

# Maine Medical Marijuana Act

(Approved 11/2/99)

## Preamble

The people of the State of Maine declare their purposes and intent in enacting the Maine Medical Marijuana Act of 1998 to be the following:

Use of marijuana has been found to provide important therapeutic and palliative benefits to many patients who suffer from debilitating conditions resulting from certain diseases or treatment of these diseases. Patients should be allowed to use small amounts of marijuana without civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them and when other reasonable restrictions are met regarding that use.

This Act is intended to permit patients who may benefit from the medical use of marijuana to be able to discuss freely with their physicians the possible risks and benefits of medical marijuana use and to have the benefit of their physicians' professional advice.

Persons who have been legally designated as care givers to medically needy patients should not be in violation of civil or criminal laws when they assist these patients in using permissible amounts of marijuana.

As there is currently no legally available supply of marijuana for medically needy patients, these patients or their care givers should be allowed to grow a small amount of marijuana to meet the patients medical requirements.

Enactment of this Act is intended to make only those changes to existing Maine laws that are necessary to allow use of marijuana by medically needy patients, and is not intended to change current civil and criminal laws governing the use of marijuana for non-medical purposes.

Enactment of this Act is not intended to permit use of marijuana in public places nor change any laws governing the duty of care owed to others, including laws governing operating a motor vehicle.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA. s3103, sub-s1, #, as amended by PL 1977, c. 664, s11, is further amended to read:

B. The possession of a useable amount of marijuana, as provided in Title 22 section 2383, unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, section 2383-B, subsection 5;

Sec. 2. 15 MRSA. s5821, first #, as enacted by PL 1987, c 420, s2, is amended to read:

Except as provided in section 5821-A, the following are subject to forfeiture to the State and no property right may exist in them.

Sec. 3. 15 MRSA s5821-A is enacted to read:

s5821-A. Property not subject to forfeiture based on medical use of marijuana. Beginning January 1, 1999, property is not subject to forfeiture under this chapter if the activity that subjects the person's property to forfeiture is possession of marijuana and the person meets the requirements for medical

use of marijuana under Title 22, section 2383-B, subsection 5.

Sec. 4. 17-A MRSA s1111-A, sub-s1, as amended by PL 1981, c. 531, ss1 to 3, is further amended by amending the first paragraph to read:

1. As used in this section, the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, section 2383-B subsection 5, to the extent the drug paraphernalia is required for that person's medical use of marijuana. It includes, but is not limited to:

Sec. 5. 17-A MRSA s1111-A sub-s4, as enacted by PL 1981, c. 266, is amended to read:

4. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this subsection does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, section 2383-B, subsection 5, to the extent the drug paraphernalia is required for that person's medical use of marijuana.

Sec. 6. 22 MRSA s2383, sub-s1, as amended by PL 1989, c 344, s3, is further amended to read:

1. Marijuana. Except as provided in section 2383-B, subsection 5, possession of a usable amount of marijuana is a civil violation for which a forfeiture of not less than \$200 nor more than \$400 must be adjudged for the first offense. A forfeiture of \$400 must be adjudged for the 2nd and subsequent offenses within a 6-year period.

Sec. 7. 22 MRSA s2383-B, sub-s3, ##A-1 and A-2 are enacted to read:

A-1. "Designated caregiver" means a person over 18 years of age who:

(1) Is a family member or other person who has consistently assumed responsibility for a person's housing, health, or safety; and

(2) Is named in a written individual instruction or power of attorney for health care as defined in Title 18-A, section 5-801 by, or is the parent or legal guardian of, a person authorized to possess marijuana for medical use pursuant to subsection 5.

Sec. 8. 22 MRSA s2383-B, sub-s3, #B-1 is enacted to read:

B-1. "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48.

Sec. 9. 22 MRSA s2383-B, sub-s3, #E is enacted to read:

E. "Usable amount of marijuana for medical use" means 1 1/4 ounces or less of harvested marijuana and a total of 6 plants, of which not more than 3 may be mature, flowering plants.

Sec 10. 22 MRSA s2383-B, sub-s5 is enacted to read:

5. Medical use of marijuana exemptions. The following provisions govern the medical use of marijuana.

A. Notwithstanding any other provision of law, a person who is at least 18 years of age may lawfully possess a usable amount of marijuana for medical use if, at the time of that possession, the person has available an authenticated copy of a medical record or other written documentation from a physician, demonstrating that:

(1) The person has been diagnosed by a physician as suffering from one or more of the following conditions:

(a) Persistent nausea, vomiting, wasting syndrome of loss of appetite as result of:

(i) Acquired Immune Deficiency Syndrome or the treatment thereof; or

(ii) Chemotherapy or radiation therapy used to treat cancer;

(b) Heightened intraocular pressure as a result of glaucoma;

(c) Seizures associated with a chronic, debilitating disease, such as epilepsy; or

(d) Persistent muscle spasms associated with chronic, debilitating disease, such as multiple sclerosis;

(2) A physician, in the context of a bona fide physician-patient relationship with the person:

a) Has discussed with the person the possible health risks and therapeutic or palliative benefits of the medical use of marijuana to relieve pain or alleviate symptoms of the person's condition, based on information known to the physician, including, but not limited to, clinical studies or anecdotal evidence reported in medical literature or observations or information concerning the use of marijuana by other patients with the same or similar conditions;

b) Has provided the person with the physician's professional opinion concerning the possible balance of risks and benefits of the medical use of marijuana to relieve pain or alleviate symptoms in the person's particular case;

(c) Has advised the person, on the basis of the physician's knowledge of the person's medical history and condition, that the person might benefit from the medical use of marijuana to relieve pain or alleviate symptoms of the person's condition;

(3) The person has disclosed to the physician that person's medical use of marijuana; and

(4) The person is under the continuing care of the physician.

B. A person under 18 years of age may lawfully possess a usable amount of marijuana for medical use if:

(1) The person meets the requirements of paragraph A subparagraphs (1) to (4); and

(2) The Person:

a) Has available a signed written authorization from that person's parent or legal guardian consenting to that person's medical use of marijuana: or

(b) Is a minor who is entitled to give consent to all medical and other health care services pursuant to Title 22, section 1503.

C. Notwithstanding any other provision of law, a designated caregiver may lawfully possess a usable amount of marijuana for medical use by an eligible patient if the designated caregiver is acting within the scope of the designated caregiver's duties to the eligible patient.

D. The fact that a person produces documentation described in paragraph A does not constitute a waiver of the physician-patient privilege in any other respect.

E. A physician who, in the context of a bona fide physician-patient relationship, advises a patient that the patient might benefit from the medical use of marijuana may not be deemed to have violated any provision of Title 32, section 2591-A, subsection 2 or section 3282-A, subsection 2.

F. Notwithstanding the provisions of the paragraph A medical use of marijuana by an eligible patient is not authorized by this section if such use occurs in a public place or in a workplace where such use is not permitted.

Sec. 11. Title. This Act may be known as the Maine Medical Marijuana Act of 1998.

## SUMMARY

This initiated bill makes the following changes to the laws governing the possession and use of marijuana.

1. It authorizes an eligible patient diagnosed with one or more specified debilitating conditions, including cancer and acquired immune deficiency syndrome, to use marijuana for medical purposes when a physician determines that a patient might benefit from marijuana use and when other requirements are met.

2. It limits the amount of marijuana that an eligible medical patient may possess without violating civil or criminal laws to no more than 1 1/4 ounces of harvested marijuana and 6 marijuana plants, of which not more than 3 may be mature flowering plants.

3. It allows a person who is legally designated to care for an eligible medical patient to assist that patient in using marijuana for medical purposes.

4. For a person under the age of 18, it authorizes medical use of marijuana only if both the listed medical eligibility requirements have been met and a parent or legal guardian had given written consent to this use or the person is entitled to consent to all health care services pursuant to law.

5. It prohibits medical use of marijuana by an eligible patient in a public place or in a workplace where this use is not permitted.

Source: PorCon.org <http://medicalmarijuana.procon.org/view.background-resource.php?resourceID=875>