LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 19

BY TRAIL

AN ACT

RELATING TO MEDICAL MARIJUANA; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 47, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO PROVIDE FOR REGISTRATION, TO PROVIDE FOR CERTIFICATION, TO PROVIDE FOR PROTECTION AGAINST CERTAIN PENALTIES AND DISCIPLINE, DENIAL OF RIGHTS AND PRIVILEGES, SEARCHES, ARRESTS AND PROSECUTIONS, TO PROVIDE FOR ALTERNATIVE TREATMENT CENTERS, TO PROVIDE THAT CERTAIN ACTIVITIES ARE PROHIBITED, TO PROVIDE THAT CERTAIN ACTIVITIES SHALL CONSTITUTE MISDEMEANORS, TO PROVIDE FOR OTHER OFFENSES, TO PROVIDE FOR THE DISPENSATION OF MARIJUANA, TO PROVIDE FOR AN EXEMPTION FROM CRIMINAL LIABILITY AND TO PROVIDE A BURDEN OF PROOF, TO PROVIDE FOR THE RECEIPT OF FUNDS AND FEES, TO PROVIDE FOR REPORTS BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO THE GOVERNOR AND THE LEGISLATURE, TO PROVIDE THAT CERTAIN ACTIONS SHALL NOT BE REQUIRED, TO PROVIDE FOR STATE IMMUNITY FROM LIABILITY, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR AN ADVISORY COMMITTEE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 47, Title 39, Idaho Code, and to read as follows:

CHAPTER 47

IDAHO COMPASSIONATE USE MEDICAL MARIJUANA ACT

39-4701. SHORT TITLE. This act shall be known and may be cited as the "Idaho Compassionate Use Medical Marijuana Act."

39-4702. LEGISLATIVE FINDINGS. (1) Modern medical research has discovered a beneficial use for marijuana in treating or alleviating the pain or other symptoms associated with certain debilitating medical conditions, as found by the national academy of sciences' institute of medicine in March, 1999;

(2) According to the U.S. sentencing commission and the federal bureau of investigation, ninety-nine (99) out of every one hundred (100) marijuana arrests in the country are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marijuana.

(3) Although federal law currently prohibits the use of marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and Washington permit the use of marijuana for medical purposes, and in Arizona doctors are
permitted to prescribe marijuana. Idaho joins this effort for the health and
welfare of its citizens.

(4) States are not required to enforce federal law or prosecute people
for engaging in activities prohibited by federal law; therefore, compliance
with the provisions of this chapter does not put the state of Idaho in viola-
tion of federal law.

(5) Many patients with severe chronic medical conditions are pre-
scribed costly addictive drugs such as morphine and oxycodone, which can
result in additional negative impacts to the health of the patient. The use
of medical marijuana can provide significant pain relief to the patient and
at the same time be a major cost savings to the patient, their families and
the state.

(6) Compassion dictates that a distinction be made between medical and
nonmedical uses of marijuana. Hence, the purpose of this chapter is to pro-
tect from arrest, prosecution, property forfeiture, and criminal and other
penalties, those patients who use marijuana to alleviate suffering from de-
bilitating medical conditions, as well as their physicians, primary care-
givers and those who are authorized to produce marijuana for medical pur-
poses.

39-4703. DEFINITIONS. As used in this chapter:
(1) "Bona fide physician-patient relationship" means a relationship in
which the physician has ongoing responsibility for the assessment, care and
treatment of a patient’s debilitating medical condition;
(2) "Certification" means a document signed by a physician licensed and
in good standing to practice in the state, stating that in the physician's
professional opinion the patient is likely to receive therapeutic or pal-
liative benefit from the medical use of marijuana to treat or alleviate the
patient's debilitating medical condition or symptoms associated with the
debilitating medical condition. A certification shall be made only in the
course of a bona fide physician-patient relationship;
(3) "Debilitating medical condition" means:
(a) One (1) of the following conditions: A seizure disorder, including
epilepsy, intractable skeletal muscular spasticity or glaucoma;
(b) One (1) or more of the following conditions: A chronic or debil-
itating disease or medical condition, or its treatment, that produces
one (1) or more of the following: severe debilitating pain, severe nau-
sea or vomiting, cachexia or wasting syndrome, seizures or severe and
persistent muscle spasms;
(c) Amyotrophic lateral sclerosis, multiple sclerosis, terminal can-
cer, muscular dystrophy, or inflammatory bowel disease, including
Crohn’s disease;
(d) Terminal illness, if the physician has determined a prognosis of
less than twelve (12) months of life; or
(e) Any other medical condition or its treatment that is approved by the
department by rule;
(4) "Department" means the Idaho department of health and welfare;
(5) "Director" means the director of the Idaho department of health and
welfare;
(6) "Marijuana" has the meaning given in section 37-2701, Idaho Code;
(7) "Medical marijuana alternative treatment center" or "alternative treatment center" means an organization approved by the department to perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of this chapter. This term shall include the organization's officers, directors, board members and employees;
(8) "Medical use of marijuana" means the acquisition, possession, transport or use of marijuana or paraphernalia by a registered qualifying patient as authorized by this chapter, or the acquisition, possession or transport of marijuana or paraphernalia by a designated caregiver on behalf of a registered qualifying patient as authorized by this chapter;
(9) "Minor" means a person who is under eighteen (18) years of age and who has not been married or previously declared by a court to be emancipated;
(10) "Paraphernalia" has the same meaning as the term "drug paraphernalia" given in section 37-2701, Idaho Code;
(11) "Physician" means a person licensed to practice medicine in the state of Idaho with whom the patient has a bona fide physician-patient relationship and who is the primary care physician, hospice physician or physician responsible for the ongoing treatment of a patient's debilitating medical condition. Provided however, that such ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose;
(12) "Primary caregiver" or "caregiver" means a resident of the state who:
(a) Is at least eighteen (18) years old;
(b) Has agreed to assist with a registered qualifying patient's medical use of marijuana, is not currently serving as a primary caregiver for another qualifying patient, and is not the qualifying patient's physician;
(c) Has never been convicted of possession or sale of a controlled substance, unless such conviction occurred after the effective date of this act and was for a violation of federal law related to possession or sale of marijuana that is authorized under this chapter;
(d) Has registered with the department pursuant to section 39-4704, Idaho Code, and has satisfied the criminal history record background check requirement of section 39-4704, Idaho Code; and
(e) Has been designated as a primary caregiver on the qualifying patient's application or renewal for a registry identification card or in other written notification to the department;
(13) "Qualifying patient" or "patient" means a resident of the state who has been provided with a certification by a physician pursuant to a bona fide physician-patient relationship;
(14) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or primary caregiver;
(15) "Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stems, stalks or roots of the plant.
39-4704. REGISTRATION. (1) The department shall establish a registry of qualifying patients and their primary caregivers and shall issue a registry identification card, that shall be valid for two (2) years, to a qualifying patient and primary caregiver, if applicable, who submits the following, in accordance with regulations adopted by the department:
(a) A certification that meets the requirements of section 39-4705, Idaho Code;
(b) An application or renewal fee, which may be based on a sliding scale as determined by the director;
(c) The name, address and date of birth of the patient and caregiver, as applicable; and
(d) The name, address and telephone number of the patient’s physician.
(2) Before issuing a registry identification card, the department shall verify the information contained in the application or renewal form submitted pursuant to this section. In the case of a primary caregiver, the department shall provisionally approve an application pending the results of a criminal history record background check, if the caregiver otherwise meets the requirements of this chapter. The department shall approve or deny an application or renewal within thirty (30) days of receipt of the completed application or renewal, and shall issue a registry identification card within five (5) days of approving the application or renewal. The department may deny an application or renewal only if the applicant fails to provide the information required pursuant to this section, or if the department determines that the information was incorrect or falsified or does not meet the requirements of this chapter. Denial of an application shall be a final agency decision, subject to review pursuant to the provisions of chapter 52, title 67, Idaho Code.
(3) (a) The director shall require each applicant seeking to serve as a primary caregiver to undergo a criminal history record background check. The director is authorized to exchange fingerprint data with and receive criminal history record background information from the Idaho state police and the federal bureau of investigation consistent with the provisions of applicable federal and state laws, rules and regulations. The Idaho state police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section. An applicant seeking to serve as a primary caregiver shall submit to being fingerprinted in accordance with applicable state and federal laws, rules and regulations. No check of criminal history record background information shall be performed pursuant to this section unless the applicant has furnished his written consent to that check. An applicant who refuses to consent to, or cooperate in, the securing of a check of criminal history record background information shall not be considered for inclusion in the registry as a primary caregiver or issuance of an identification card. An applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.
(b) The director shall not approve an applicant seeking to serve as a primary caregiver if the criminal history record background information of the applicant reveals a disqualifying conviction. For the pur-
poses of this section, a disqualifying conviction shall mean a conviction of a crime involving any controlled substance as set forth in the provisions of Idaho law.

(c) Upon receipt of the criminal history record background information from the Idaho state police and the federal bureau of investigation, the director shall provide written notification to the applicant of his qualification or disqualification for serving as a primary caregiver. If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(d) The Idaho state police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this state after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility of the applicant to serve as a primary caregiver.

(e) Notwithstanding the provisions of subsection (2) of this section to the contrary, no applicant shall be disqualified from serving as a registered primary caregiver on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the director clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(i) The nature and responsibility of the position that the convicted individual would hold, has held or currently holds;
(ii) The nature and seriousness of the crime or offense;
(iii) The circumstances under which the crime or offense occurred;
(iv) The date of the crime or offense;
(v) The age of the individual when the crime or offense was committed;
(vi) Whether the crime or offense was an isolated or repeated incident;
(vii) Any social conditions that may have contributed to the commission of the crime or offense; and
(viii) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of those who have had the individual under their supervision.

(4) A registry identification card shall contain the following information:

(a) The name, address and date of birth of the patient and primary caregiver, if applicable;
(b) The expiration date of the registry identification card;
(c) Photo identification of the cardholder;
(d) A random ten (10) digit alphanumeric identification number, containing at least four (4) numbers and at least four (4) letters, which is unique to the cardholder;
(e) If the cardholder is a primary caregiver, the random identification number of the registered qualifying patient the primary caregiver is assisting; and
(f) Such other information that the department may specify by regulation.
(5) (a) A patient who has been issued a registry identification card shall notify the department of any change in the patient’s name, address, or physician or change in status of the patient’s debilitating medical condition, within thirty (30) days of such change, or the registry identification card shall be deemed null and void.
(b) A primary caregiver who has been issued a registry identification card shall notify the department of any change in the caregiver’s name or address within thirty (30) days of such change, or the registry identification card shall be deemed null and void.
(6) The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual names and other identifying information on the list, and information contained in any application form or accompanying or supporting document, shall be confidential and shall not be considered a public record under chapter 3, title 9, Idaho Code, and shall not be disclosed except to:
(a) Authorized employees of the department as necessary to perform official duties of the department; and
(b) Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawfully in possession of a registry identification card.
(7) Applying for or receiving a registry card does not constitute a waiver of the qualifying patient’s patient-physician privilege.
(8) A registered qualifying patient may be registered at only one (1) alternative treatment center at a time. A registered qualifying patient shall notify the department of which alternative treatment center the patient designates and the department shall update the registered qualifying patient’s record and the patient's primary caregiver's record, if any, to reflect the designation.
(9) A registered qualifying patient may change his alternative treatment center. A fee of fifteen dollars ($15.00) shall be paid to the department. The department shall, within five (5) business days of receiving the notification, update the registered qualifying patient's record and the patient's primary caregiver's record, if any, to reflect the change in designation, and notify the patient that the change has been processed. The department may limit the frequency a designation can be changed to once every thirty (30) days.
(10) Within one hundred twenty (120) days of the effective date of this chapter, the department shall establish a verification system. The verification system must allow law enforcement personnel and alternative treatment centers to enter a registry identification number to determine whether or not the number corresponds with a current, valid registry iden-
tification card. The system shall disclose only whether the identification
card is valid, whether the cardholder is a registered qualifying patient or a
registered primary caregiver, and the registry identification number of the
alternative treatment center that serves the registered qualifying patient
who holds the card or the registry identification number of the patient who
is assisted by the registered primary caregiver who holds the card.

39-4705. CERTIFICATION. If the registered qualifying patient's cer-
tifying physician notifies the department in writing that either the reg-
istered qualifying patient has ceased to suffer from a debilitating medical
condition or that the practitioner no longer believes the patient would re-
ceive therapeutic or palliative benefit from the medical use of marijuana,
the card shall become null and void upon notification of the patient from the
department. However, the registered qualifying patient shall have fifteen
(15) days to dispose of his or her marijuana.

39-4706. PROTECTIONS. (1) A qualifying patient or primary care-
giver possessing a valid registry identification card and possessing two
(2) ounces or less of usable marijuana, an alternative treatment center,
a physician, or any other person acting in accordance with the provisions
of this chapter shall not be subject to arrest, prosecution or any civil or
administrative penalty, or denied any right or privilege including, but not
limited to, civil penalty or disciplinary action by a professional licens-
ing board, related to the medical use of marijuana as authorized under this
chapter.

(2) Possession of, or application for, a registry identification card
shall not alone constitute probable cause to search the person or the prop-
erty of the person possessing or applying for the registry identification
card, or otherwise subject the person or his property to inspection by any
governmental agency.

(3) No person shall be subject to arrest or prosecution for construc-
tive possession, conspiracy or any other offense for simply being in the
presence or vicinity of the medical use of marijuana as authorized under this
chapter.

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

(5) A qualifying patient shall not be denied employment in the public or
private sector on the basis of a positive test for marijuana.

39-4707. ALTERNATIVE TREATMENT CENTERS. (1) The department shall ac-
cept applications from entities for permits to operate as alternative treat-
ment centers, and may charge a reasonable fee for the issuance of a permit
under this section. The department shall seek to ensure the availability of
a sufficient number of alternative treatment centers throughout the state,
pursuant to need, including at least two (2) each in the northern, central
and southern regions of the state. The first two (2) centers issued a permit
in each region shall be nonprofit entities, and centers subsequently issued
permits may be nonprofit or for-profit entities.
An alternative treatment center shall be authorized to acquire a reasonable initial and ongoing inventory, as determined by the department, of marijuana seeds or seedlings and paraphernalia, possess, cultivate, plant, grow, harvest, process, display, manufacture, deliver, transfer, transport, distribute, supply, sell or dispense marijuana, or related supplies to qualifying patients or their primary caregivers who are registered with the department pursuant to section 39-4704, Idaho Code.

Applicants for authorization as nonprofit alternative treatment centers shall be subject to all applicable state laws governing nonprofit entities, but need not be recognized as a 501(c)(3) organization by the federal internal revenue service.

(2) The department shall require that an applicant provide such information as the department determines to be necessary pursuant to rules adopted pursuant to this chapter.

(3) A person who has been convicted of a crime involving any controlled substance as set forth in title 37, Idaho Code, or any similar law of the United States or any other state, shall not be issued a permit to operate as an alternative treatment center or be a director, officer or employee of an alternative treatment center, unless such conviction occurred after the effective date of this act and was for a violation of federal law relating to possession or sale of marijuana for conduct that is authorized under this chapter.

(4) (a) The director shall require each applicant seeking a permit to operate as an alternative treatment center to undergo a criminal history record background check. For purposes of this section, the term "applicant" shall include any owner, director, officer or employee of an alternative treatment center. The director is authorized to exchange fingerprint data with and receive criminal history record background information from the Idaho state police and the federal bureau of investigation consistent with the provisions of applicable federal and state laws, rules and regulations. The Idaho state police shall forward criminal history record background information to the director in a timely manner when requested pursuant to the provisions of this section.

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

(b) The director shall not approve an applicant for a permit to operate, or authorization to be employed at, an alternative treatment center if the criminal history record background information of the applicant reveals a disqualifying conviction as set forth in paragraph (c) of this subsection.
(c) Upon receipt of the criminal history record background information from the Idaho state police and the federal bureau of investigation, the director shall provide written notification to the applicant of his qualification for or disqualification for a permit to operate or be a director, officer or employee of an alternative treatment center. If the applicant is disqualified because of a disqualifying conviction pursuant to the provisions of this section, the conviction that constitutes the basis for the disqualification shall be identified in the written notice.

(d) The Idaho state police shall promptly notify the director in the event that an individual who was the subject of a criminal history record background check conducted pursuant to this section is convicted of a crime or offense in this state after the date the background check was performed. Upon receipt of that notification, the director shall make a determination regarding the continued eligibility to operate or be a director, officer or employee of an alternative treatment center.

(e) Notwithstanding any other provisions of this section to the contrary, the director may offer provisional authority for an applicant to be an employee of an alternative treatment center for a period not to exceed three (3) months if the applicant submits to the director a sworn statement attesting that the person has not been convicted of any disqualifying conviction pursuant to this section.

(f) Notwithstanding any other provisions of this section to the contrary, no employee of an alternative treatment center shall be disqualified on the basis of any conviction disclosed by a criminal history record background check conducted pursuant to this section if the individual has affirmatively demonstrated to the director clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation has been demonstrated, the following factors shall be considered:

(i) The nature and responsibility of the position that the convicted individual would hold, has held or currently holds;

(ii) The nature or seriousness of the crime or offense;

(iii) The circumstances under which the crime or offense occurred;

(iv) The date of the crime or offense;

(v) The age of the individual when the crime or offense was committed;

(vi) Whether the crime or offense was an isolated or repeated incident;

(vii) Any social conditions that may have contributed to the commission of the crime or offense; and

(viii) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of those who have had the individual under their supervision.

(5) The department shall issue a permit to a person to operate as an alternative treatment center if the department finds that issuing such a permit would be consistent with the purposes of this chapter, the require-
ments of this section are met and the department has verified the information contained in the application. The department shall approve or deny an application within sixty (60) days after receipt of a completed application. The denial of an application shall be considered a final agency decision, subject to review pursuant to the provisions of chapter 52, title 67, Idaho Code. The department may suspend or revoke a permit to operate as an alternative treatment center for cause, which shall be subject to review pursuant to the provisions of chapter 52, title 67, Idaho Code.

(6) A person who has been issued a permit pursuant to this section shall display the permit at the premises of the alternative treatment center at all times when marijuana is being produced or dispensed to a registered qualifying patient or the patient’s primary caregiver. The department shall include on each permit a random ten (10) digit registry identification number that shall be unique to the alternative treatment center.

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

(8) An alternative treatment center may charge a registered qualifying patient or primary caregiver for the reasonable costs associated with the production and distribution of marijuana for the cardholder.

(9) The director shall adopt rules to:
(a) Require such written documentation of each delivery of marijuana to, and pickup of marijuana for, a registered qualifying patient, including the date and amount dispensed, to be maintained in the records of the alternative treatment center as the director determines necessary to ensure effective documentation of the operations of each alternative treatment center;
(b) Monitor, oversee and investigate all activities performed by an alternative treatment center; and
(c) Ensure adequate security of all facilities twenty-four (24) hours per day, including production and retail locations, and security of all delivery methods to registered qualifying patients.

(10) Alternative treatment centers shall be located only in those areas that do not violate zoning laws.

39-4708. ACTIVITY NOT PERMITTED. The provisions of this chapter shall not be construed to permit a person to:
(1) Operate, navigate or be in actual physical control of any vehicle, aircraft, railroad train, stationary heavy equipment or vessel while under the influence of marijuana; or
(2) Smoke marijuana in a school bus or other form of public transportation, in a private vehicle unless the vehicle is not in operation, on any school grounds, in any correctional facility, at any public park or beach, at any recreation center, or in any place where smoking is otherwise prohibited.
A person who commits an act as provided in this section shall be subject to such penalties as are provided by law.

39-4709. CRIMINAL CONDUCT. A person who knowingly sells, offers, or exposes for sale, or otherwise transfers, or possesses with the intent to
sell, offer or expose for sale or transfer, a document that falsely purports
to be a registration card issued pursuant to this chapter, or a registration
card issued pursuant to this chapter that has been altered, is guilty of a
misdemeanor. A person who knowingly presents to a law enforcement officer a
document that falsely purports to be a registration card issued pursuant to
this chapter, or a registration card that has been issued pursuant to this
chapter that has been altered, is guilty of a misdemeanor. The provisions of
this section are intended to supplement current law and shall not limit pros-
ecution or conviction for any other offense.

39-4710. DISPENSATION OF MARIJUANA. (1) Before marijuana may be
dispensed to a registered qualifying patient or the patient's primary care-
giver, the alternative treatment center shall verify that the person holds
a valid registry identification card and that the alternative treatment
center is the designated alternative treatment center for the registered
qualifying patient who is obtaining the marijuana directly or via his pri-
mary caregiver.
(2) An alternative treatment center shall not dispense more than two
(2) ounces of marijuana to a registered qualifying patient, directly or via a
primary caregiver, in any twenty-eight (28) day period. Alternative treat-
ment centers shall ensure compliance with this limitation by maintaining in-
ternal confidential records that include records specifying how much mari-
juana was dispensed to the registered qualifying patient and whether it was
dispensed directly to the registered qualifying patient or to his primary
caregiver. Each entry shall include the date and time the marijuana was dis-
pensed. All dispensing records created by an alternative treatment center
shall identify qualifying patients and primary caregivers by their registry
identification numbers and may not contain names or other personally identi-
fying information.

39-4711. EXEMPTION -- BURDEN OF PROOF. (1) If conduct is authorized
by the provisions of this chapter, that authorization shall, subject to the
provisions of this section, constitute an exemption from criminal liabil-
ity, and the absence of such authorization shall not be construed to be an
element of any offense. It is an affirmative defense to any criminal ac-
tion arising under this chapter or any other provision of Idaho law that the
defendant is the authorized holder of an appropriate registration, permit
or order form or is otherwise exempted or excepted from criminal liability
by virtue of any provision of this chapter. The affirmative defense estab-
lished herein shall be proven by the defendant by a preponderance of the
evidence. It shall not be necessary for the state to negate any exemption
set forth in this chapter in any complaint, information, indictment or other
pleading or in any trial, hearing or other proceeding under this chapter.
(2) No liability shall be imposed by virtue of this chapter upon any
duly authorized state officer engaged in the enforcement of any law or munici-
pal ordinance relating to controlled substances.

39-4712. RECEIPT OF FUNDS -- FEES. (1) The director may accept from
any governmental department or agency, public or private body, or any other
source, grants or contributions to be used in carrying out the purposes of
this chapter.

(2) All fees collected pursuant to this chapter, including those from
qualifying patients and alternative treatment centers' initial, modifica-
tion and renewal applications, shall be used to offset the cost of the de-
partment’s administration of the provisions of this chapter.

39-4713. REPORTS. (1) The director shall report to the governor and to
the legislature:
(a) No later than one (1) year after the effective date of this act, on
the actions taken to implement the provisions of this chapter; and
(b) Annually thereafter on the number of applications for registry
identification cards, the number of qualifying patients registered,
the number of primary caregivers registered, the nature of the debil-
itating medical conditions of the patients, the number of registry
identification cards revoked, the number of alternative treatment cen-
ter permits issued and revoked, and the number of physicians providing
certifications for patients.
(2) The reports shall not contain any identifying information of pa-
tients, caregivers or physicians.
(3) Within two (2) years after the effective date of this act and ev-
every two (2) years thereafter, the director shall: evaluate whether there
are sufficient numbers of alternative treatment centers to meet the needs
of registered qualifying patients throughout the state; evaluate whether
the maximum amount of medical marijuana allowed pursuant to this chapter is
sufficient to meet the medical needs of qualifying patients; and determine
whether any alternative treatment center has charged excessive prices for
marijuana that the center dispensed.
The director shall report his findings no later than two (2) years after the
effective date of this act, and every two (2) years thereafter, to the gover-
nor and to the legislature.

39-4714. ACTIONS NOT REQUIRED. Nothing in this chapter shall be con-
structed to require a government medical assistance program or private health
insurer to reimburse a person for costs associated with the medical use of
marijuana, or an employer to accommodate the medical use of marijuana in any
workplace.

39-4715. STATE NOT LIABLE. In addition to any immunity or defense
provided by law, the state and any employee or agent of the state shall not
be held liable for any actions taken in accordance with this chapter or for
any deleterious outcomes from the medical use of marijuana by any registered
qualifying patient.

39-4716. RULES -- ADVISORY COMMITTEE. The director shall, within
ninety (90) days of the effective date of this act, promulgate such rules
as he deems necessary to implement the provisions of this chapter unless
otherwise specified pursuant to the provisions of this chapter. Rules shall
include, but not be limited to, rules for the selection and function of an
advisory committee which shall be established on the effective date of this
act for the purpose of advising the director on the administrative aspects of the Idaho compassionate use medical marijuana act, reviewing current and proposed administrative rules of the program and providing annual input on the fee structure of the program. Members of the committee shall include representatives of the medical community, law enforcement, patient advocate groups and the legislature and any other fields as determined by the director. The committee shall meet at least three (3) times per year, at times and places specified by the director and shall serve without compensation. The department shall provide staff support to the committee. To the extent permitted by laws relating to confidentiality, state agencies shall furnish any information that the members of the committee consider necessary to perform their duties.