SYNOPSIS: Under existing law, it is a Class A misdemeanor to possess marijuana for personal use. This bill would provide a defense of necessity in a prosecution for the unlawful possession of marijuana in the second degree when the defendant has been diagnosed by a physician with having a debilitating medical condition and possesses cannabidiol (CBD) that is likely to provide therapeutic or palliative relief to the medical condition.

This bill would also provide a defense of necessity in a prosecution for the unlawful possession of marijuana in the second degree when a parent or caretaker possesses cannabidiol (CBD) on behalf of a patient who has a debilitating medical condition that has been diagnosed by a physician with whom the patient has a bona fide physician-patient relationship and was recommended cannabidiol for the therapeutic or palliative relief from the debilitating medical condition.
Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to the crime of possession of marijuana in the second degree; to provide a defense of necessity in a
prosecution when the defendant has been diagnosed by a
physician with having a debilitating medical condition and
possesses cannabidiol (CBD) that is likely to provide
therapeutic or palliative relief to the medical condition; to
provide a defense of necessity in a prosecution for the
unlawful possession of marijuana in the second degree when a
parent or caretaker of a patient who was recommended
cannabidiol for therapeutic or palliative relief from a
debilitating medical condition by a physician with whom the
patient has a bona fide physician-patient relationship; and in
connection therewith would have as its purpose or effect the
requirement of a new or increased expenditure of local funds
within the meaning of Amendment 621 of the Constitution of
Alabama of 1901, now appearing as Section 111.05 of the
Official Recompilation of the Constitution of Alabama of 1901,
as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited
as "Carly's Law."

Section 2. (a) As used in this section, the
following words shall have the following meanings:

(1) BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP. A
relationship in which a physician has ongoing responsibility
for the assessment, care, and treatment of a patient's medical
condition.

(2) DEBILITATING MEDICAL CONDITION. A chronic or
debilitating disease or medical condition or the treatment of
a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician-patient relationship:

   a. Cachexia or wasting syndrome.
   b. Severe or chronic pain.
   c. Severe nausea.
   d. Seizures.
   e. Severe and persistent muscle spasms.
   f. Any other condition that is severe and resistant to conventional medicine.

(3) CANNABIDIOL (CBD). [13956-29-1]. A (nonpsychoactive) cannabinoid found in the plant Cannabis sativa L. or any preparation thereof that is essentially free from plant material, and has a THC level of no more than 3 percent. Also known as (synonyms):

2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol;
trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;
(-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);
D1(2)-trans-Cannabidiol.

(b) In a prosecution for the unlawful possession of marijuana in the second degree under Section 13A-12-214, Code of Alabama 1975, it is an affirmative defense that the defendant used or possessed cannabidiol (CBD) because the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona
fide physician-patient relationship and the cannabidiol is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

(c) In a prosecution for the unlawful possession of marijuana in the second degree under Section 13A-12-214, Code of Alabama 1975, it is an affirmative defense that the defendant possessed cannabidiol (CBD) because he or she is the parent or caretaker of a patient who was recommended cannabidiol for therapeutic or palliative relief from a debilitating medical condition by a physician with whom the patient has a bona fide physician-patient relationship.

Section 3. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.