

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 223

Introduced by Assembly Member Ammiano

February 2, 2011

An act to amend Section ~~11350~~ 11362.79 of the Health and Safety Code, relating to ~~controlled substances~~ *the Compassionate Use Act of 1996*.

LEGISLATIVE COUNSEL'S DIGEST

AB 223, as amended, Ammiano. ~~Controlled—substances.~~
Compassionate Use Act of 1996.

Existing law, the Compassionate Use Act of 1996, an initiative statute enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.

This bill would make findings and declarations regarding medical marijuana, and provide that it is the intent of the Legislature to improve the Compassionate Use Act of 1996 and the state's medical marijuana program by establishing a comprehensive and multidisciplinary commission that is empowered to address issues regarding the legality and implementation of the Compassionate Use Act of 1996 and the state's medical marijuana law.

Existing law provides that nothing in the Compassionate Use Act of 1996 authorizes a qualified patient or person with an identification

card to engage in the smoking of medical marijuana under any of certain specified circumstances, including within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

This bill would revise that prohibition to provide that nothing in the Compassionate Use Act of 1996 authorizes a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of those specified circumstances, including within 600 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence or within a medical marijuana cooperative, collective, or dispensary.

~~Existing law provides that, except as otherwise provided, every person who possesses any of certain controlled substances, or any of other specified controlled substances which is a narcotic drug, unless upon written prescription, as specified, shall be punished by imprisonment in the state prison.~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

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

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

- 1 SECTION 1. (a) The Legislature hereby makes the following
- 2 findings and declarations regarding the Compassionate Use Act
- 3 of 1996:
- 4 (1) Marijuana's recorded use as a medicine goes back nearly
- 5 5,000 years. A report by the Institute of Medicine (IOM) of the
- 6 National Academy of Sciences published in March of 1999 found
- 7 that modern medical research confirms the beneficial uses of
- 8 marijuana in the treating or alleviating of pain, nausea, or other
- 9 symptoms associated with a variety of debilitating medical
- 10 conditions, including cancer, multiple sclerosis, and HIV/AIDS.
- 11 (2) Studies published since that 1999 IOM report have continued
- 12 to show the therapeutic value of marijuana in treating a wide array
- 13 of debilitating medical conditions. The relief marijuana provides
- 14 to patients suffering from the neuropathic pain caused by multiple
- 15 sclerosis, HIV/AIDS, and other illnesses that often fails to respond
- 16 to conventional treatments, and the relief marijuana provides to
- 17 patients suffering from the nausea, vomiting, and other side effects

1 of drugs used to treat HIV/AIDS and hepatitis C increases the
2 chances that these patients will continue to engage in life-saving
3 treatment regimens.

4 (3) Marijuana has many currently accepted medical uses in the
5 United States, having been recommended by thousands of licensed
6 physicians to at least 350,000 patients in states with medical
7 marijuana laws. Marijuana's medical utility has been recognized
8 by a wide range of medical and public health organizations,
9 including the American Academy of HIV Medicine, the American
10 College of Physicians, the American Nurses Association, the
11 American Public Health Association, the Leukemia & Lymphoma
12 Society, and many others.

13 (4) Data from the Federal Bureau of Investigation's Uniform
14 Crime Reports and the Compendium of Federal Justice Statistics
15 show that approximately 99 out of every 100 marijuana arrests in
16 the United States are made under state law, rather than under
17 federal law.

18 (5) State law should make a clear distinction between the
19 medical and nonmedical uses of marijuana. Hence, the purpose
20 of the Compassionate Use Act of 1996 is to protect patients with
21 debilitating medical conditions, as well as their practitioners and
22 providers, from criminal arrest and prosecution and other penalties
23 and from property seizure and forfeiture, if those patients engage
24 in the medical use of marijuana.

25 (6) The people of the State of California in 1996 enacted
26 Proposition 215, also known as the Compassionate Use Act of
27 1996, authorizing the use of marijuana for medical purposes. The
28 Legislature in 2003 enacted Senate Bill 420, requiring the
29 establishment of a program for the issuance of identification cards
30 to qualified patients so that they may lawfully use marijuana for
31 medical purposes and requiring the establishment of guidelines
32 for the lawful cultivation of marijuana grown for medical use.
33 These measures, however, left many issues about the lawful
34 cultivation, sale, and distribution of medical marijuana, and the
35 role of local government, under the Compassionate Use Act of
36 1996 unaddressed or unclear.

37 (b) It is the intent of the Legislature to enact legislation to
38 improve the Compassionate Use Act of 1996 and the state's
39 medical marijuana program by establishing a comprehensive and
40 multidisciplinary commission that is empowered to address issues

1 *regarding the legality and implementation of the Compassionate*
2 *Use Act of 1996 and the state's medical marijuana law.*

3 *SEC. 2. Section 11362.79 of the Health and Safety Code is*
4 *amended to read:*

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~~ 600 feet of the grounds of a school,
11 recreation center, or youth center, unless the medical use occurs
12 within a residence *or within a medical marijuana cooperative,*
13 *collective, or dispensary.*

14 (c) On a schoolbus.

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

16 (e) While operating a boat.

17 ~~SECTION 1. Section 11350 of the Health and Safety Code is~~
18 ~~amended to read:~~

19 11350. ~~(a) Except as otherwise provided in this division, every~~
20 ~~person who possesses (1) any controlled substance specified in~~
21 ~~subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section~~
22 ~~11054, specified in paragraph (14), (15), or (20) of subdivision (d)~~
23 ~~of Section 11054, or specified in subdivision (b) or (c) of Section~~
24 ~~11055, or specified in subdivision (h) of Section 11056, or (2) any~~
25 ~~controlled substance that is classified in Schedule III, IV, or V~~
26 ~~which is a narcotic drug, unless upon the written prescription of a~~
27 ~~physician, dentist, podiatrist, or veterinarian licensed to practice~~
28 ~~in this state, shall be punished by imprisonment in the state prison.~~

29 ~~(b) Except as otherwise provided in this division, every person~~
30 ~~who possesses any controlled substance specified in subdivision~~
31 ~~(e) of Section 11054 shall be punished by imprisonment in the~~
32 ~~county jail for not more than one year or in the state prison.~~

33 ~~(c) Except as otherwise provided in this division, whenever a~~
34 ~~person who possesses any of the controlled substances specified~~
35 ~~in subdivision (a) or (b), the judge may, in addition to any~~
36 ~~punishment provided for pursuant to subdivision (a) or (b), assess~~
37 ~~against that person a fine not to exceed seventy dollars (\$70) with~~
38 ~~proceeds of this fine to be used in accordance with Section 1463.23~~
39 ~~of the Penal Code. The court shall, however, take into consideration~~
40 ~~the defendant's ability to pay, and no defendant shall be denied~~

1 probation because of his or her inability to pay the fine permitted
2 under this subdivision.

3 (d) Except in unusual cases in which it would not serve the
4 interest of justice to do so, whenever a court grants probation
5 pursuant to a felony conviction under this section, in addition to
6 any other conditions of probation which may be imposed, the
7 following conditions of probation shall be ordered:

8 (1) For a first offense under this section, a fine of at least one
9 thousand dollars (\$1,000) or community service.

10 (2) For a second or subsequent offense under this section, a fine
11 of at least two thousand dollars (\$2,000) or community service.

12 (3) If a defendant does not have the ability to pay the minimum
13 fines specified in paragraphs (1) and (2), community service shall
14 be ordered in lieu of the fine.