prosecute physicians for recommending or approving*
39 *marijuana for medical use, provided that substantive*



1 *action has occurred that constrains the federal Drug*
2 *Enforcement Agency from bringing these prosecutions.*

3 *(2) Commencing six months after the certification*
4 *described in paragraph (1), an attending physician who*
5 *determines that a patient has a serious medical condition*
6 *for which medical marijuana is appropriate and*
7 *documents that determination in the patient's medical*
8 *record shall complete a physician assessment form, and*
9 *forward the original of that form to the department. The*
10 *physician shall retain a photocopy of the physician*
11 *assessment form in the patient's medical record, and shall*
12 *make a photocopy available to the patient.*

13 *(b) For purposes of this section, "physician assessment*
14 *form" means a serially numbered form developed and*
15 *provided to a physician by the department on which the*
16 *physician shall declare that the patient has a serious*
17 *medical condition for which the medical use of marijuana*
18 *is appropriate. The form shall include the name, address,*
19 *telephone number, social security number, and date of*
20 *birth of the patient, and the name, office address, office*
21 *telephone number, and California medical license*
22 *number of the person's attending physician.*

23 *(c) A physician assessment form may be completed by*
24 *the physician or an employee of the physician, and it shall*
25 *be signed by the physician. The department shall develop*
26 *and make available the physician assessment form in*
27 *sufficient time to permit physicians to meet the*
28 *requirements of subdivision (a).*

29 *(d) This section shall remain in effect only until the*
30 *date that the Attorney General of California certifies that*
31 *a secure electronic monitoring system that is initiated in*
32 *the physician's office and is linked to the Department of*
33 *Justice has been established, and as of that date is*
34 *repealed.*

35 11362.71. (a) The department shall establish and
36 maintain a voluntary program for the issuance of registry
37 identification cards to qualified patients who satisfy the
38 requirements of this article and voluntarily apply to the
39 registry identification card program.



1 (b) Every county health department shall do all of the
2 following:

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

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

7 (3) Maintain records of registry identification card
8 programs in accordance with Section 11362.75.

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

11 (c) The county health department may designate
12 another governmental or a nongovernmental entity or
13 organization to perform the functions described in
14 subdivision (b), except for an entity or organization that
15 cultivates or distributes marijuana.

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

17 (1) Protocols that shall be used by county health
18 departments and their designees to implement the
19 responsibilities described in subdivision (b), including,
20 but not limited to, protocols to confirm the accuracy of
21 information contained in an application and to protect
22 the confidentiality of program records.

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

25 (3) A registry identification card that identifies a
26 person authorized to engage in the medical use of
27 marijuana and a registry identification card that identifies
28 the person's designated primary care giver if any. The
29 two registry identification cards developed pursuant to
30 this paragraph shall be easily distinguishable from each
31 other.

32 ~~(e) The county health department or its designee shall~~
33 ~~submit an annual report to the department indicating the~~
34 ~~number of persons whose applications for registry~~
35 ~~identification cards have been approved and the types of~~
36 ~~serious medical conditions from which the applicants~~
37 ~~suffer. However, except as provided in subdivision (b) of~~
38 ~~Section 11362.72, in no case shall the identities of persons~~
39 ~~be reported to the department.~~

40 ~~(f)~~



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

11 ~~(g)~~

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

15 11362.715. (a) A person who seeks a registry
16 identification card shall pay the fee, if any, as provided in
17 Section 11362.755, and provide all of the following to the
18 county health department or its designee *on a form*
19 *developed and provided by the department*:

20 (1) The name, address, telephone number, social
21 security number, and date of birth of the person, and
22 proof of his or her residency within the county.

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

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

31 (4) The name, address, telephone number, social
32 security number, and date of birth of the persons's
33 designated primary care giver, if any, and the duties of
34 the primary care giver.

35 (5) A copy of a photo identification card of the person
36 and of the designated primary care giver, if any. If the
37 applicant is a person under 18 years of age, a certified
38 copy of a birth certificate shall be deemed sufficient proof
39 of identity.



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

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

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

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

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

19 (d) The person or legal representative submitting the
20 written information and documentation described in
21 subdivision (a) shall retain a copy thereof, as well as proof
22 of date of mailing or other method of delivery to the
23 county health department or its designee.

24 11362.72. (a) Within 30 days of receipt of an
25 application for a registry identification card, a county
26 health department or its designee shall do all of the
27 following:

28 ~~(1) For the purpose of processing the application, as~~
29 ~~well as for the purpose of obtaining data to assess the~~
30 ~~number of individuals in this state suffering from serious~~
31 ~~medical conditions that are not being adequately~~
32 ~~alleviated through the use of conventional medications,~~
33 ~~verify that the information contained in the application~~
34 ~~is accurate.~~

35 (1) In any case where the person is less than 18 years
36 of age, the county health department or its designee shall
37 also contact the parent with legal authority to make
38 medical decisions, legal guardian, or other person or
39 entity with legal authority to make medical decisions, to
40 verify the information. In any case where proof of



1 identity is uncertain, the county health department or its
2 designee may require an in-person meeting with the
3 person or primary care giver, or the production of
4 additional identification materials for verification
5 purposes, or both. ~~In all cases, the county health
6 department or its designee shall do both of the following:~~

7 ~~(A) Verify with the Medical Board of California or the
8 Osteopathic Medical Board of California that the
9 attending physician has a license in good standing to
10 practice medicine or osteopathy in the state.~~

11 ~~(B) Contact~~ *The county health department shall*
12 *contact* the attending physician by telephone or mail to
13 confirm that the medical records submitted by the
14 patient are a true and correct copy of those contained in
15 the physician's office records. When contacted by a
16 county health department or its designee, the attending
17 physician shall confirm or deny that the contents of the
18 medical records are accurate.

19 (2) Take a photograph or otherwise obtain an
20 electronically transmissible image of the applicant and of
21 the designated primary care giver, if any.

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

31 (b) If the county health department or its designee
32 approves the application, it shall, within 24 hours, or by
33 the end of the next working day of that determination,
34 electronically transmit the following information to the
35 department:

36 (1) The name of the applicant.

37 (2) The name of the designated primary care giver, if
38 any, of the applicant.

39 (3) The photographic image of the applicant and of
40 the designated primary care giver, if any.



1 (4) The name and telephone number of the county
2 health department or its designee that has approved the
3 application.

4 (c) The department shall issue a registry identification
5 card to the applicant and to his or her designated primary
6 care giver, if any, within five working days of receipt of
7 that determination.

8 (d) In any case involving an incomplete application,
9 the county health department shall send notice of a
10 deficiency within 30 days of receipt of an application. The
11 applicant shall have 30 days from the date of receipt of
12 that notification to rectify the deficiency. The county
13 shall have 14 days from the receipt of information from
14 the applicant pursuant to this subdivision to approve or
15 deny the application. If the applicant does not provide
16 the county with information that rectifies the deficiency
17 within the 30-day period, the application may be denied
18 in accordance with Section 11362.74.

19 11362.735. (a) A registry identification card issued by
20 the department shall be serially numbered and shall state
21 all of the following:

22 (1) The cardholder's name, home address, and date of
23 birth.

24 (2) The date of expiration of the registry identification
25 card.

26 (3) The name and telephone number of the county
27 health department or its designee that has approved the
28 application.

29 ~~(4) A 24-hour, toll-free telephone number which will~~
30 ~~enable state and local law enforcement officers to have~~
31 ~~immediate access to information necessary to verify the~~
32 ~~validity of the card.~~

33 ~~(5)~~

34 (4) Photo identification of the cardholder.

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



1 11362.74. (a) The county health department or its
2 designee may deny an application only for either of the
3 following reasons:

4 (1) The applicant did not provide the information
5 required by Section 11362.715, and upon notice of the
6 deficiency pursuant to subdivision (e) of Section
7 11362.72, did not provide the information within 30 days.

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

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

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

17 ~~(e) The county health department or its designee shall~~
18 ~~transmit its determination of denial to the department~~

19 *(c) Any person whose application has been denied*
20 *pursuant to subdivision (a) may appeal that decision to*
21 *the department. The county health department or its*
22 *designee shall make available a telephone number or*
23 *address to which the denied applicant can direct an*
24 *appeal.*

25 11362.745. (a) A registry identification card shall be
26 valid for a period of one year.

27 (b) No later than 45 days before the expiration of the
28 term of a registry identification card, the county health
29 department or its designee shall send a renewal notice to
30 the person and to the designated primary care giver, if
31 any, at the addresses shown in the program records, as
32 provided in Section 11362.75.

33 (c) Upon annual renewal of a registry identification
34 card, the county health department or its designee shall
35 verify all new information and may verify any other
36 information that has not changed.

37 (d) The county health department or its designee shall
38 transmit its determination of approval or denial of a
39 renewal to the department.



1 11362.75. (a) The county health department or its
2 designee shall keep complete program records,
3 including, but not limited to, all of the following:

4 ~~(1) All written information and documentation~~
5 ~~contained in an application for a registry identification~~
6 ~~card, including photographic identification of the~~
7 ~~applicant and his or her designated primary care giver, if~~
8 ~~any.~~

9 ~~(2) The nature and results of the efforts of the county~~
10 ~~health department or its designee to verify the accuracy~~
11 ~~of the information contained in an application.~~

12 ~~(3) A list of persons for whom applications for registry~~
13 ~~identification cards have been approved.~~

14 ~~(4) A list of the persons whose applications for issuance~~
15 ~~or renewal of registry identification cards have been~~
16 ~~denied pursuant to Section 11362.74 or 11362.745,~~
17 ~~including the reason for, and date of, the denial.~~

18 (b) The department shall maintain program records
19 containing all of the following:

20 (1) The name of each registry identification
21 cardholder.

22 (2) The name of the designated primary care giver of
23 the registry identification cardholder, if any.

24 (3) Photographic identification of the cardholder and
25 his or her designated primary care giver, if any.

26 (4) The identification number of the registry
27 identification card.

28 (5) The name and telephone number of the county
29 health department or its designee that has approved the
30 application for the issuance or renewal of the registry
31 identification card.

32 (c) The records described in subdivisions (a) and (b)
33 shall be confidential and not subject to public disclosure.

34 (d) Notwithstanding this section, names and other
35 identifying information from program records may be
36 disclosed to both of the following:

37 (1) Authorized employees of the department or of a
38 county health department or its designee, as necessary to
39 perform official duties of the program.



1 (2) Authorized employees of state or local
2 enforcement agencies, but only as necessary to review
3 and verify that a person is a lawful possessor of a registry
4 identification card or that an individual is the designated
5 primary care giver of a person with a registry
6 identification card.

7 (e) The department shall transmit the information
8 described in subdivision (b) to the California Law
9 Enforcement Telecommunications System (CLETS)
10 after issuance of a registry identification card. ~~The~~
11 ~~department shall make the identical information~~
12 ~~available through a 24-hour toll-free telephone number.~~

13 11362.755. The department may establish application
14 and renewal fees for persons seeking to obtain or renew
15 registry identification cards that are sufficient to cover
16 the expenses incurred by the department and each
17 county health department of administering the registry
18 identification card program. However, upon satisfactory
19 proof of indigence, these fees shall be waived. The
20 department shall reimburse each county health
21 department for its costs of administering the program
22 from the revenue generated by the fees.

23 11362.76. (a) A person who possesses a registry
24 identification card shall:

25 (1) Within seven days, notify the county health
26 department or its designee of any change in the person's
27 name, address, attending physician, or designated
28 primary care giver, if any.

29 (2) Annually submit to the county health department
30 or its designee the following:

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

33 (B) The name, home address, and duties of the
34 person's designated primary care giver, if any, for the
35 forthcoming year.

36 (b) If a person who possesses a registry identification
37 card fails to comply with this section, the card shall be
38 deemed expired. If a registry identification card expires,
39 the registry identification card of any designated primary
40 care giver of the person shall also expire. ~~The county~~



1 ~~health department shall notify the department within~~
2 ~~seven days that the card is deemed expired.~~

3 (c) If the designated primary care giver has been
4 changed, the previous primary care giver shall return his
5 or her registry identification card to the department or to
6 the county health department or its designee.

7 (d) If the owner or operator or an employee of the
8 owner or operator of a provider has been designated as
9 a primary care giver pursuant to paragraph (1) of
10 subdivision (d) of Section 11362.7, of the qualified patient
11 or person with a registry identification card, the owner or
12 operator shall notify the county health department or its
13 designee, pursuant to Section 11362.715, if a change in the
14 designated primary care giver has occurred.

15 11362.765. (a) Subject to the requirements of this
16 article, the individuals specified in subdivision (b) shall
17 not be subject, on that sole basis, to criminal liability
18 under Section 11357, 11358, 11359, 11360, 11366, 11366.5,
19 or 11570. However, nothing in this section shall authorize
20 the individual to smoke or otherwise consume marijuana
21 unless otherwise authorized by this article.

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

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

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

34 (3) Any individual who provides assistance to a
35 qualified patient or a person with a registry identification
36 card, or his or her designated primary care giver, in
37 administering medical marijuana to the qualified patient
38 or person or acquiring the skills necessary to cultivate or
39 administer marijuana for medical purposes to the
40 qualified patient or person.



1 (c) The following individuals who receive reasonable
2 compensation for services, payment for out-of-pocket
3 expenses incurred, or both, shall not, on the sole basis of
4 that fact, be subject to prosecution or punishment under
5 Section 11359 or 11360:

6 (1) A designated primary care giver who cultivates,
7 transports, delivers, or administers medical marijuana to
8 a qualified patient or to a person with a registry
9 identification card, in amounts not exceeding those
10 established by regulations to be adopted by the
11 department pursuant to Section 11362.77.

12 (2) Any other individual who delivers, administers, or
13 provides other assistance as described in paragraph (3) of
14 subdivision (b) to a qualified patient or a person with a
15 registry identification card.

16 ~~11362.77. A qualified patient or a person holding a
17 valid registry identification card, or the designated
18 primary care giver of that qualified patient or person,
19 may possess amounts of marijuana for the qualified
20 patient's or person's own personal medical use in amounts
21 to be determined by emergency regulations that shall be
22 adopted by the department~~

23 *11362.77. The department shall issue emergency
24 regulations by July 1, 2001, after public comment and
25 consultation with interested organizations to determine
26 appropriate amounts of marijuana for the qualified
27 patient's or person's own personal medical use. The
28 regulations shall be based on currently available scientific
29 research and knowledge and shall be reviewed annually
30 to determine if revision is necessary to reflect material
31 changes in research and knowledge. A qualified patient
32 or a person holding a valid registry identification card, or
33 the designated primary caregiver of that qualified patient
34 or person, may possess amounts of marijuana consistent
35 with the emergency regulations.*

36 11362.775. Qualified patients, persons with valid
37 registry identification cards, and the designated primary
38 care givers of qualified patients and persons with registry
39 identification cards, may associate or incorporate within
40 the state of California, or both, in order collectively or



1 cooperatively to cultivate marijuana for medical
2 purposes and these individuals participating in
3 cooperative cultivation projects shall not solely on the
4 basis of that fact be subject to criminal sanctions under
5 Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.
6 The department shall adopt regulations, after public
7 comment and consultation with interested organizations,
8 governing the operation and supervision of these
9 cooperatives, no later than December 31, ~~2000~~ 2001. The
10 regulations shall specify only the methods, procedures,
11 and criteria that the cultivation projects shall employ to
12 ensure the consistency of composition, noncontamination
13 and nondiversion of medical marijuana. The ~~county~~
14 ~~health department or its designee~~ *department* shall have
15 the right to inspect the cultivation projects to ensure
16 compliance with the methods, procedures, and criteria.

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

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

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

37 (c) Nothing in this article shall prohibit a jail,
38 correctional facility, or other penal institution in which
39 prisoners reside or persons under arrest are detained,
40 from permitting a prisoner or a person under arrest who



1 has a registry identification card, to use marijuana for
2 medical purposes under circumstances that will not
3 endanger the health or safety of other prisoners or the
4 security of the facility.

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

10 11362.79. Nothing in this article shall authorize a
11 qualified patient or person with a registry identification
12 card to engage in the smoking of medical marijuana:

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

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

17 (c) On a schoolbus.

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

19 (e) While operating a boat.

20 11362.795. With respect to the conditions of probation
21 or parole or release on bail, the burden of proof shall be
22 on the recipient of the conditions to demonstrate that use
23 of medical marijuana by the recipient should not be
24 included in the conditions. The court shall consider the
25 proof and shall provide a written record describing the
26 reasons for its denial of the request.

27 11362.8. No professional licensing board may impose
28 a civil penalty or take other disciplinary action against a
29 licensee based solely on the fact that the licensee has
30 performed acts that are necessary or appropriate to carry
31 out the licensee's role as a designated primary care giver
32 to a person who is a qualified patient or who possesses a
33 lawful registry identification card issued pursuant to
34 Section 11362.72. However, this section shall not apply to
35 acts performed by a physician relating to the discussion
36 or recommendation of the medical use of marijuana to a
37 patient. These discussions or recommendations, or both,
38 shall be governed by Section 11362.5.

39 11362.81. (a) Any person specified in subdivision (b)
40 shall be punishable as follows:



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

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

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

8 (1) A person who fraudulently represents a medical
9 condition or fraudulently provides any material
10 misinformation to a physician, county health department
11 or its designee, or state or local law enforcement agency
12 or officer, for the purpose of falsely obtaining a registry
13 identification card.

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

18 (3) A person who counterfeits, tampers with, or
19 fraudulently produces a registry identification card.

20 (4) A person who breaches the confidentiality
21 requirements afforded by this article to information
22 provided to, or contained in the records of, the
23 department or of a county health department or its
24 designee pertaining to a registry identification card
25 program.

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

31 11362.82. If any section, subdivision, sentence, clause,
32 phrase, or portion of this article is for any reason held
33 invalid or unconstitutional by any court of competent
34 jurisdiction, that portion shall be deemed a separate,
35 distinct, and independent provision, and that holding
36 shall not affect the validity of the remaining portion
37 thereof.

38 11362.83. Nothing in this article shall prevent a city or
39 other local governing body from adopting and enforcing
40 laws consistent with this article.



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

11 However, notwithstanding Section 17610 of the
12 Government Code, if the Commission on State Mandates
13 determines that this act contains other costs mandated by
14 the state, reimbursement to local agencies and school
15 districts for those costs shall be made pursuant to Part 7
16 (commencing with Section 17500) of Division 4 of Title
17 2 of the Government Code. If the statewide cost of the
18 claim for reimbursement does not exceed one million
19 dollars (\$1,000,000), reimbursement shall be made from
20 the State Mandates Claims Fund.

