

HOUSE BILL No. 5161

December 15, 2015, Introduced by Reps. Singh and Irwin and referred to the Committee on Commerce and Trade.

A bill to amend 2008 IL 1, entitled
"Michigan medical marihuana act,"
by amending section 4 (MCL 333.26424), as amended by 2012 PA 512.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 4. Protections for the Medical Use of Marihuana.

2 Sec. 4. (a) A qualifying patient who has been issued and
3 possesses a registry identification card shall not be subject to
4 arrest, prosecution, or penalty in any manner, or denied any right
5 or privilege, including but not limited to civil penalty or
6 disciplinary action by a business or occupational or professional
7 licensing board or bureau, for the medical use of marihuana in
8 accordance with this act, provided that the qualifying patient
9 possesses an amount of marihuana that does not exceed 2.5 ounces of

1 usable marihuana, and, if the qualifying patient has not specified
2 that a primary caregiver will be allowed under state law to
3 cultivate marihuana for the qualifying patient, 12 marihuana plants
4 kept in an enclosed, locked facility. Any incidental amount of
5 seeds, stalks, and unusable roots shall also be allowed under state
6 law and shall not be included in this amount. The privilege from
7 arrest under this subsection applies only if the qualifying patient
8 presents both his or her registry identification card and a valid
9 driver license or government-issued identification card that bears
10 a photographic image of the qualifying patient. **SUBJECT TO SECTION**
11 **7(C)(2), AN EMPLOYER SHALL NOT TERMINATE OR TAKE ADVERSE EMPLOYMENT**
12 **ACTION AGAINST AN EMPLOYEE FOR MEDICAL USE OF MARIHUANA THAT IS IN**
13 **ACCORD WITH THIS ACT IF THE USE IS NOT INCOMPATIBLE WITH AND DOES**
14 **NOT HINDER JOB PERFORMANCE AND THE EMPLOYEE PRODUCES HIS OR HER**
15 **REGISTRY IDENTIFICATION CARD FOR THE EMPLOYER'S INSPECTION. AN**
16 **EMPLOYER SHALL NOT DO EITHER OF THE FOLLOWING:**

17 (1) ASK WHETHER AN EMPLOYEE HAS A REGISTRY IDENTIFICATION CARD
18 UNLESS THE EMPLOYEE IS SUBJECT TO TERMINATION OR ADVERSE EMPLOYMENT
19 ACTION FOR A SPECIFIC INCIDENT INVOLVING MARIHUANA AND PRODUCTION
20 OF THE CARD WOULD PRECLUDE THE TERMINATION OR ACTION.

21 (2) TERMINATE OR TAKE ADVERSE EMPLOYMENT ACTION AGAINST AN
22 EMPLOYEE AFTER FAILURE TO PRODUCE A REGISTRY IDENTIFICATION CARD
23 UNLESS THE EMPLOYEE IS SUBJECT TO TERMINATION OR ADVERSE EMPLOYMENT
24 ACTION FOR A SPECIFIC INCIDENT INVOLVING MARIHUANA AND PRODUCTION
25 OF THE CARD WOULD PRECLUDE THE TERMINATION OR ACTION.

26 (b) A primary caregiver who has been issued and possesses a
27 registry identification card shall not be subject to arrest,

1 prosecution, or penalty in any manner, or denied any right or
2 privilege, including but not limited to civil penalty or
3 disciplinary action by a business or occupational or professional
4 licensing board or bureau, for assisting a qualifying patient to
5 whom he or she is connected through the department's registration
6 process with the medical use of marihuana in accordance with this
7 act. The privilege from arrest under this subsection applies only
8 if the primary caregiver presents both his or her registry
9 identification card and a valid driver license or government-issued
10 identification card that bears a photographic image of the primary
11 caregiver. This subsection applies only if the primary caregiver
12 possesses an amount of marihuana that does not exceed:

13 (1) 2.5 ounces of usable marihuana for each qualifying patient
14 to whom he or she is connected through the department's
15 registration process; and

16 (2) for each registered qualifying patient who has specified
17 that the primary caregiver will be allowed under state law to
18 cultivate marihuana for the qualifying patient, 12 marihuana plants
19 kept in an enclosed, locked facility; and

20 (3) any incidental amount of seeds, stalks, and unusable
21 roots.

22 (c) A person shall not be denied custody or visitation of a
23 minor for acting in accordance with this act, unless the person's
24 behavior is such that it creates an unreasonable danger to the
25 minor that can be clearly articulated and substantiated.

26 (d) There shall be a presumption that a qualifying patient or
27 primary caregiver is engaged in the medical use of marihuana in

1 accordance with this act if the qualifying patient or primary
2 caregiver:

3 (1) is in possession of a registry identification card; and

4 (2) is in possession of an amount of marihuana that does not
5 exceed the amount allowed under this act. The presumption may be
6 rebutted by evidence that conduct related to marihuana was not for
7 the purpose of alleviating the qualifying patient's debilitating
8 medical condition or symptoms associated with the debilitating
9 medical condition, in accordance with this act.

10 (e) A registered primary caregiver may receive compensation
11 for costs associated with assisting a registered qualifying patient
12 in the medical use of marihuana. Any such compensation shall not
13 constitute the sale of controlled substances.

14 (f) A physician shall not be subject to arrest, prosecution,
15 or penalty in any manner, or denied any right or privilege,
16 including but not limited to civil penalty or disciplinary action
17 by the Michigan ~~board of medicine,~~ **BOARD OF MEDICINE**, the Michigan
18 ~~board of osteopathic medicine and surgery,~~ **BOARD OF OSTEOPATHIC**
19 **MEDICINE AND SURGERY**, or any other business or occupational or
20 professional licensing board or bureau, solely for providing
21 written certifications, in the course of a bona fide physician-
22 patient relationship and after the physician has completed a full
23 assessment of the qualifying patient's medical history, or for
24 otherwise stating that, in the physician's professional opinion, a
25 patient is likely to receive therapeutic or palliative benefit from
26 the medical use of marihuana to treat or alleviate the patient's
27 serious or debilitating medical condition or symptoms associated

1 with the serious or debilitating medical condition, provided that
2 nothing shall prevent a professional licensing board from
3 sanctioning a physician for failing to properly evaluate a
4 patient's medical condition or otherwise violating the standard of
5 care for evaluating medical conditions.

6 (g) A person shall not be subject to arrest, prosecution, or
7 penalty in any manner, or denied any right or privilege, including
8 but not limited to civil penalty or disciplinary action by a
9 business or occupational or professional licensing board or bureau,
10 for providing a registered qualifying patient or a registered
11 primary caregiver with marihuana paraphernalia for purposes of a
12 qualifying patient's medical use of marihuana.

13 (h) Any marihuana, marihuana paraphernalia, or licit property
14 that is possessed, owned, or used in connection with the medical
15 use of marihuana, as allowed under this act, or acts incidental to
16 such use, shall not be seized or forfeited.

17 (i) A person shall not be subject to arrest, prosecution, or
18 penalty in any manner, or denied any right or privilege, including
19 but not limited to civil penalty or disciplinary action by a
20 business or occupational or professional licensing board or bureau,
21 solely for being in the presence or vicinity of the medical use of
22 marihuana in accordance with this act, or for assisting a
23 registered qualifying patient with using or administering
24 marihuana.

25 (j) A registry identification card, or its equivalent, that is
26 issued under the laws of another state, district, territory,
27 commonwealth, or insular possession of the United States that

1 allows the medical use of marihuana by a visiting qualifying
2 patient, or to allow a person to assist with a visiting qualifying
3 patient's medical use of marihuana, shall have the same force and
4 effect as a registry identification card issued by the department.

5 (k) Any registered qualifying patient or registered primary
6 caregiver who sells marihuana to someone who is not allowed to use
7 marihuana for medical purposes under this act shall have his or her
8 registry identification card revoked and is guilty of a felony
9 punishable by imprisonment for not more than 2 years or a fine of
10 not more than \$2,000.00, or both, in addition to any other
11 penalties for the distribution of marihuana.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.