97TH GENERAL ASSEMBLY
State of Illinois
2011 and 2012
HB0030

Introduced 1/12/2011, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:
See Index

Creates the Compassionate Use of Medical Cannabis Pilot Program Act. Provides that when a person has been diagnosed by a physician as having a debilitating medical condition, the person and the person's primary caregiver may be issued a registry identification card by the Department of Public Health that permits the person or the person's primary caregiver to legally possess no more than 6 cannabis plants and 2 ounces of dried usable cannabis. Amends the Cannabis Control Act to make conforming changes, including that any registered qualifying patient or registered primary caregiver who distributes cannabis to someone who is not allowed to use cannabis is subject to a penalty enhancement of not more than 2 years in prison or a fine of not more than $2,000, or both, for abuse of the Compassionate Use of Medical Cannabis Pilot Program Act. Provides that the Act is repealed 3 years after its effective date. Repeals the research provisions of the Cannabis Control Act. Provides that the Department of Public Health shall develop and disseminate educational information about the health risks associated with the abuse of cannabis and prescription medications. Provides that the Department shall promulgate rules governing the manner in which it shall consider applications for and renewals of registration certificates for medical cannabis organizations. Provides that the provisions of the Act are severable. Effective immediately.

LRB097 03078 RLC 43111 b

CORRECTIONAL BUDGET AND IMPACT NOTE ACT MAY APPLY

FISCAL NOTE ACT MAY APPLY
AN ACT concerning alternative treatment for serious
diseases causing chronic pain and debilitating conditions.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 1. Short title. This Act may be cited as the
Compassionate Use of Medical Cannabis Pilot Program Act.

Section 5. Findings.
(a) Modern medical research has discovered beneficial uses
for cannabis in treating or alleviating the pain, nausea, and
other symptoms associated with a variety of debilitating
medical conditions, as found by the National Academy of
Sciences' Institute of Medicine in March 1999.
(b) Subsequent studies since the 1999 National Academy of
Sciences' Institute of Medicine report continue to show the
therapeutic value of cannabis in treating a wide array of
debilitating medical conditions, including increasing the
chances of patients finishing their treatments for HIV/AIDS and
hepatitis C.
(c) Data from the Federal Bureau of Investigation's Uniform
Crime Reports and the Compendium of Federal Justice Statistics
show that approximately 99 out of every 100 cannabis arrests in
the U.S. 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 cannabis.

(d) Although federal law currently prohibits any use of
cannabis except under very limited circumstances, Alaska,
California, Colorado, Hawaii, Maine, Michigan, Montana,
Nevada, New Mexico, Oregon, Vermont, Rhode Island, and
Washington have removed state-level criminal penalties from
the medical use and cultivation of cannabis. Illinois joins in
this effort for the health and welfare of its citizens.

(e) States are not required to enforce federal law or
prosecute people for engaging in activities prohibited by
federal law. Therefore, compliance with this Act does not put
the State of Illinois in violation of federal law.

(f) State law should make a distinction between the medical
and non-medical uses of cannabis. Hence, the purpose of this
Act is to protect patients with debilitating medical
conditions, as well as their physicians and primary caregivers,
from arrest and prosecution, criminal and other penalties, and
property forfeiture if such patients engage in the medical use
of cannabis.

(g) The people of the State of Illinois declare that they
enact this Act pursuant to the police power to protect the
health of its citizens that is reserved to the State of
Illinois and its people under the 10th Amendment to the United
States Constitution.
Section 10. Definitions. The following terms, as used in this Act, shall have the meanings set forth in this Section:

(a) "Adequate supply" means an amount of cannabis possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the Department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of 60 days and that is derived solely from an intrastate source. Until the Department determines what constitutes a 60-day supply of medicine, patients shall be presumed to be in compliance with this Act if they possess no more than 2 ounces of dried usable cannabis and 6 cannabis plants, no more than 3 of which can be mature cannabis plants. As used in this subsection (a), "mature cannabis plant" means a female cannabis plant that meets one or more of the following 3 criteria: (1) has observable flowers or buds, (2) is at least 12 inches in height, or (3) is at least 12 inches in diameter.

(a-1) "Cardholder" means a qualifying patient or a primary caregiver who has been issued and possesses a valid registry identification card.

(b) "Debilitating medical condition" means one or more of the following:

(1) cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail
patella, or the treatment of these conditions;

(2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis;

(3) a debilitating disease or medical condition or its treatment that produces intractable pain, which is severe, debilitating pain that did not respond to other reasonable medical efforts for a reasonable period of time, including in cases where other treatment options produced serious side effects;

(4) a debilitating disease or medical condition or its treatment that produces severe, debilitating nausea that did not respond to other reasonable medical efforts for a reasonable period of time, including cases where other treatment options produced serious side effects; or

(5) any other medical condition or its treatment approved by the Department, as provided for in subsection (a) of Section 20.

(c) "Department" means the Department of Public Health, or its successor agency.

(d) "Enclosed, locked facility" means a closet, room, greenhouse, or other enclosed area equipped with locks or other
security devices that permit access only by a registered
primary caregiver or registered qualifying patient.

(e) "Felony drug offense" means a violation of a state or
federal controlled substance law that was classified as a
felony in the jurisdiction where the person was convicted. It
does not include: (1) an offense for which the sentence,
including any term of probation, incarceration, or supervised
release, was completed 10 or more years earlier; or (2) an
offense that involved conduct that would have been permitted
under this Act.

(f) "Cannabis" has the meaning given to the term cannabis
in Section 3 of the Cannabis Control Act.

(g) "Medical use" means the acquisition, possession,
cultivation, manufacture, use, delivery, transfer, or
transportation of cannabis or paraphernalia relating to the
administration of cannabis to treat or alleviate a registered
qualifying patient's debilitating medical condition or
symptoms associated with the patient's debilitating medical
condition.

(h) "Physician" means a person licensed under the Medical
Practice Act of 1987 to practice medicine in all its branches
who has the authority to prescribe under Article III of the
Illinois Controlled Substances Act.

(i) "Primary caregiver" means a person who is at least 21
years old, who has agreed to assist with a patient's medical
use of cannabis, and who has never been convicted of a felony
drug offense. A primary caregiver, other than a medical cannabis organization as defined in this Act may assist no more than one qualifying patient with their medical use of cannabis. A patient may designate only one primary caregiver, except that a patient may designate a medical cannabis organization and one individual primary caregiver.

(j) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(k) "Registry identification card" means a document issued by the Department that identifies a person as a registered qualifying patient or registered primary caregiver.

(l) "Usable cannabis" means the dried leaves and flowers of the cannabis plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of other ingredients in cannabis prepared for consumption as food.

(m) "Visiting qualifying patient" means a patient who is not a resident of Illinois or who has been a resident of Illinois less than 30 days.

(n) "Written certification" means a document signed by a physician, stating: (1) that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition;
(2) that the qualifying patient has a debilitating medical condition and specifying what debilitating medical condition the qualifying patient has; and (3) that the patient is under the physician's care for the debilitating medical condition. A written certification shall be made only in the course of a bona fide physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history.

Section 15. Protections for the medical use of cannabis.

(a) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of cannabis in accordance with this Act, provided that the qualifying patient possesses an amount of cannabis that does not exceed an "adequate supply" as defined in subsection (a) of Section 10 of this Act of usable cannabis. Such plants shall be kept in an enclosed, locked facility, unless they are being transported because the qualifying patient is moving or if they are being transported to the qualifying patient's property. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under State law and shall not be included in this amount.
(b) A primary caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for assisting a qualifying patient to whom he or she is connected through the Department's registration process with the medical use of cannabis in accordance with this Act, provided that the primary caregiver possesses an amount of cannabis that does not exceed an "adequate supply" as defined in subsection (a) of Section 10 of this Act for the qualifying patient to whom he or she is connected through the Department's registration process. It is the intent of this provision that the total amount possessed between the qualifying patient and caregiver shall not exceed the patient's "adequate supply" as defined in subsection (a) of Section 10 of this Act. Such plants shall be kept in an enclosed, locked facility, unless they are being transported because the primary caregiver is moving or if they are being transported to a primary caregiver's or a qualifying patient's property. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under State law and shall not be included in this amount.

(c) (1) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of cannabis in accordance with this Act if the qualifying patient
or primary caregiver:

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

(B) is in possession of an amount of cannabis that does not exceed the amount allowed under this Act.

(2) The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this Act.

(d) A cardholder shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for giving cannabis to a registered qualifying patient or a registered primary caregiver for the registered qualifying patient's medical use where nothing of value is transferred in return, or to offer to do the same.

(e) No school, employer, or landlord may refuse to enroll or employ or lease to, or otherwise penalize a person solely for his or her status as a registered qualifying patient or a registered primary caregiver, unless failing to do so would put the school, employer, or landlord in violation of federal law or cause it to lose a federal contract or funding.
(f) A person shall not be denied custody or visitation of a minor for acting in accordance with this Act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(g) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient's medical use of cannabis, provided that registered primary caregiver is connected to the registered qualifying patient through the Department's registration process. Any such compensation shall not constitute the sale of controlled substances.

(h) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Medical Disciplinary Board or by any other business or occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise
violating the standard of care for evaluating medical conditions.

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

(j) Any cannabis, cannabis paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of cannabis, as allowed under this Act, or acts incidental to such use, shall not be seized or forfeited.

(k) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of cannabis as allowed under this Act, or for assisting a registered qualifying patient with using or administering cannabis. This provision, however, shall not be construed to allow the consumption of cannabis by persons other than qualifying patients.

(l) A registry identification card, or its equivalent, that
is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of cannabis by a visiting qualifying patient, shall have the same force and effect as a registry identification card issued by the Department.

(m) Any cardholder who sells cannabis to a person who is not allowed to use cannabis for medical purposes under this Act shall have his or her registry identification card revoked, and is liable for any other penalties for the sale of cannabis. The Department may revoke the registry identification card of any cardholder who violates this Act, and the cardholder shall be liable for any other penalties for the violation.

(n) For purposes of Illinois State law, the consumption or use of cannabis by a registered qualifying patient shall be considered lawful if it is authorized by and in accordance with this Act.

Section 20. Department to issue rules.

(a) Not later than 120 days after the effective date of this Act, the Department shall promulgate rules governing the manner in which it shall consider petitions from the public to add debilitating medical conditions to the list of debilitating medical conditions set forth in subsection (b) of Section 10 of this Act. In considering such petitions, the Department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Department shall,
after hearing, approve or deny such petitions within 180 days
of submission of the petition. The approval or denial of such a
petition shall be considered a final Department action, subject
to judicial review. Jurisdiction and venue for judicial review
are vested in the Circuit Court.

(b) Not later than 120 days after the effective date of
this Act, the Department shall promulgate rules governing the
manner in which it shall consider applications for and renewals
of registry identification cards for qualifying patients and
primary caregivers. The Department's rules shall establish
application and renewal fees that generate revenues sufficient
to offset all expenses of implementing and administering this
Act. The fee shall include an additional $3 per registry
identification card which shall be used to develop and
disseminate educational information about the health risks
associated with the abuse of cannabis and prescription
medications. The Department may establish a sliding scale of
application and renewal fees based upon a qualifying patient's
family income. The Department may accept donations from private
sources in order to reduce the application and renewal fees.

(c) Not later than 120 days after the effective date of
this Act, the Department shall promulgate rules governing the
manner in which it shall consider applications for and renewals
of registration certificates for medical cannabis
organizations, including rules governing the form and content
of registration and renewal applications, and a standard form
for written certifications.

Section 25. Administering the Department's rules.

(a) The Department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the Department's rules:

(1) written certification, which shall be on a form developed by the Department;
(2) application or renewal fee;
(3) name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;
(4) name, address, and telephone number of the qualifying patient's physician; and
(5) name, address, and date of birth of each primary caregiver, if any, of the qualifying patient.

(b) The Department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of cannabis to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
(2) The parent, guardian, or person having legal custody consents in writing to:
(A) allow the qualifying patient's medical use of cannabis;

(B) serve as one of the qualifying patient's primary caregivers; and

(C) control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

(c) The Department shall verify the information contained in an application or renewal submitted pursuant to this Section, and shall approve or deny an application or renewal within 15 days of receiving it. The Department may deny an application or renewal only if the applicant did not provide the information required pursuant to this Section, or if the Department determines that the information provided was falsified. Rejection of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Illinois Circuit Court.

(d) The Department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of 2 primary caregivers per qualifying patient.

(e) The Department shall issue registry identification cards within 5 days of approving an application or renewal, which shall expire one year after the date of issuance. Registry identification cards shall contain all of the
following:

(1) Name, address, and date of birth of the qualifying patient;

(2) Name, address, and date of birth of each primary caregiver, if any, of the qualifying patient;

(3) The date of issuance and expiration date of the registry identification card;

(4) A random identification number that is unique to the cardholder; and

(5) A photograph, if the Department decides to require one.

(f) (1) A registered qualifying patient shall notify the Department of any change in the registered qualifying patient's name, address, or primary caregiver, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days of such change.

(2) A registered qualifying patient who fails to notify the Department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than $150. If the registered qualifying patient's certifying physician notifies the Department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the Department to the qualifying patient.
(3) A registered primary caregiver shall notify the
Department of any change in his or her name or address
within 10 days of such change. A registered primary
caregiver who fails to notify the Department of any of
these changes is responsible for a civil infraction,
punishable by a fine of no more than $150.

(4) When a registered qualifying patient or registered
primary caregiver notifies the Department of any changes
listed in this subsection, the Department shall issue the
registered qualifying patient and each registered primary
caregiver a new registry identification card within 10 days
of receiving the updated information and a $10 fee.

(5) When a registered qualifying patient changes his or
her registered primary caregiver, the Department shall
notify the primary caregiver within 10 days. The registered
primary caregiver's protections as provided in this Act
shall expire 10 days after notification by the Department.

(6) If a registered qualifying patient or registered
primary caregiver loses his or her registry identification
card, he or she shall notify the Department and submit a
$10 fee within 10 days of losing the card. Within 5 days
after such notification, the Department shall issue a new
registry identification card with a new random
identification number.

(g) Possession of, or application for, a registry
identification card shall not constitute probable cause or
reasonable suspicion, nor shall it be used to support the
search of the person or property of the person possessing or
applying for the registry identification card.

(h) The following confidentiality rules shall apply:

(1) Applications and supporting information submitted
by qualifying patients, including information regarding
their primary caregivers and physicians, are confidential.

(2) The Department shall maintain a confidential list
of the persons to whom the Department has issued registry
identification cards. Individual names and other
identifying information on the list shall be confidential,
 exempt from the Freedom of Information Act, and not subject
to disclosure, except to authorized employees of the
Department as necessary to perform official duties of the
Department.

(3) The Department shall verify to law enforcement
personnel whether a registry identification card is valid,
without disclosing more information than is reasonably
necessary to verify the authenticity of the registry
identification card.

(4) It is a Class B misdemeanor for any person,
including an employee or official of the Department or
another state agency or local government, to breach the
confidentiality of information obtained pursuant to this
Act. Notwithstanding this provision, Department employees
may notify law enforcement about falsified or fraudulent
information submitted to the Department, so long as the employee who suspects that falsified or fraudulent information has been submitted confers with his or her supervisor (or at least one other employee of the Department) and both agree that circumstances exist that warrant reporting.

(i) The Department shall submit to the General Assembly an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

(1) The number of applications and renewals filed for registry identification cards.

(2) The number of qualifying patients and primary caregivers approved in each county.

(3) The nature of the debilitating medical conditions of the qualifying patients.

(4) The number of registry identification cards revoked.

(5) The number of physicians providing written certifications for qualifying patients.

(j) The Department shall develop and disseminate educational information about the health risks associated with the abuse of cannabis and prescription medications, which shall be funded by the $3 fees generated from registry identification cards.
Section 30. Scope of Act.

(a) This Act shall not permit any person to do any of the following, nor shall it prevent the imposition of any civil, criminal, or other penalties for any such actions:

(1) Undertake any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice.

(2) Possess cannabis, or otherwise engage in the medical use of cannabis:

(A) in a school bus;

(B) on the grounds of any preschool or primary or secondary school; or

(C) in any correctional facility.

(3) Smoke cannabis:

(A) on any form of public transportation; or

(B) in any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of cannabis. However, a registered qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

(5) Use cannabis if that person does not have a serious or debilitating medical condition.
(6) Allow any person who is not allowed to use cannabis under this Act to use cannabis that a cardholder is allowed to possess pursuant to this Act.

(7) Transfer cannabis to any person who is not allowed to possess cannabis under this Act.

(b) Nothing in this Act shall be construed to require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of cannabis; or

(2) An employer to accommodate the ingestion of cannabis in any workplace or any employee working while under the influence of cannabis, provided that a qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

(c) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is a petty offense punishable by a fine of $500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken pursuant to this Act.

(d) Nothing in this Act shall be construed to prevent the arrest or prosecution of a registered qualifying patient for reckless driving or driving under the influence of cannabis.
where probable cause exists.

(e) This Act shall in no way limit an employer's ability to discipline an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis. This Act shall in no way limit an employer's ability to discipline an employee for failing a drug test if failing to do so would put the employer in violation of federal law or cause it to lose a federal contract or funding.

Section 35. Affirmative defense and dismissal for medical cannabis.

(a) Except as provided in Section 30, a patient and a patient's primary caregiver, if any, may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and this defense shall be presumed valid where the evidence shows that:

(1) A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and
(2) The patient and the patient's primary caregiver, if any, were collectively in possession of a quantity of cannabis that was not more than was reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and

(3) The patient and the patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition.

(b) A person may assert the medical purpose for using cannabis in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).

(c) If a patient or a patient's primary caregiver demonstrates the patient's medical purpose for using cannabis pursuant to this Section, the patient and the patient's primary caregiver shall not be subject to the following for the patient's use of cannabis for medical purposes:

(1) disciplinary action by a business or occupational
or professional licensing board or bureau; or
(2) forfeiture of any interest in or right to property.

Section 40. Enforcement of this Act.
(a) If the Department fails to adopt rules to implement
this Act within 120 days of the effective date of this Act, a
qualifying patient may commence an action in the Circuit Court
to compel the Department to perform the actions mandated
pursuant to the provisions of this Act.
(b) If the Department fails to issue a valid registry
identification card in response to a valid application or
renewal submitted pursuant to this Act within 20 days of its
submission, the registry identification card shall be deemed
granted, and a copy of the registry identification application
or renewal shall be deemed a valid registry identification
card.
(c) If at any time after the 140 days following the
effective date of this Act the Department is not accepting
applications, including if it has not created rules allowing
qualifying patients to submit applications, a notarized
statement by a qualifying patient containing the information
required in an application, pursuant to clauses (a)(2) through
(a)(5) of Section 25 together with a written certification
shall be deemed a valid registry identification card.

Section 45. Medical cannabis organization.
(a) Definition. For purposes of this Section, "medical cannabis organization" means an entity registered under this Section that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses cannabis, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers. A medical cannabis organization is a primary caregiver. All provisions of this Act pertaining to a primary caregiver shall apply to a medical cannabis organization unless they conflict with a provision contained in this Section. A medical cannabis organization shall supply cannabis to any number of registered qualifying patients who have designated it as one of their primary caregivers.

(b) Registration requirements.

(1) The Department shall register a medical cannabis organization and issue a registration certificate within 20 days to any person or entity that provides:

(A) A fee paid to the Department in the amount of $5,000;

(B) The legal name of the medical cannabis organization;

(C) The physical address of the medical cannabis organization and the physical address of one additional location, if any, where cannabis will be cultivated;

(D) The name, address, and date of birth of each
principal officer and board member of the medical cannabis organization;

(E) The name, address, and date of birth of any person who is an agent of or employed by the medical cannabis organization.

(2) The Department shall track the number of registered qualifying patients who designate each medical cannabis organization as a primary caregiver, and issue a written statement to the medical cannabis organization of the number of qualifying patients who have designated the medical cannabis organization to serve as a primary caregiver for them. This statement shall be updated each time a new registered qualifying patient designates the medical cannabis organization or ceases to designate the medical cannabis organization and may be transmitted electronically if the Department's rules so provide. The Department may provide by rule that the updated written statements will not be issued more frequently than twice each week.

(3) The Department shall issue each principal officer, board member, agent, and employee of a medical cannabis organization a registry identification card within 10 days of receipt of the person's name, address, date of birth, and a fee in an amount established by the Department. Each card shall specify that the cardholder is a principal officer, board member, agent, or employee of a medical
cannabis organization and shall contain the following:

(A) The name, address, and date of birth of the principal officer, board member, agent or employee;

(B) The legal name of the medical cannabis organization to which the principal officer, board member, agent, or employee is affiliated;

(C) A random identification number that is unique to the cardholder;

(D) The date of issuance and expiration date of the registry identification card; and

(E) A photograph, if the Department decides to require one.

(4) The Department shall not issue a registry identification card to any principal officer, board member, agent, or employee of a medical cannabis organization who has been convicted of a felony drug offense. The Department may conduct a background check of each principal officer, board member, agent, or employee in order to carry out this provision. The Department shall notify the medical cannabis organization in writing of the purpose for denying the registry identification card. However, the Department shall grant such person a registry identification card if the Department determines that the person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis.

(c) Authority of the Department. Not later than 120 days
after the effective date of this Act, the Department shall promulgate rules governing the manner in which it shall consider applications for and renewals of registration certificates for medical cannabis organizations, including rules governing:

(1) The form and content of registration and renewal applications;

(2) Minimum oversight requirements for medical cannabis organizations;

(3) Minimum record-keeping requirements for medical cannabis organizations;

(4) Minimum security requirements for medical cannabis organizations; and

(5) Procedures for suspending or terminating the registration of medical cannabis organizations that violate the provisions of this Section or the rules promulgated pursuant to this subsection.

(d) Expiration. A medical cannabis organization registration certificate and the registry identification card for each principal officer, board member, agent, or employee shall expire one year after the date of issuance. The Department shall issue a renewal medical cannabis organization registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection (b) of this Section.

(e) Inspection. Medical cannabis organizations are subject
to random inspection by the Department.

(f) Medical cannabis organization requirements.

(1) A medical cannabis organization may not be located within 500 feet of the property line of a preexisting public or private school.

(2) A medical cannabis organization shall notify the Department within 10 days of when a principal officer, board member, agent, or employee ceases to work at the medical cannabis organization.

(3) A medical cannabis organization shall notify the Department in writing of the name, address, and date of birth of any new principal officer, board member, agent, or employee and shall submit a fee in an amount established by the Department for a new registry identification card before a new agent or employee begins working at the medical cannabis organization.

(4) A medical cannabis organization shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing cannabis and the theft of cannabis.

(5) The operating documents of a medical cannabis organization shall include procedures for the oversight of the medical cannabis organization and procedures to ensure accurate record keeping.

(6) A medical cannabis organization is prohibited from acquiring, possessing, cultivating, manufacturing,
delivering, transferring, transporting, supplying, or
dispensing cannabis for any purpose except to assist
registered qualifying patients with the medical use of
cannabis directly or through the qualifying patients'
other primary caregiver.

(7) All principal officers and board members of a
medical cannabis organization must be residents of the
State of Illinois.

(g) Immunity.

(1) No registered medical cannabis organization shall
be subject to prosecution, search, seizure, or penalty in
any manner or denied any right or privilege, including but
not limited to, civil penalty or disciplinary action by a
business, occupational, or professional licensing board or
entity, solely for acting in accordance with this Section
to assist registered qualifying patients to whom it is
connected through the Department's registration process
with the medical use of cannabis.

(2) No principal officers, board members, agents, or
employees of a registered medical cannabis organization
shall be subject to arrest, prosecution, search, seizure,
or penalty in any manner or denied any right or privilege,
including but not limited to civil penalty or disciplinary
action by a business, occupational, or professional
licensing board or entity, solely for working for or with a
medical cannabis organization in accordance with this Act.
(h) Prohibitions.

(1) A medical cannabis organization may not possess an amount of cannabis that exceeds the total of the allowable amounts of cannabis for the registered qualifying patients for whom the medical cannabis organization is a registered primary caregiver.

(2) A medical cannabis organization may not dispense, deliver, or otherwise transfer cannabis to a person other than a qualifying patient who has designated the medical cannabis organization as a primary caregiver or to such patient's primary caregiver.

(3) A medical cannabis organization may not obtain cannabis from outside the State of Illinois.

(4) A person convicted of violating paragraph (2) of this subsection may not be an employee, agent, principal officer, or board member of any medical cannabis organization, and such person's registry identification card shall be immediately revoked.

(5) No person who has been convicted of a felony drug offense may be the principal officer, board member, agent, or employee of a medical cannabis organization unless the Department has determined that the person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis and issued the person a registry identification card as provided under subsection (b)(3). A person who is employed by or is an agent, principal
officer, or board member of a medical cannabis organization in violation of this Section is guilty of a civil violation punishable by a fine of up to $1,000. A subsequent violation of this Section is a Class B misdemeanor.

Section 50. Repeal of Act. This Act is repealed 3 years after its effective date.

Section 55. Adoption of rules by the Department; 60-day supply for qualifying patients.

(a) By July 1, 2011, the Department shall adopt rules defining the quantity of cannabis that could reasonably be presumed to be a 60-day supply for qualifying patients.

(b) During the rule-making process, the Department shall make a good faith effort to include all stakeholders identified in the rule-making analysis as being impacted by the rule.

(c) Stakeholders shall include, but are not limited to:

(1) at least 3 physicians, one of whom must have prior experience treating medical cannabis patients and another who specializes in oncology;

(2) 2 nurses, one of whom must have prior experience treating HIV/AIDS patients;

(3) a representative from hospice;

(4) a representative from the law enforcement community;

(5) the Director of State Police or his or her
designee;

(6) a prosecuting attorney currently employed by the State of Illinois;

(7) a public defender currently employed by the State of Illinois;

(8) a defense attorney in private practice;

(9) a licensed phlebotomist;

(10) a horticulturist; and

(11) a representative of the business community.

Section 95. The Cannabis Control Act is amended by changing Section 8 as follows:

(720 ILCS 550/8) (from Ch. 56 1/2, par. 708)

Sec. 8. (1) It is unlawful for any person knowingly to produce the cannabis sativa plant or to possess such plants or to deliver such plants unless production or possession has been authorized pursuant to the provisions of the Compassionate Use of Medical Cannabis Pilot Program Act Section 11 of the Act. Any person who violates this Section with respect to production or possession of:

(a) Not more than 5 plants is guilty of a Class A misdemeanor, except that a violation under subsection (2) of this Section is a Class 4 felony.

(b) More than 5, but not more than 20 plants, is guilty of a Class 4 felony, except that a violation under subsection (2)
(c) More than 20, but not more than 50 plants, is guilty of a Class 3 felony, except that a violation under subsection (2) of this Section is a Class 2 felony.

(d) More than 50, but not more than 200 plants, is guilty of a Class 2 felony, except that a violation under subsection (2) of this Section is a Class 1 felony, for which a fine not to exceed $100,000 may be imposed and for which liability for the cost of conducting the investigation and eradicating such plants may be assessed. Compensation for expenses incurred in the enforcement of this provision shall be transmitted to and deposited in the treasurer's office at the level of government represented by the Illinois law enforcement agency whose officers or employees conducted the investigation or caused the arrest or arrests leading to the prosecution, to be subsequently made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. If such seizure was made by a combination of law enforcement personnel representing different levels of government, the court levying the assessment shall determine the allocation of such assessment. The proceeds of assessment awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund.

(e) More than 200 plants is guilty of a Class 1 felony, except that a violation under subsection (2) of this Section is
a Class X felony, for which a fine not to exceed $100,000 may be imposed and for which liability for the cost of conducting the investigation and eradicating such plants may be assessed. Compensation for expenses incurred in the enforcement of this provision shall be transmitted to and deposited in the treasurer's office at the level of government represented by the Illinois law enforcement agency whose officers or employees conducted the investigation or caused the arrest or arrests leading to the prosecution, to be subsequently made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. If such seizure was made by a combination of law enforcement personnel representing different levels of government, the court levying the assessment shall determine the allocation of such assessment. The proceeds of assessment awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund.

(2) Any person authorized pursuant to the provisions of the Compassionate Use of Medical Cannabis Pilot Program Act to produce or possess the cannabis sativa plant, who knowingly produces the cannabis sativa plant or possesses such plants or delivers such plants except as provided for in the Compassionate Use of Medical Cannabis Pilot Program Act, is guilty of violating this Section. Any violation of this subsection (2) shall be punished according to the number of plants involved in the violation as provided in subsection (1)
of this Section.

(3) Any registered qualifying patient or registered primary caregiver who distributes cannabis to someone who is not allowed to use cannabis is subject to a penalty enhancement of not more than 2 years in prison or a fine of not more than $2,000, or both, for abuse of the Compassionate Use of Medical Cannabis Pilot Program Act.

(Source: P.A. 95-247, eff. 1-1-08.)

(720 ILCS 550/11 rep.)

(720 ILCS 550/15 rep.)

Section 96. The Cannabis Control Act is amended by repealing Sections 11 and 15.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law.
INDEX

Statutes amended in order of appearance

New Act

720 ILCS 550/8 from Ch. 56 1/2, par. 708

720 ILCS 550/11 rep.

720 ILCS 550/15 rep.
INDEX

Statutes amended in order of appearance

See Index