

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 804

STATE OF NEW JERSEY
213th LEGISLATURE

ADOPTED JUNE 4, 2009

Sponsored by:

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District 15 (Mercer)

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District 25 (Morris)

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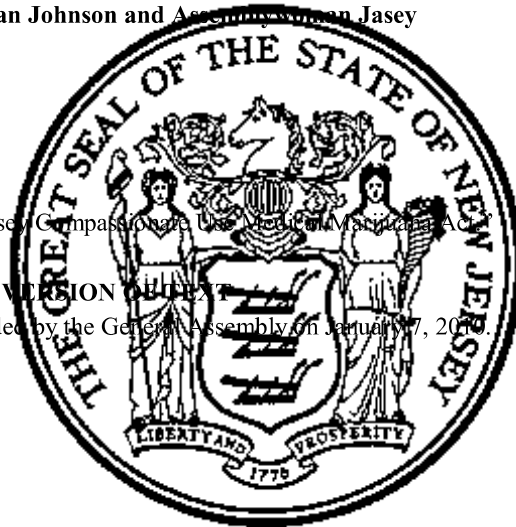
**Assemblywoman Vainieri Huttle, Assemblyman Giblin, Assemblywomen
Wagner, Oliver, Assemblyman Prieto, Assemblywoman Tucker,
Assemblyman Johnson and Assemblywoman Jasey**

SYNOPSIS

"New Jersey Compassionate Use Medical Marijuana Act"

CURRENT VERSION OF BILL

As amended by the General Assembly on January 27, 2009.



(Sponsorship Updated As Of: 6/12/2009)

1 **AN ACT** concerning the medical use of marijuana, and revising
2 parts of statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) This act shall be known and may be cited as
8 the “New Jersey Compassionate Use Medical Marijuana Act.”

9

10 2. (New section) The Legislature finds and declares that:

11 a. Modern medical research has discovered a beneficial use for
12 marijuana in treating or alleviating the pain or other symptoms
13 associated with certain debilitating medical conditions, as found by
14 the National Academy of Sciences’ Institute of Medicine in March
15 1999;

16 b. According to the U.S. Sentencing Commission and the
17 Federal Bureau of Investigation, 99 out of every 100 marijuana
18 arrests in the country are made under state law, rather than under
19 federal law. Consequently, changing state law will have the
20 practical effect of protecting from arrest the vast majority of
21 seriously ill people who have a medical need to use marijuana;

22 c. Although federal law currently prohibits the use of
23 marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine,
24 Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island,
25 Vermont, and Washington permit the use of marijuana for medical
26 purposes, and in Arizona doctors are permitted to prescribe
27 marijuana. New Jersey joins this effort for the health and welfare of
28 its citizens;

29 d. States are not required to enforce federal law or prosecute
30 people for engaging in activities prohibited by federal law;
31 therefore, compliance with this act does not put the State of New
32 Jersey in violation of federal law; and

33 e. Compassion dictates that a distinction be made between
34 medical and non-medical uses of marijuana. Hence, the purpose of
35 this act is to protect from arrest, prosecution, property forfeiture,
36 and criminal and other penalties, those patients who use marijuana
37 to alleviate suffering from debilitating medical conditions, as well
38 as their physicians¹, primary caregivers,¹ and those who are
39 authorized to produce marijuana for medical purposes.

40

41 3. (New section) As used in this act:

42 “Bona fide physician-patient relationship” means a relationship
43 in which the physician has **‘[the]’** ongoing **‘[primary]’**

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted January 7, 2010.

1 responsibility for the assessment, care and treatment of a patient's
2 debilitating medical condition.

3 ¹“Certification” means a statement signed by a physician with
4 whom a qualifying patient has a bona fide physician-patient
5 relationship, which attests to the physician’s authorization for the
6 patient to apply for registration for the medical use of marijuana.¹

7 “Commissioner” means the Commissioner of Health and Senior
8 Services.

9 “Debilitating medical condition” means:

10 (1) ¹one of the following conditions, if resistant to conventional
11 medical therapy:¹ seizure disorder, including epilepsy¹ **[(,)]**;¹
12 intractable skeletal muscular spasticity¹ or glaucoma ¹**[(that is**
13 **resistant to conventional medical therapy)]**;

14 (2) ¹one of the following conditions, if severe or chronic pain,
15 severe nausea or vomiting, cachexia, or wasting syndrome results
16 from the condition or treatment thereof.¹ positive status for human
17 immunodeficiency virus, acquired immune deficiency syndrome, or
18 cancer ¹**[(that results in severe or chronic pain, severe nausea or**
19 **vomiting, cachexia, or wasting syndrome)]**;

20 (3) amyotrophic lateral sclerosis, multiple sclerosis, terminal
21 cancer¹, muscular dystrophy, or inflammatory bowel disease,
22 including Crohn’s disease;

23 (4) terminal illness, if the physician has determined a prognosis
24 of less than 12 months of life¹; or

25 ¹**[(4)] (5)**¹ any other medical condition or its treatment that is
26 approved by the department by regulation.

27 “Department” means the Department of Health and Senior
28 Services.

29 “Marijuana” has the meaning given in section 2 of the “New
30 Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226
31 (C.24:21-2).

32 “Medical marijuana alternative treatment center” or “alternative
33 treatment center” means ¹**[(a nonprofit)] an**¹organization approved
34 by the department to perform activities necessary to provide
35 registered qualifying patients with usable marijuana and related
36 paraphernalia in accordance with the provisions of this act. This
37 term shall include the organization’s officers, directors, board
38 members, and employees.

39 “Medical use of marijuana” means the acquisition, possession,
40 ¹transport,¹ or use of marijuana or paraphernalia by a registered
41 qualifying patient as authorized by this act.

42 “Minor” means a person who is under 18 years of age and who
43 has not been married or previously declared by a court or an
44 administrative agency to be emancipated.

45 “Paraphernalia” has the meaning given in N.J.S.2C:36-1.

1 “Physician” means a person licensed to practice medicine and
2 surgery pursuant to Title 45 of the Revised Statutes with whom the
3 patient has a bona fide physician-patient relationship and who is the
4 primary care physician, hospice physician, or physician
5 responsible for the ongoing **primary** treatment of a patient’s
6 debilitating medical condition¹, provided, however, that such
7 ongoing treatment shall not be limited to the provision of
8 authorization for a patient to use medical marijuana or consultation
9 solely for that purpose¹.

10 Primary caregiver or “caregiver” means a resident of the State
11 who:

12 a. is at least 18 years old;

13 b. has agreed to assist with a registered qualifying patient’s
14 medical use of marijuana, is not currently serving as primary
15 caregiver for another qualifying patient, and is not the qualifying
16 patient’s physician;

17 c. has never been convicted of possession or sale of a controlled
18 dangerous substance, unless such conviction occurred after the
19 effective date of this act and was for a violation of federal law
20 related to possession or sale of marijuana that is authorized under
21 this act;

22 d. has registered with the department pursuant to section 4 of this
23 act, and has satisfied the criminal history record background check
24 requirement of section 4 of this act; and

25 e. has been designated as primary caregiver on the qualifying
26 patient’s application or renewal for a registry identification card or
27 in other written notification to the department.¹

28 “Qualifying patient” or “patient” means a **person** resident of
29 the State¹ who has been provided with a **written**¹ certification by
30 a physician pursuant to a bona fide physician-patient relationship.

31 “Registry identification card” means a document issued by the
32 department that identifies a person as a registered qualifying
33 patient¹ or primary caregiver¹.

34 “Usable marijuana” means the dried leaves and flowers of
35 marijuana, and any mixture or preparation thereof, and does not
36 include the seeds, stems, stalks or roots of the plant.

37 **Written certification**¹ means a statement signed by a
38 physician with whom a qualifying patient has a bona fide physician-
39 patient relationship, which attests to the physician’s authorization
40 for the patient to apply for registration for the medical use of
41 marijuana.¹

42
43 4. (New section) a. The department shall establish a registry of
44 qualifying patients and their primary caregivers,¹ and shall issue a
45 registry identification card **that, which**¹ shall be valid for **one**
46 **year** two years,¹ to a qualifying patient and primary caregiver, if

1 applicable,¹ who submits the following, in accordance with
2 regulations adopted by the department:

3 (1) a '[written]'¹ certification that meets the requirements of
4 section 5 of '[P.L. , c. (C.)](pending before the Legislature as
5 this bill)] this act'¹;

6 (2) an application or renewal fee, which may be based on a
7 sliding scale as determined by the commissioner;

8 (3) the name, address and date of birth of the patient¹and
9 caregiver, as applicable'¹;¹and'¹

10 (4) the name, address and telephone number of the patient's
11 physician.

12 b. Before issuing a registry identification card, the department
13 shall verify the information contained in the application or renewal
14 form submitted pursuant to this section. 'In the case of a primary
15 caregiver, the department shall provisionally approve an application
16 pending the results of a criminal history record background check,
17 if the caregiver otherwise meets the requirements of this act.'¹ The
18 department shall approve or deny an application or renewal within
19 30 days of receipt of the 'completed'¹ application or renewal, and
20 shall issue a registry identification card within five days of
21 approving the application or renewal. The department may deny an
22 application or renewal only if the applicant fails to provide the
23 information required pursuant to this section, or if the department
24 determines that the information was incorrect or falsified or does
25 not meet the requirements of this act. Denial of an application shall
26 be a final agency decision, subject to review by the Superior Court,
27 Appellate Division.

28 c. '(1) The commissioner shall require each applicant seeking
29 to serve as a primary caregiver to undergo a criminal history record
30 background check. The commissioner is authorized to exchange
31 fingerprint data with and receive criminal history record
32 background information from the Division of State Police and the
33 Federal Bureau of Investigation consistent with the provisions of
34 applicable federal and State laws, rules, and regulations. The
35 Division of State Police shall forward criminal history record
36 background information to the commissioner in a timely manner
37 when requested pursuant to the provisions of this section.

38 An applicant seeking to serve as a primary caregiver shall submit
39 to being fingerprinted in accordance with applicable State and
40 federal laws, rules, and regulations. No check of criminal history
41 record background information shall be performed pursuant to this
42 section unless the applicant has furnished his written consent to that
43 check. An applicant who refuses to consent to, or cooperate in, the
44 securing of a check of criminal history record background
45 information shall not be considered for inclusion in the registry as a
46 primary caregiver or issuance of an identification card. An

1 applicant shall bear the cost for the criminal history record
2 background check, including all costs of administering and
3 processing the check.

4 (2) The commissioner shall not approve an applicant seeking to
5 serve as a primary caregiver if the criminal history record
6 background information of the applicant reveals a disqualifying
7 conviction. For the purposes of this section, a disqualifying
8 conviction shall mean a conviction of a crime involving any
9 controlled dangerous substance or controlled substance analog as
10 set forth in chapter 35 of Title 2C of the New Jersey Statutes except
11 paragraph (4) of subsection a. of N.J.S.2C:35-10, or any similar law
12 of the United States of any other state.

13 (3) Upon receipt of the criminal history record background
14 information from the Division of State Police and the Federal
15 Bureau of Investigation, the commissioner shall provide written
16 notification to the applicant of his qualification or disqualification
17 for serving as a primary caregiver.

18 If the applicant is disqualified because of a disqualifying
19 conviction pursuant to the provisions of this section, the conviction
20 that constitutes the basis for the disqualification shall be identified
21 in the written notice.

22 (4) The Division of State Police shall promptly notify the
23 commissioner in the event that an individual who was the subject of
24 a criminal history record background check conducted pursuant to
25 this section is convicted of a crime or offense in this State after the
26 date the background check was performed. Upon receipt of that
27 notification, the commissioner shall make a determination regarding
28 the continued eligibility of the applicant to serve as a primary
29 caregiver.

30 (5) Notwithstanding the provisions of subsection b. of this
31 section to the contrary, no applicant shall be disqualified from
32 serving as a registered primary caregiver on the basis of any
33 conviction disclosed by a criminal history record background check
34 conducted pursuant to this section if the individual has affirmatively
35 demonstrated to the commissioner clear and convincing evidence of
36 rehabilitation. In determining whether clear and convincing
37 evidence of rehabilitation has been demonstrated, the following
38 factors shall be considered:

39 (a) the nature and responsibility of the position which the
40 convicted individual would hold, has held, or currently holds;

41 (b) the nature and seriousness of the crime or offense;

42 (c) the circumstances under which the crime or offense
43 occurred;

44 (d) the date of the crime or offense;

45 (e) the age of the individual when the crime or offense was
46 committed;

1 (f) whether the crime or offense was an isolated or repeated
2 incident;

3 (g) any social conditions which may have contributed to the
4 commission of the crime or offense; and

5 (h) any evidence of rehabilitation, including good conduct in
6 prison or in the community, counseling or psychiatric treatment
7 received, acquisition of additional academic or vocational
8 schooling, successful participation in correctional work-release
9 programs, or the recommendation of those who have had the
10 individual under their supervision.

11 d.¹ A registry identification card shall contain the following
12 information:

13 (1) the name, address and date of birth of the patient and primary
14 caregiver, if applicable¹;

15 (2) the '[date of]' expiration date of the registry identification
16 card;

17 (3) photo identification of the cardholder; and

18 (4) such other information that the department may specify by
19 regulation.

20 'e. (1)' A patient who has been issued a registry identification
21 card shall notify the department of any change in the patient's
22 name, address, or physician or change in status of the patient's
23 debilitating medical condition, within 10 days of such change, or
24 the registry identification card shall be deemed null and void.

25 '(2) A primary caregiver who has been issued a registry
26 identification card shall notify the department of any change in the
27 caregiver's name or address within 10 days of such change, or the
28 registry identification card shall be deemed null and void.¹

29 '[d.] f.'¹ The department shall maintain a confidential list of the
30 persons to whom it has issued registry identification cards.
31 Individual names and other identifying information on the list, and
32 information contained in any application form, or accompanying or
33 supporting document shall be confidential, and shall not be
34 considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.)
35 or P.L.2001, c.404 (C.47:1A-5 et al.), and shall not be disclosed
36 except to:

37 (1) authorized employees of the department and the Division of
38 Consumer Affairs in the Department of Law and Public Safety as
39 necessary to perform official duties of the department and the
40 division, as applicable; and

41 (2) authorized employees of State or local law enforcement
42 agencies, only as necessary to verify that a person who is engaged
43 in the suspected or alleged medical use of marijuana is lawfully in
44 possession of a registry identification card.

45 '[e.] g.'¹ Applying for or receiving a registry card does not
46 constitute a waiver of the qualifying patient's patient-physician
47 privilege.

1 5. (New section) a. Medical use of marijuana by a qualifying
2 patient may be authorized pursuant to a '[written]' certification
3 which meets the requirements of this act. In order to provide such
4 '[a written]' certification, a physician shall be licensed and in good
5 standing to practice in the State' and be board-certified, if
6 available, in the specialty appropriate for the assessment, care, and
7 ongoing primary treatment of the debilitating medical condition for
8 which the medical use of marijuana is being considered'.

9 The '[written]' certification shall attest that the above criteria
10 have been met.

11 b. The provisions of subsection a. of this section shall not
12 apply to a qualifying patient who is a minor unless the custodial
13 parent, guardian, or person who has legal custody of the minor,
14 consents in writing that the minor patient has that person's
15 permission for the medical use of marijuana and that the person will
16 control the acquisition and possession of the medical marijuana and
17 any related paraphernalia from the alternative treatment center.

18
19 6. (New section) a. The provisions of N.J.S.2C:35-18 shall
20 apply to any qualifying patient, 'primary caregiver,' alternative
21 treatment center, physician, or any other person acting in
22 accordance with the provisions of this act.

23 b. A qualifying patient, 'primary caregiver,' alternative
24 treatment center, physician, or any other person acting in
25 accordance with the provisions of this act shall not be subject to any
26 civil or administrative penalty, or denied any right or privilege,
27 including, but not limited to, civil penalty or disciplinary action by
28 a professional licensing board, related to the medical use of
29 marijuana as authorized under this act.

30 c. Possession of, or application for, a registry identification
31 card shall not alone constitute probable cause to search the person
32 or the property of the person possessing or applying for the registry
33 identification card, or otherwise subject the person or his property
34 to inspection by any governmental agency.

35 d. The provisions of section 2 of P.L.1939, c.248 (C.26:2-82),
36 relating to destruction of marijuana determined to exist by the
37 department, shall not apply if a qualifying patient 'or primary
38 caregiver' has in his possession a registry identification card and no
39 more than the maximum amount of usable marijuana that may be
40 obtained in accordance with section 10 of '[P.L. , c.
41 (C.)(pending before the Legislature as this bill)] this act'.

42 e. No person shall be subject to arrest or prosecution for
43 constructive possession, conspiracy or any other offense for simply
44 being in the presence or vicinity of the medical use of marijuana as
45 authorized under this act.

1 f. No custodial parent, guardian, or person who has legal
2 custody of a qualifying patient who is a minor shall be subject to
3 arrest or prosecution for constructive possession, conspiracy or any
4 other offense for assisting the minor in the medical use of marijuana
5 as authorized under this act.

6
7 7. (New section) a. The department shall accept applications
8 from **'[nonprofit]'** entities **'for permits'** to operate as alternative
9 treatment centers, and may charge a reasonable fee for the issuance
10 of a permit under this section. The department shall seek to ensure
11 the availability of **'a sufficient number of'** alternative treatment
12 centers throughout the State, **'pursuant to need,'** including **'[**, to the
13 maximum extent practicable, **']'** at least two each in the northern,
14 central, and southern regions of the State. **'The first two centers**
15 **issued a permit in each region shall be nonprofit entities, and**
16 **centers subsequently issued permits may be nonprofit or for-profit**
17 **entities.'**

18 An alternative treatment center shall be authorized to acquire **'a**
19 **reasonable initial and ongoing inventory, as determined by the**
20 **department, of'** marijuana seeds or seedlings and paraphernalia,
21 possess, cultivate, plant, grow, harvest, process, display,
22 manufacture, deliver, transfer, transport, distribute, supply, sell, or
23 dispense marijuana, or related supplies to **'[registered]'** qualifying
24 patients **'or their primary caregivers'** who are registered with the
25 department pursuant to section 4 of **'[P.L. , c. (C.)(pending**
26 **before the Legislature as this bill)] this act'**.

27 Applicants for authorization as **'[an] nonprofit'** alternative
28 treatment **'[center] centers'** shall be subject to all applicable State
29 laws governing nonprofit entities, but need not be recognized as a
30 501(c)(3) organization by the federal Internal Revenue Service.

31 b. The department shall require that an applicant provide such
32 information as the department determines to be necessary pursuant
33 to regulations adopted pursuant to this act.

34 c. A person who has been convicted of **'[possession or sale of**
35 **a controlled dangerous substance] a crime involving any controlled**
36 **dangerous substance or controlled substance analog as set forth in**
37 **chapter 35 of Title 2C of the New Jersey Statutes except paragraph**
38 **(4) of subsection a. of N.J.S.2C:35-10, or any similar law of the**
39 **United States or any other state'** shall not be issued a permit to
40 operate as **'[a] an'** alternative treatment center or be a director,
41 officer, or employee of an alternative treatment center, unless such
42 conviction **'occurred after the effective date of this act and'** was for
43 a violation of federal law relating to possession or sale of marijuana
44 for conduct that is authorized under this act.

1 d. ¹(1) The commissioner shall require each applicant seeking a
2 permit to operate as an alternative treatment center to undergo a
3 criminal history record background check. For purposes of this
4 section, the term “applicant” shall include any owner, director,
5 officer, or employee of an alternative treatment center. The
6 commissioner is authorized to exchange fingerprint data with and
7 receive criminal history record background information from the
8 Division of State Police and the Federal Bureau of Investigation
9 consistent with the provisions of applicable federal and State laws,
10 rules, and regulations. The Division of State Police shall forward
11 criminal history record background information to the
12 commissioner in a timely manner when requested pursuant to the
13 provisions of this section.

14 An applicant shall submit to being fingerprinted in accordance
15 with applicable State and federal laws, rules, and regulations. No
16 check of criminal history record background information shall be
17 performed pursuant to this section unless the applicant has
18 furnished his written consent to that check. An applicant who
19 refuses to consent to, or cooperate in, the securing of a check of
20 criminal history record background information shall not be
21 considered for a permit to operate, or authorization to be employed
22 at, an alternative treatment center. An applicant shall bear the cost
23 for the criminal history record background check, including all
24 costs of administering and processing the check.

25 (2) The commissioner shall not approve an applicant for a permit
26 to operate, or authorization to be employed at, an alternative
27 treatment center if the criminal history record background
28 information of the applicant reveals a disqualifying conviction set
29 forth in subsection c. of this section.

30 (3) Upon receipt of the criminal history record background
31 information from the Division of State Police and the Federal
32 Bureau of Investigation, the commissioner shall provide written
33 notification to the applicant of his qualification for or
34 disqualification for a permit to operate or be a director, officer, or
35 employee of an alternative treatment center.

36 If the applicant is disqualified because of a disqualifying
37 conviction pursuant to the provisions of this section, the conviction
38 that constitutes the basis for the disqualification shall be identified
39 in the written notice.

40 (4) The Division of State Police shall promptly notify the
41 commissioner in the event that an individual who was the subject of
42 a criminal history record background check conducted pursuant to
43 this section is convicted of a crime or offense in this State after the
44 date the background check was performed. Upon receipt of that
45 notification, the commissioner shall make a determination regarding
46 the continued eligibility to operate or be a director, officer, or
47 employee of an alternative treatment center.

1 (5) Notwithstanding the provisions of subsection b. of this
2 section to the contrary, the commissioner may offer provisional
3 authority for an applicant to be an employee of an alternative
4 treatment center for a period not to exceed three months if the
5 applicant submits to the commissioner a sworn statement attesting
6 that the person has not been convicted of any disqualifying
7 conviction pursuant to this section.

8 (6) Notwithstanding the provisions of subsection b. of this
9 section to the contrary, no employee of an alternative treatment
10 center shall be disqualified on the basis of any conviction disclosed
11 by a criminal history record background check conducted pursuant
12 to this section if the individual has affirmatively demonstrated to
13 the commissioner clear and convincing evidence of rehabilitation.
14 In determining whether clear and convincing evidence of
15 rehabilitation has been demonstrated, the following factors shall be
16 considered:

17 (a) the nature and responsibility of the position which the
18 convicted individual would hold, has held or currently holds;

19 (b) the nature and seriousness of the crime or offense;

20 (c) the circumstances under which the crime or offense
21 occurred;

22 (d) the date of the crime or offense;

23 (e) the age of the individual when the crime or offense was
24 committed;

25 (f) whether the crime or offense was an isolated or repeated
26 incident;

27 (g) any social conditions which may have contributed to the
28 commission of the crime or offense; and

29 (h) any evidence of rehabilitation, including good conduct in
30 prison or in the community, counseling or psychiatric treatment
31 received, acquisition of additional academic or vocational
32 schooling, successful participation in correctional work-release
33 programs, or the recommendation of those who have had the
34 individual under their supervision.¹

35 e. The department shall issue a permit to a person to operate as
36 an alternative treatment center if the department finds that issuing
37 such a permit would be consistent with the purposes of this act and
38 the requirements of this section are met and the department has
39 verified the information contained in the application. The
40 department shall approve or deny an application within 60 days
41 after receipt of a completed application. The denial of an
42 application shall be considered a final agency decision, subject to
43 review by the Appellate Division of the Superior Court. The
44 department may suspend or revoke a permit to operate as an
45 alternative treatment center for cause, which shall be subject to
46 review by the Appellate Division of the Superior Court.

1 f. A person who has been issued a permit pursuant to this
2 section shall display the permit at the premises of the alternative
3 treatment center at all times when marijuana is being produced, or
4 dispensed to a registered qualifying patient¹or the patient's primary
5 caregiver¹.

6 g. An alternative treatment center shall report any change in
7 information to the department not later than 10 days after such
8 change, or the permit shall be deemed null and void.

9 h. An alternative treatment center may charge a registered
10 qualifying patient ¹or primary caregiver¹ for the reasonable costs
11 associated with the production and distribution of marijuana for the
12 cardholder.

13 i. The commissioner shall adopt regulations to:

14 (1) ¹~~provide~~ for the use by a registered qualifying patient of a
15 designated individual in an emergency situation to transport
16 marijuana to the patient who is otherwise unable to obtain
17 marijuana from an alternative treatment center; and

18 (2) ¹require such written documentation of each delivery of
19 marijuana to, and pickup of marijuana for, a registered qualifying
20 patient, including the date and amount dispensed, to be maintained
21 in the records of the alternative treatment center, as the
22 commissioner determines necessary to ensure effective
23 documentation of the operations of each alternative treatment
24 center¹;

25 (2) monitor, oversee, and investigate all activities performed by
26 an alternative treatment center; and

27 (3) ensure adequate security of all facilities 24 hours per day,
28 including production and retail locations, and security of all
29 delivery methods to registered qualifying patients¹.

30

31 8. (New section) The provisions of this act shall not be
32 construed to permit a person to:

33 a. operate, navigate, or be in actual physical control of any
34 vehicle, aircraft, railroad train, stationary heavy equipment or vessel
35 while under the influence of marijuana; or

36 b. smoke marijuana in a school bus or other form of public
37 transportation, in a private vehicle unless the vehicle is not in
38 operation, on any school grounds, in any correctional facility, at any
39 public park or beach, at any recreation center, or in any place where
40 smoking is prohibited pursuant to N.J.S.2C:33-13.

41 A person who commits an act as provided in this section shall be
42 subject to such penalties as are provided by law.

43

44 9. (New section) A person who knowingly sells, offers, or
45 exposes for sale, or otherwise transfers, or possesses with the intent
46 to sell, offer or expose for sale or transfer a document that falsely
47 purports to be a registration card issued pursuant to this act, or a

1 registration card issued pursuant to this act that has been altered, is
2 guilty of a crime of the third degree. A person who knowingly
3 presents to a law enforcement officer a document that falsely
4 purports to be registration card issued pursuant to this act, or a
5 registration card that has been issued pursuant to this act that has
6 been altered, is guilty of a crime of the fourth degree. The
7 provisions of this section are intended to supplement current law
8 and shall not limit prosecution or conviction for any other offense.

9
10 10. (New section) a. A physician shall provide written
11 instructions for a registered 'qualifying' patient 'or his caregiver'
12 to present to an alternative treatment center¹, at the time of pickup
13 or delivery,¹ concerning the total amount of usable marijuana that
14 a patient may be dispensed, in weight, in a 30-day period, which
15 amount shall not exceed ~~'one ounce'~~ two ounces¹. If no amount
16 is noted, the maximum amount that may be dispensed at one time is
17 ~~'one ounce'~~ two ounces¹.

18 b. A physician may issue multiple written instructions at one
19 time authorizing the patient to receive a total of up to a 90-day
20 supply, provided that the following conditions are met:

21 (1) Each separate set of instructions shall be issued for a
22 legitimate medical purpose by the physician, as provided in this act;

23 (2) ~~'The physician shall provide written instructions for each~~
24 ~~dispensation, other than the first dispensation if it is to be filled~~
25 ~~immediately, indicating]~~ Each separate set of instructions shall
26 indicate¹ the earliest date on which a center may dispense the
27 marijuana¹, except for the first dispensation if it is to be filled
28 immediately¹; and

29 (3) The physician has determined that providing the patient with
30 multiple instructions in this manner does not create an undue risk of
31 diversion or abuse.

32 c. A registered qualifying patient 'or his primary caregiver'
33 shall present the patient's 'or caregiver's' registry identification
34 card¹, as applicable¹, and these written instructions ¹at the time of
35 pickup or delivery, and] to¹ the alternative treatment center¹,
36 which¹ shall verify and log the documentation presented. ¹A
37 physician may provide a copy of a written instruction by electronic
38 or other means, as determined by the commissioner, directly to an
39 alternative treatment center on behalf of a registered qualifying
40 patient¹. The dispensation of marijuana pursuant to any written
41 instructions shall occur within one month of the date that the
42 instructions were written or the instructions are void.

43 d. A patient may be registered at only one alternative treatment
44 center at any time.

1 11. (New section) a. A physician who provides ~~'[written] a'~~
2 certification or written instruction for the medical use of marijuana
3 to a qualifying patient pursuant to P.L. , c. (C.)(pending before the
4 Legislature as this bill) and any alternative treatment center shall
5 furnish to the Director of the Division of Consumer Affairs in the
6 Department of Law and Public Safety such information, in such a
7 format and at such intervals, as the director shall prescribe by
8 regulation, for inclusion in a system established to monitor the
9 dispensation of marijuana in this State for medical use as authorized
10 by the provisions of P.L. , c. (C.)(pending before the
11 Legislature as this bill), which system shall serve the same purpose
12 as 'and be cross-referenced with,' the electronic system for
13 monitoring controlled dangerous substances established pursuant to
14 section 25 of P.L.2007, c.244 (C.45:1-45).

15 b. The Director of the Division of Consumer Affairs, pursuant
16 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
17 1 et seq.), 'and' in consultation with the Commissioner of Health
18 and Senior Services, shall adopt rules and regulations to effectuate
19 the purposes of subsection a. of this section.

20 c. Notwithstanding any provision of P.L.1968, c.410 to the
21 contrary, the Director of the Division of Consumer Affairs shall
22 adopt, immediately upon filing with the Office of Administrative
23 Law and no later than the 90th day after the effective date of '[this
24 act] P.L. , c. (C.)(pending before the Legislature as this bill)',
25 such regulations as the director deems necessary to implement the
26 provisions of subsection a. of this section. Regulations adopted
27 pursuant to this subsection shall be effective until the adoption of
28 rules and regulations pursuant to subsection b. of this section and
29 may be amended, adopted, or readopted by the director in
30 accordance with the requirements of P.L.1968, c.410.

31

32 12. N.J.S.2C:35-18 is amended to read as follows:

33 2C:35-18. Exemption; Burden of Proof. a. If conduct is
34 authorized by the provisions of P.L. 1970, c. 226 (C. 24:21-1 et
35 seq.) or P.L. , c. (C.)(pending before the Legislature as this
36 bill), that authorization shall, subject to the provisions of this
37 section, constitute an exemption from criminal liability under this
38 chapter or chapter 36, and the absence of such authorization shall
39 not be construed to be an element of any offense in this chapter or
40 chapter 36. It is an affirmative defense to any criminal action
41 arising under this chapter or chapter 36 that the defendant is the
42 authorized holder of an appropriate registration, permit or order
43 form or is otherwise exempted or excepted from criminal liability
44 by virtue of any provision of P.L. 1970, c. 226 (C. 24:21-1 et seq.)
45 or P.L. , c. (C.)(pending before the Legislature as this bill).
46 The affirmative defense established herein shall be proved by the
47 defendant by a preponderance of the evidence. It shall not be

1 necessary for the State to negate any exemption set forth in this act
2 or in any provision of Title 24 of the Revised Statutes in any
3 complaint, information, indictment or other pleading or in any trial,
4 hearing or other proceeding under this act.

5 b. No liability shall be imposed by virtue of this chapter or
6 chapter 36 upon any duly authorized State officer, engaged in the
7 enforcement of any law or municipal ordinance relating to
8 controlled dangerous substances or controlled substance analogs.
9 (cf: P.L.1988, c.44, s.8)

10

11 13. (New section) a. The commissioner may accept from any
12 governmental department or agency, public or private body or any
13 other source grants or contributions to be used in carrying out the
14 purposes of this act.

15 b. All fees collected pursuant to this act, including those from
16 qualifying patients and alternative treatment centers' initial,
17 modification and renewal applications, shall be used to offset the
18 cost of the department's administration of the provisions of this act.

19

20 14. (New section) a. The commissioner shall report to the
21 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
22 c.164 (C.52:14-19.1):

23 (1) no later than one year after the effective date of this act, on
24 the actions taken to implement the provisions of this act; and

25 (2) annually thereafter on the number of applications for registry
26 identification cards, the number of qualifying patients registered,
27 'the number of primary caregivers registered,' the nature of the
28 debilitating medical conditions of the patients, the number of
29 registry identification cards revoked, 'the number of alternative
30 treatment center permits issued and revoked,' and the number of
31 physicians providing '[written]' certifications for patients.

32 b. The reports shall not contain any identifying information of
33 patients 'caregivers,' or physicians.

34 'c. Within two years after the effective date of this act and
35 every two years thereafter, the commissioner shall: evaluate
36 whether there are sufficient numbers of alternative treatment centers
37 to meet the needs of registered qualifying patients throughout the
38 State; evaluate whether the maximum amount of medical marijuana
39 allowed pursuant to this act is sufficient to meet the medical needs
40 of qualifying patients; and determine whether any alternative
41 treatment center has charged excessive prices for marijuana that the
42 center dispensed.

43 The commissioner shall report his findings no later than two
44 years after the effective date of this act, and every two years
45 thereafter, to the Governor, and to the Legislature pursuant to
46 section 2 of P.L.1991, c.164 (C.52:14-19.1).'

1 15. (New section) a. The Department of Health and Senior
2 Services is authorized to exchange fingerprint data with, and
3 receive information from, the Division of State Police in the
4 Department of Law and Public Safety and the Federal Bureau of
5 Investigation for use in reviewing applications 'for individuals
6 seeking to serve as primary caregivers pursuant to section 4 of P.L.
7 , c. (C.)(pending before the Legislature as this bill), and' for **'[a**
8 **permit] permits'** to operate as, or to be a director, officer^{1,2} or
9 employee of, **'[an]'** alternative treatment **'[center] centers'**
10 pursuant to section 7 of P.L. , c. (C.)(pending before the
11 Legislature as this bill).

12 b. The Division of State Police shall promptly notify the
13 Department of Health and Senior Services in the event an applicant
14 'seeking to serve as a primary caregiver or an applicant' for a
15 permit to operate as, or to be a director, officer^{1,2} or employee of,
16 an alternative treatment center^{1,2} who was the subject of a criminal
17 history record background check conducted pursuant to subsection
18 a. of this section, is convicted of a crime involving possession or
19 sale of a controlled dangerous substance.

20
21 16. (New section) Nothing in this act shall be construed to
22 require a government medical assistance program or private health
23 insurer to reimburse a person for costs associated with the medical
24 use of marijuana, or an employer to accommodate the medical use
25 of marijuana in any workplace.

26
27 17. (New section) In addition to any immunity or defense
28 provided by law, the State and any employee or agent of the State
29 shall not be held liable for any actions taken in accordance with this
30 act or for any deleterious outcomes from the medical use of
31 marijuana by any registered qualifying patient.

32
33 18. (New section) a. Pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
35 promulgate rules and regulations to effectuate the purposes of this
36 act, in consultation with the Department of Law and Public Safety.

37 **'[The regulations shall establish: the form, process and fee**
38 **schedule for initial, modification and renewal applications for**
39 **qualifying patients and alternative treatment centers that are**
40 **complete and accurate; the considerations to be used to determine**
41 **whether to approve an application for an alternative treatment**
42 **center, including its operational procedures; the form and manner in**
43 **which the department will function, including the consideration and**
44 **approval of petitions to add new debilitating medical conditions to**
45 **those included in this act; validating written certifications and other**
46 **information contained in applications received from prospective and**
47 **current qualifying patients and alternative treatment centers;**

1 protections for ensuring the confidentiality of the information
2 submitted by prospective and current qualifying patients and
3 alternative treatment centers, and that contained in the registry;
4 monitoring, oversight and investigation of physicians who issue
5 written certifications, with authority to refer physicians in violation
6 of provisions of this act to the State Board of Medical Examiners;
7 procedures for the revocation or suspension of a qualifying patient's
8 registry identification card; monitoring, oversight and investigation
9 of all activities performed by an alternative treatment center; the
10 methods for testing, authenticating and guaranteeing the quality,
11 safety and quantity of marijuana sold to registered qualifying
12 patients; which strains of marijuana shall be sold by an alternative
13 treatment center; procedures to guarantee the quality and safety of
14 paraphernalia sold to registered qualifying patients; standards to
15 ensure adequate security of all facilities, including production and
16 retail locations, and security of all delivery methods to registered
17 qualifying patients; and the authority and process for the
18 department to assume control of an alternative treatment center's
19 facilities, equipment, inventory and other items necessary for the
20 department to serve as an alternative treatment center in the event
21 an alternative treatment center is no longer able to operate or meet
22 its requirements¹.

23 b. Notwithstanding any provision of P.L.1968, c.410 to the
24 contrary, the commissioner shall adopt, immediately upon filing
25 with the Office of Administrative Law and no later than the 90th
26 day after the effective date of this act, such regulations as the
27 commissioner deems necessary to implement the provisions of this
28 act. Regulations adopted pursuant to this subsection shall be
29 effective until the adoption of rules and regulations pursuant to
30 subsection a. of this section and may be amended, adopted, or
31 readopted by the commissioner in accordance with the requirements
32 of P.L.1968, c.410.

33
34 19. This act shall take effect on the first day of the ¹**[12th]**
35 sixth¹ month after enactment, but the commissioner ¹**and the**
36 Director of the Division of Consumer Affairs¹ may take such
37 anticipatory administrative action in advance thereof as may be
38 necessary to effectuate the provisions of this act.