

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 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 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 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.

12 (2) However, reports from across the state have
13 revealed problems and uncertainties in the act that have
14 impeded the ability of law enforcement officers to



1 enforce its provisions as the voters intended and,
2 therefore, have prevented qualified patients and
3 designated primary care givers from obtaining the
4 protections afforded by the act.

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

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

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

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

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

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

30 (4) Enhance the access of patients and care givers to
31 medical marijuana through collective, cooperative
32 cultivation projects.

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

37 (d) The Legislature further finds and declares both of
38 the following:

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

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

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

Article 2.5. Medical Marijuana Program

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

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

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

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

~~(d) “Physician” means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California.~~

~~(e)~~

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

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

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

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

~~(f)~~

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

~~(g)~~

(f) “Registry identification card” means a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical

1 use of marijuana and the person's designated primary
2 care giver, if any.

3 ~~(h)~~

4 (g) "Serious medical condition" means all of the
5 following medical conditions:

6 (1) Acquired immune deficiency syndrome (AIDS).

7 (2) Anorexia.

8 (3) Arthritis.

9 (4) Cachexia.

10 (5) Cancer.

11 (6) Chronic pain.

12 (7) Glaucoma.

13 (8) Migraine.

14 (9) Persistent muscle spasms, including, but not
15 limited to, spasms associated with multiple sclerosis.

16 (10) Seizures, including, but not limited to, seizures
17 associated with epilepsy.

18 (11) Severe nausea.

19 (12) Any other chronic or persistent medical symptom
20 that either:

21 (A) Substantially limits the ability of the person to
22 conduct one or more major life activities as defined in the
23 Americans with Disabilities Act of 1990 (Public Law
24 101-336).

25 (B) If not alleviated, may cause serious harm to the
26 patient's safety or physical or mental health.

27 ~~(i)~~

28 (h) "Written documentation" means accurate
29 reproductions of those portions of a patient's medical
30 records that have been created by the attending
31 physician, containing the information required by
32 paragraph (2) of subdivision (a) of Section 11362.715,
33 which the patient may submit to a county health
34 department or its designee as part of an application for a
35 registry identification card.

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

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

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

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

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

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

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

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

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

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

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

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

1 (f) No person or designated primary care giver ~~with~~ *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) It shall not be necessary for a person to obtain a
12 registry identification card in order to claim the
13 protections of Section 11362.5.

14 11362.715. (a) A person who seeks a registry
15 identification card shall pay the fee, if any, as provided in
16 Section 11362.755, and provide all of the following to the
17 county health department or its designee:

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

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

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

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

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

38 (b) If the person applying for a registry identification
39 card lacks the capacity to make medical decisions, the
40 application may be made by the person's legal

1 representative, including, but not limited to, any of the
2 following:

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

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

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

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

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

21 11362.72. (a) Within 30 days of receipt of an
22 application for a registry identification card, a county
23 health department or its designee shall do all of the
24 following:

25 (1) For the purpose of processing the application, as
26 well as for the purpose of obtaining data to assess the
27 number of individuals in this state suffering from serious
28 medical conditions that are not being adequately
29 alleviated through the use of conventional medications,
30 verify that the information contained in the application
31 is accurate. In any case where the person is less than 18
32 years of age, the county health department or its designee
33 shall also contact the parent with legal authority to make
34 medical decisions, legal guardian, or other person or
35 entity with legal authority to make medical decisions, to
36 verify the information. In any case where proof of
37 identity is uncertain, the county health department or its
38 designee may require an in-person meeting with the
39 person or primary care giver, or the production of
40 additional identification materials for verification

1 purposes, or both. In all cases, the county health
2 department or its designee shall do both of the following:

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

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

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

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

26 (b) If the county health department or its designee
27 approves the application, it shall, within 24 hours, or by
28 the end of the next working day of that determination,
29 electronically transmit the following information to the
30 department:

31 (1) The name of the applicant.

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

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

36 (4) The name and telephone number of the county
37 health department or its designee that has approved the
38 application.

39 (c) The department shall issue a registry identification
40 card to the applicant and to his or her designated primary

1 care giver, if any, within five working days of receipt of
2 that determination.

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

14 11362.735. (a) A registry identification card issued by
15 the department shall be serially numbered and shall state
16 all of the following:

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

19 (2) The date of expiration of the registry identification
20 card.

21 (3) The name and telephone number of the county
22 health department or its designee that has approved the
23 application.

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

28 (5) Photo identification of the cardholder.

29 (b) A separate registry identification card shall be
30 issued to the person's designated primary care giver, if
31 any, and shall include a photo identification of the care
32 giver.

33 11362.74. (a) The county health department or its
34 designee may deny an application only for either of the
35 following reasons:

36 (1) The applicant did not provide the information
37 required by Section 11362.715, and upon notice of the
38 deficiency pursuant to subdivision (e) of Section
39 11362.72, did not provide the information within 30 days.

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

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

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

10 (c) The county health department or its designee shall
11 transmit its determination of denial to the department

12 11362.745. (a) A registry identification card shall be
13 valid for a period of one year.

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

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

24 (d) The county health department or its designee shall
25 transmit its determination of approval or denial of a
26 renewal to the department.

27 11362.75. (a) The county health department or its
28 designee shall keep complete program records,
29 including, but not limited to, all of the following:

30 (1) All written information and documentation
31 contained in an application for a registry identification
32 card, including photographic identification of the
33 applicant and his or her designated primary care giver, if
34 any.

35 (2) The nature and results of the efforts of the county
36 health department or its designee to verify the accuracy
37 of the information contained in an application.

38 (3) A list of persons for whom applications for registry
39 identification cards have been approved.

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

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

(1) The name of each registry identification cardholder.

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

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

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

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

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

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

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

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

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

11362.755. The department may establish application and renewal fees for persons seeking to obtain or renew

1 registry identification cards that are sufficient to cover
2 the expenses incurred by the department and each
3 county health department of administering the registry
4 identification card program. However, upon satisfactory
5 proof of indigence, these fees shall be waived. *The*
6 *department shall reimburse each county health*
7 *department for its costs of administering the program*
8 *from the revenue generated by the fees.*

9 11362.76. (a) A person who possesses a registry
10 identification card shall:

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

15 (2) Annually submit to the county health department
16 or its designee the following:

17 (A) Updated written documentation of the person's
18 serious medical condition.

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

22 (b) If a person who possesses a registry identification
23 card fails to comply with this section, the card shall be
24 deemed expired. If a registry identification card expires,
25 the registry identification card of any designated primary
26 care giver of the person shall also expire. *The county*
27 *health department shall notify the department within*
28 *seven days that the card is deemed expired.*

29 (c) If the designated primary care giver has been
30 changed, the previous primary care giver shall return his
31 or her registry identification card to the department or to
32 the county health department or its designee.

33 (d) If the owner or operator or an employee of the
34 owner or operator of a provider has been designated as
35 a primary care giver pursuant to paragraph (1) of
36 subdivision (d) of Section 11362.7, ~~or~~ of the qualified
37 patient or person with a registry identification card, the
38 owner or operator shall notify the county health
39 department or its designee, pursuant to Section

1 11362.715, if a change in the designated primary care
2 giver has occurred.

3 11362.765. (a) Subject to the requirements of this
4 article, the individuals specified in subdivision (b) shall
5 not be subject, on that sole basis, to criminal liability
6 under Section 11357, 11358, 11359, 11360, 11366, 11366.5,
7 or 11570. However, nothing in this section shall authorize
8 the individual to smoke or otherwise consume marijuana
9 unless otherwise authorized by this article.

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

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

14 (2) A designated primary care giver who transports,
15 processes, administers, delivers, or gives away marijuana
16 for medical purposes, in amounts not exceeding those
17 established by regulations that shall be adopted by the
18 department pursuant to Section 11362.77, only to the
19 qualified patient of the primary care giver, or to the
20 person with a registry identification card who has
21 designated the individual as a primary care giver.

22 (3) Any individual who provides assistance to a
23 qualified patient or a person with a registry identification
24 card, or his or her designated primary care giver, in
25 administering medical marijuana to the qualified patient
26 or person or acquiring the skills necessary to cultivate or
27 administer marijuana for medical purposes to the
28 qualified patient or person.

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

34 (1) A designated primary care giver who cultivates,
35 transports, delivers, or administers medical marijuana to
36 a qualified patient or to a person with a registry
37 identification card, in amounts not exceeding those
38 established by regulations to be adopted by the
39 department pursuant to Section 11362.77.

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

5 11362.77. A qualified patient or a person holding a
6 valid registry identification card, or the designated
7 primary care giver of that qualified patient or person,
8 may possess amounts of marijuana for the qualified
9 patient's or person's own personal medical use in amounts
10 to be determined by emergency regulations that shall be
11 adopted by the department, after public comment and
12 consultation with interested organizations. The
13 regulations shall be based on currently available scientific
14 research and knowledge and shall be reviewed annually
15 to determine if revision is necessary to reflect material
16 changes in research and knowledge.

17 11362.775. Qualified patients, persons with valid
18 registry identification cards, and the designated primary
19 care givers of qualified patients and persons with registry
20 identification cards, may associate or incorporate *within*
21 *the state of California*, or both, in order collectively or
22 cooperatively to cultivate marijuana for medical
23 purposes and these individuals participating in
24 cooperative cultivation projects shall not solely on the
25 basis of that fact be subject to criminal sanctions under
26 Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.
27 The department shall adopt regulations, after public
28 comment and consultation with interested organizations,
29 governing the operation and supervision of these
30 cooperatives, no later than December 31, 2000. The
31 regulations shall specify ~~the only methods or protocols~~
32 *only the methods, procedures, and criteria* that the
33 cultivation projects shall employ to ensure the
34 consistency of composition, noncontamination and
35 nondiversion of medical marijuana. The county health
36 department or its designee shall have the right to inspect
37 the cultivation projects to ensure compliance with the
38 ~~methods or protocols~~, *procedures, and criteria*.

39 11362.78. A state or local law enforcement agency or
40 officer shall not refuse to accept a registry identification

1 card issued by the department unless the state or local law
2 enforcement agency or officer has reasonable cause to
3 believe that the information contained in the card is false
4 or fraudulent, or the card is being used fraudulently.

5 11362.785. (a) Nothing in this article shall require
6 any accommodation of any medical use of marijuana on
7 the property or premises of any place of employment or
8 during the hours of employment or on the property or
9 premises of any jail, correctional facility, or other type of
10 penal institution in which prisoners reside or persons
11 under arrest are detained.

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

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

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

32 11362.79. Nothing in this article shall authorize a
33 qualified patient or person with a registry identification
34 card to engage in the smoking of medical marijuana:

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

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

39 (c) On a schoolbus.

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

1 (e) While operating a boat.

2 11362.795. With respect to the conditions of probation
3 or parole or release on bail, the burden of proof shall be
4 on the recipient of the conditions to demonstrate that use
5 of medical marijuana by the recipient should not be
6 included in the conditions. The court shall consider the
7 proof and shall provide a written record describing the
8 reasons for its denial of the request.

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

21 11362.81. (a) Any person specified in subdivision (b)
22 shall be punishable as follows:

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

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

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

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

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

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

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

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

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

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

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

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the

1 claim for reimbursement does not exceed one million
2 dollars (\$1,000,000), reimbursement shall be made from
3 the State Mandates Claims Fund.

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