

## BILL TEXT:

## STATE OF NEW YORK

2774

2011-2012 Regular Sessions

## IN SENATE

February 1, 2011

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the general business law, in relation to medical use of marihuana

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds that  
2 thousands of New Yorkers have serious medical conditions that can be  
3 improved by medically-approved use of marihuana. The law should not  
4 stand between them and treatment necessary for life and health. This  
5 legislation follows the well-established public policy that a controlled  
6 substance can have a legitimate medical use. Many controlled substances  
7 that are legal for medical use (such as morphine and steroids) are ille-  
8 gal for any other use. The purposes of article 33 of the public health  
9 law include allowing legitimate use of controlled substances in health  
10 care, including palliative care. This policy and this legislation do not  
11 in any way diminish New York state's strong public policy and laws  
12 against illegal drug use, nor should it be deemed in any manner to advo-  
13 cate, authorize, promote, or legally or socially accept the use of mari-  
14 huana for children or adults, for any non-medical use. This legislation  
15 is an appropriate exercise of the state's legislative power to protect  
16 the health of its people under article 17 of the state constitution and  
17 the tenth amendment of the United States constitution.

18 It is the legislative intent that this act be implemented consistently  
19 with these findings and principles, through a reasonable and workable  
20 system with appropriate oversight, evaluation and continuing research.

21 § 2. Article 33 of the public health law is amended by adding a new  
22 title 5-A to read as follows:

23 TITLE V-A

24 MEDICAL USE OF MARIHUANA

25 Section 3360. Definitions.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD02415-01-1

1 3361. Certification of patients.

2 3362. Possession.

3 3363. Registry identification cards.

4 3364. Registered organizations.

5 3365. Registering of registered organizations.

6 3366. Reports by registered organizations.

7 3367. Evaluation; research programs; report by department.

8 3368. Registered organization assessments.

9 3369. Relation to other laws.

10 § 3360. Definitions. As used in this title, the following terms shall  
11 have the following meanings, unless the context clearly requires other-  
12 wise:

13 1. "Certified medical use" means the acquisition, possession, use,  
14 delivery, transfer, transportation, or administration of medical mari-  
15 huana by a certified patient or designated caregiver for use as part of  
16 the treatment of the patient's serious condition specified in a certif-  
17 ication under section thirty-three hundred sixty-one of this title,  
18 including enabling the patient to tolerate treatment for the serious  
19 condition.

20 2. "Certified patient" means a patient who is certified under section  
21 thirty-three hundred sixty-one of this title.

22 3. "Certification" means a certification, made under section thirty-  
23 three hundred sixty-one of this title.

24 4. "Designated caregiver" means the individual designated by a certi-  
25 fied patient in a registry application.

26 5. "Public place" means a public place as defined in section 240.00 of  
27 the penal law, a motor vehicle as defined in section one hundred twen-  
28 ty-five of the vehicle and traffic law, an aircraft as defined in  
29 section two hundred forty of the general business law or a vessel as  
30 defined in section two of the navigation law.

31 6. "Serious condition" means a severe debilitating or life-threatening  
32 condition, or a condition associated with or a complication of such a  
33 condition or its treatment (including but not limited to inability to  
34 tolerate food, nausea, vomiting, dysphoria or pain).

35 7. "Medical marijuana" means marijuana as defined in subdivision twen-  
36 ty-one of section thirty-three hundred two of this title intended for a  
37 certified medical use.

38 8. "Registered organization" means a registered organization under  
39 sections thirty-three hundred sixty-four and thirty-three hundred  
40 sixty-five of this title.

41 9. "Registry application" means an application properly completed and  
42 filed with the department by a certified patient under section thirty-  
43 three hundred sixty-three of this title.

44 10. "Registry identification card" means a document that identifies a  
45 certified patient or designated caregiver, as provided under section  
46 thirty-three hundred sixty-three of this title.

47 11. "Practitioner" means a practitioner who is a physician, physician  
48 assistant, or nurse practitioner, acting within the practitioner's  
49 lawful scope of practice.

50 § 3361. Certification of patients. 1. A patient certification may only  
51 be issued if a practitioner who is caring for the patient for a serious  
52 condition certifies that: (a) the patient has a serious condition, which  
53 shall be specified in the patient's health care record; (b) the patient  
54 is under the practitioner's care for the serious condition; and (c) in  
55 the practitioner's professional opinion, the patient is likely to

1 receive therapeutic or palliative benefit from the primary or adjunctive  
2 treatment with medical use of marihuana for the serious condition.

3 2. The certification shall be in writing and include (a) the name,  
4 date of birth and address of the patient; (b) a statement that the  
5 patient has a serious condition; the patient is under the practitioner's  
6 care for the serious condition and, in the practitioner's professional  
7 opinion, the patient is likely to receive therapeutic or palliative  
8 benefit from the primary or adjunctive treatment with medical use of  
9 marihuana for the serious condition; (c) the date; and (d) the name,  
10 address, federal registration number, telephone number, and the hand-  
11 written signature of the certifying practitioner. The commissioner may  
12 require by regulation that the certification shall be on a form provided  
13 by the department if the commissioner determines that the department is  
14 making certification forms adequately available.

15 3. The practitioner shall give the certification to the certified  
16 patient, and place a copy in the patient's health care record.

17 4. No practitioner shall issue a certification under this section for  
18 himself or herself.

19 5. A registry identification card based on a certification shall  
20 expire one year after the date the certification is signed by the prac-  
21 itioner; except that where a certified patient has a registry identifi-  
22 cation card based on a current valid certification, a new registry iden-  
23 tification card based on a new certification shall expire one year after  
24 the expiration of the registry identification card based on the current  
25 valid certification. However, if the practitioner states in the certif-  
26 ication that he or she believes the patient would benefit from medical  
27 marihuana only until a specified earlier date, then the registry iden-  
28 tification card shall expire on that date.

29 § 3362. Possession. 1. The possession, acquisition, use, delivery,  
30 transfer, transportation, or administration of medical marihuana by a  
31 certified patient or designated caregiver possessing a valid registry  
32 identification card, for certified medical use, shall be lawful under  
33 this title; provided that the marihuana that may be possessed by a  
34 certified patient and such certified patient's designated caregiver does  
35 not exceed a total aggregate weight of two and one-half ounces of mari-  
36 huana. A designated caregiver may possess the quantities referred to in  
37 this subdivision for each certified patient for whom the caregiver  
38 possesses a valid registry identification card, up to five certified  
39 patients.

40 2. Notwithstanding subdivision one of this section: (a) possession of  
41 marihuana shall not be lawful under this title if it is consumed or  
42 displayed in a public place; (b) medical marihuana may not be smoked in  
43 any place where tobacco may not be smoked under article thirteen-E of  
44 this chapter; (c) except that in a health care facility, medical mari-  
45 huana may be smoked by a patient of the facility, subject to other  
46 provisions of this title, in an area, and under circumstances, permitted  
47 by the facility, provided that the patient does not smoke in the pres-  
48 ence of patients who are not certified under this title.

49 3. It shall be lawful under this article to give or dispose of mari-  
50 huana, obtained under this title for the certified patient to the certi-  
51 fied patient or designated caregiver for a certified medical use where  
52 nothing of value is transferred in return, or to offer to do the same.  
53 This prohibition on transferring or offering to transfer a thing of  
54 value shall not (a) apply to sale of medical marihuana to or by a regis-  
55 tered organization under this article; nor (b) prevent a designated  
56 caregiver from being reimbursed for activities relating to caring for a

1 certified patient, including, but not limited to, reimbursement for  
2 legitimate expenses relating to the purchase of medical marihuana from a  
3 registered organization under section thirty-three hundred sixty-six of  
4 this title.

5 § 3363. Registry identification cards. 1. The department shall issue  
6 registry identification cards for certified patients and designated  
7 caregivers. A registry identification card shall expire as provided in  
8 section thirty-three hundred sixty-one of this title or as otherwise  
9 provided in this section. The department shall begin issuing registry  
10 identification cards no later than June first, two thousand twelve. The  
11 department may specify a form for a registry application, in which case  
12 the department shall provide the form on request, reproductions of the  
13 form may be used, and the form shall be available for downloading from  
14 the department's website.

15 2. To obtain or renew a registry identification card, a certified  
16 patient shall file a registry application with the department. The  
17 registry application or renewal application shall include:

18 (a) the original patient's certification (a new written certification  
19 shall be provided with a renewal application);

20 (b) (i) the name, address, and date of birth of the patient; (ii) the  
21 date of the certification; (iii) if the patient has a registry identifi-  
22 cation card based on a current valid certification, the registry iden-  
23 tification number and expiration date of that registry identification  
24 card; (iv) the specified date until which the patient would benefit from  
25 medical marihuana, if the certification states such a date; (v) the  
26 name, address, federal registration number, and telephone number of the  
27 certifying practitioner; and (vi) other individual identifying informa-  
28 tion required by the department;

29 (c) if the patient designates a designated caregiver, the name,  
30 address, and date of birth of the designated caregiver, and other indi-  
31 vidual identifying information required by the department; a certified  
32 patient may designate up to two designated caregivers;

33 (d) a statement that a false statement made in the application is  
34 punishable under section 210.45 of the penal law;

35 (e) the date of the application and the signature of the certified  
36 patient; and

37 (f) a reasonable application fee, as determined by the department;  
38 provided, that the department may waive or reduce the fee in cases of  
39 financial hardship.

40 3. Where a certified patient is under the age of eighteen:

41 (a) The application for a registry identification card shall be made  
42 by an appropriate person over twenty-one years of age. The application  
43 shall state facts demonstrating that the person is appropriate.

44 (b) The designated caregiver shall be (i) a parent or legal guardian  
45 of the certified patient, (ii) a person designated by a parent or legal  
46 guardian, or (iii) an appropriate person approved by the department upon  
47 a sufficient showing that no parent or legal guardian is appropriate or  
48 available.

49 4. No person may be a designated caregiver if the person is under  
50 twenty-one years of age unless a sufficient showing is made to the  
51 department that the person should be permitted to serve as a designated  
52 caregiver.

53 5. No person may be a designated caregiver for more than five certi-  
54 fied patients at one time. A designated caregiver shall carry a separate  
55 registry identification card for each certified patient for whom he or  
56 she is a designated caregiver. Each registry identification card shall

1 contain the same registry identification number specified in this  
2 section.

3 6. The department shall issue separate registry identification cards  
4 for the certified patient and the designated caregiver (if one is desig-  
5 ned in the registry application) within thirty days of receiving a  
6 complete application under this section, unless it determines that the  
7 application is incomplete or facially inaccurate, in which case it shall  
8 promptly notify the applicant.

9 7. If the department does not approve the designation of an individ-  
10 ual as a designated caregiver, that shall not affect the approval of the  
11 application as to the certified patient.

12 8. A registry identification card shall contain:

13 (a) the name, address, and date of birth of the certified patient and  
14 the designated caregiver (if one is designated in the registry applica-  
15 tion);

16 (b) the date of issuance and expiration date of the registry identifi-  
17 cation card;

18 (c) a registry identification number for the certified patient and a  
19 registry identification number for the designated caregiver (if one is  
20 designated in the registry application); and

21 (d) a photograph of the individual to whom the registry identification  
22 card is being issued, which shall be obtained by the department in a  
23 manner specified by the commissioner in regulations; provided, however,  
24 that if the department required certified patients to submit photographs  
25 for this purpose, there shall be a reasonable accommodation of certified  
26 patients who are confined to their homes due to their medical conditions  
27 and may therefore have difficulty procuring photographs.

28 9. A certified patient or designated caregiver who has been issued a  
29 registry identification card shall notify the department of any change  
30 in his or her name or address or, with respect to the patient, or if he  
31 or she ceases to have the serious condition noted on the certification,  
32 within ten days of such change.

33 10. If a certified patient or designated caregiver loses his or her  
34 registry identification card, he or she shall notify the department and  
35 submit a ten dollar fee within ten days of losing the card to maintain  
36 the registration. The department may establish higher fees for issuing  
37 a new registry identification card for second and subsequent replace-  
38 ments for a lost card, provided, that the department may waive or reduce  
39 the fee in cases of financial hardship. Within five days after such  
40 notification and payment, the department shall issue a new registry  
41 identification card, which may contain a new registry identification  
42 number, to the certified patient or designated caregiver, as the case  
43 may be.

44 11. The department shall maintain a confidential list of the persons  
45 to whom it has issued registry identification cards. Individual identi-  
46 fying information obtained by the department under this title shall be  
47 confidential and exempt from disclosure under article six of the public  
48 officers law. Notwithstanding this subdivision, the department may noti-  
49 fy any appropriate law enforcement agency of information relating to any  
50 violation or suspected violation of this title.

51 12. The department shall verify to law enforcement personnel in an  
52 appropriate case whether a registry identification card is valid.

53 13. If a certified patient or designated caregiver willfully violates  
54 any provision of this title as determined by the department, his or her  
55 registry identification card may be revoked. This is in addition to any  
56 other penalty that may apply.

1 14. (a) Registry implementation date. As used in this subdivision, the  
2 "registry implementation date" is the date determined by the commission-  
3 er when the department is ready to receive and expeditiously act on  
4 applications for registry identification cards under this section.

5 (b) On and after the registry implementation date, upon receipt of an  
6 application for a registry identification card, the department shall  
7 send to the applicant a letter acknowledging such receipt. While the  
8 application for a registry identification card is pending, a copy of the  
9 registry application, together with a copy of the certification and a  
10 copy of the letter of receipt from the department, shall serve as and  
11 have the same effect as a registry identification card for the certified  
12 patient and designated caregiver if any, provided that a certification  
13 and application shall not serve as a valid registry identification card  
14 after the initial thirty day period under subdivision six of this  
15 section. This paragraph shall expire and have no effect one year after  
16 the registry implementation date.

17 § 3364. Registered organizations. 1. A registered organization shall  
18 be:

19 (a) a pharmacy;

20 (b) a facility licensed under article twenty-eight of this chapter;

21 (c) a not-for-profit corporation organized for the purpose of acquir-  
22 ing, possessing, manufacturing, selling, delivering, transporting or  
23 distributing marihuana for certified medical use;

24 (d) the department;

25 (e) a local health department; or

26 (f) a registered producer, which shall be a person or entity, with  
27 appropriate expertise in agriculture, registered for the purpose of  
28 acquiring or manufacturing marihuana and selling, delivering, transport-  
29 ing, or distributing it to another registered organization; a certified  
30 producer shall not sell, deliver or distribute marihuana to a certified  
31 patient or designated caregiver for that person's use.

32 1-a. The department may contract, through a request for proposals  
33 process, with an entity to manufacture medical marihuana for sale to the  
34 department in the department's capacity as a registered organization. An  
35 entity contracting with the department under this subdivision shall be  
36 deemed to be a registered producer when acting under that contract.

37 2. The acquiring, possession, manufacture, sale, delivery, transport-  
38 ing or distributing of marihuana by a registered organization under this  
39 title in accordance with its registration under section thirty-three  
40 hundred sixty-five of this title or a renewal thereof shall be lawful  
41 under this title.

42 3. A registered organization (other than a registered producer) may  
43 lawfully, in good faith, sell, deliver or distribute medical marihuana  
44 to a certified patient or designated caregiver upon presentation to the  
45 registered organization of a valid registry identification card for that  
46 certified patient or designated caregiver. When presented with the  
47 registry identification card, the registered organization shall provide  
48 to the certified patient or designated caregiver a receipt, which shall  
49 state: the name, address, and registry identification number of the  
50 registered organization; the registry identification number of the  
51 certified patient and the designated caregiver (if any); and the quanti-  
52 ty of marihuana sold. The registered organization shall retain a copy of  
53 the registry identification card and the receipt for one year.

54 4. No registered organization may sell, deliver or distribute to any  
55 certified patient or designated caregiver a quantity of medical marihua-

1 na larger than that individual would be allowed to possess under this  
2 title.

3 5. When a registered organization sells, delivers or distributes  
4 medical marihuana to a certified patient or designated caregiver, it  
5 shall provide to that individual a safety insert, which will be devel-  
6 oped and approved by the commissioner and include, but not be limited  
7 to, information on: (a) methods for administering medical marihuana, (b)  
8 any potential dangers stemming from the use of medical marihuana, and  
9 (c) how to recognize what may be problematic usage of medical marihuana  
10 and obtain appropriate services or treatment for problematic usage.

11 § 3365. Registering of registered organizations. 1. Application for  
12 initial registration. (a) An applicant for registration as a registered  
13 organization under section thirty-three hundred sixty-four of this title  
14 shall furnish to the department a description of the activities in which  
15 it intends to engage as a registered organization and any information  
16 the department shall reasonably require and evidence that the applicant:

17 (i) and its managing officers are of good moral character;

18 (ii) possesses or has the right to use sufficient land, buildings and  
19 equipment to properly carry on the activity described in the applica-  
20 tion;

21 (iii) is able to maintain effective control against diversion of the  
22 marihuana; and

23 (iv) is able to comply with all applicable state laws and regulations  
24 relating to the activities in which it intends to engage under the  
25 registration.

26 (b) The application shall establish the applicant's status under para-  
27 graph (a), (b), (c), (d) or (e) of subdivision one of section thirty-  
28 three hundred sixty-four of this title, or its intention to qualify  
29 under paragraph (c) or (f) of subdivision one of section thirty-three  
30 hundred sixty-four of this title.

31 (c) The application shall include the name, residence address and  
32 title of each of the officers and directors and the name and residence  
33 address of any person or entity that is a member of the applicant. Each  
34 such person, if an individual, or lawful representative if a legal enti-  
35 ty, shall submit an affidavit with the application setting forth:

36 (i) any position of management or ownership during the preceding ten  
37 years of a ten per centum or greater interest in any other business,  
38 located in or outside this state, manufacturing or distributing drugs;

39 (ii) whether such person or any such business has been convicted,  
40 fined, censured or had a registration suspended or revoked in any admin-  
41 istrative or judicial proceeding relating to or arising out of the manu-  
42 facture, distribution, sale, or possession of drugs; and

43 (iii) such other information as the commissioner may reasonably  
44 require.

45 (d) The applicant shall be under a continuing duty to report to the  
46 department any change in facts or circumstances reflected in the appli-  
47 cation or any newly discovered or occurring fact or circumstance which  
48 is required to be included in the application.

49 2. Granting of registration. (a) The commissioner shall grant a regis-  
50 tration or amendment to a registration under this section if he or she  
51 is satisfied that:

52 (i) the applicant will be able to maintain effective control against  
53 diversion of marihuana;

54 (ii) the applicant will be able to comply with all applicable state  
55 laws;

1 (iii) the applicant and its officers are ready, willing and able to  
2 properly carry on the manufacturing or distributing activity for which a  
3 registration is sought;

4 (iv) the applicant possesses or has the right to use sufficient land,  
5 buildings and equipment to properly carry on the activity described in  
6 the application;

7 (v) it is in the public interest that such registration be granted; in  
8 the case of an applicant under paragraph (c) of subdivision one of  
9 section thirty-three hundred sixty-four of this title, the commissioner  
10 may consider whether the number of registered organizations in an area  
11 will be adequate or excessive to reasonably serve the area; and

12 (vi) the applicant and its managing officers are of good moral charac-  
13 ter.

14 (b) If the commissioner is not satisfied that the applicant should be  
15 issued a registration, he or she shall notify the applicant in writing  
16 of those factors upon which further evidence is required. Within thirty  
17 days of the receipt of such notification, the applicant may submit addi-  
18 tional material to the commissioner.

19 (c) The fee for a registration under this section shall be an amount  
20 determined by the department in regulations; provided however, if the  
21 registration is issued for a period greater than two years the fee shall  
22 be increased, pro rata, for each additional month of validity.

23 (d) Registrations issued under this section shall be effective only  
24 for and shall specify:

25 (i) the name and address of the registered organization; and

26 (ii) which activities of a registered organization are permitted by  
27 the registration.

28 (e) Upon application of a registered organization, a registration may  
29 be amended to allow the registered organization to relocate within the  
30 state or to add or delete permitted registered organization activities.  
31 The fee for such amendment shall be two hundred fifty dollars.

32 3. A registration issued under this section shall be valid for two  
33 years from the date of issue, except that in order to facilitate the  
34 renewals of such registrations, the commissioner may upon the initial  
35 application for a registration, issue some registrations which may  
36 remain valid for a period of time greater than two years but not exceed-  
37 ing an additional eleven months.

38 4. Applications for renewal of registrations. (a) An application for  
39 the renewal of any registration issued under this section shall be filed  
40 with the department not more than six months nor less than four months  
41 prior to the expiration thereof. A late-filed application for the  
42 renewal of a registration may, in the discretion of the commissioner, be  
43 treated as an application for an initial license.

44 (b) The application for renewal shall include such information  
45 prepared in the manner and detail as the commissioner may require,  
46 including but not limited to:

47 (i) any material change in the circumstances or factors listed in  
48 subdivision one of this section; and

49 (ii) every known charge or investigation, pending or concluded during  
50 the period of the registration, by any governmental agency with respect  
51 to:

52 (1) each incident or alleged incident involving the theft, loss, or  
53 possible diversion of marihuana manufactured or distributed by the  
54 applicant; and



1 (2) compliance by the applicant with the laws of the state with  
2 respect to any substance listed in section thirty-three hundred six of  
3 this article.

4 (c) An applicant for renewal shall be under a continuing duty to  
5 report to the department any change in facts or circumstances reflected  
6 in the application or any newly discovered or occurring fact or circum-  
7 stance which is required to be included in the application.

8 (d) If the commissioner is not satisfied that the applicant is enti-  
9 tled to a renewal of the registration, he or she shall within forty-five  
10 days after the filing of the application serve upon the applicant or his  
11 or her attorney of record in person or by registered or certified mail  
12 an order directing the applicant to show cause why his or her applica-  
13 tion for renewal should not be denied. The order shall specify in detail  
14 the respects in which the applicant has not satisfied the commissioner  
15 that the registration should be renewed.

16 (e) Within thirty days of service of such order, the applicant may  
17 either submit additional material to the commissioner.

18 5. Granting of renewal of registrations. (a) The commissioner shall  
19 renew a registration unless he or she determines and finds that the  
20 applicant:

21 (i) is unlikely to maintain or be able to maintain effective control  
22 against diversion; or

23 (ii) is unlikely to comply with all state laws applicable to the  
24 activities in which it may engage under the registration; or

25 (iii) is an applicant under paragraph (c) of subdivision one of  
26 section thirty-three hundred sixty-four of this title, in which case the  
27 commissioner may consider whether the number of registered organizations  
28 in an area is adequate or excessive to reasonably serve the area.

29 (b) For purposes of this section, proof that a registered organiza-  
30 tion, during the period of its registration, has failed to maintain  
31 effective control against diversion or has knowingly or negligently  
32 failed to comply with applicable state laws relating to the activities  
33 in which it engages under the registration, shall constitute substantial  
34 evidence that the applicant will be unlikely to maintain effective  
35 control against diversion or will be unlikely to comply with the appli-  
36 cable state statutes during the period of proposed renewal.

37 6. The department may suspend or terminate the registration of a  
38 registered organization, on grounds and using procedures under this  
39 article relating to a license, to the extent consistent with this title.

40 § 3366. Reports by registered organizations. 1. The commissioner  
41 shall, by regulation, require each registered organization that sells,  
42 delivers or distributes medical marihuana to a certified patient or  
43 designated caregiver to file reports of all such sales, deliveries or  
44 distributions by the registered organization during a particular period,  
45 on forms provided by the department. Reports shall be not more frequent-  
46 ly than every six months. Each report shall include for each such sale,  
47 delivery or distribution: the date, the quantity sold, delivered or  
48 distributed; and the name, address and registry identification number of  
49 the certified patient and the designated caregiver (if any).

50 2. The commissioner shall, by regulation, require each registered  
51 producer to file reports of all sales, deliveries or distributions of  
52 medical marihuana by the registered producer during a particular period,  
53 on forms provided by the department. Reports shall be not more frequent-  
54 ly than every month. Each report shall include for each such sale,  
55 delivery or distribution: the date, the quantity sold, delivered or

1 distributed; and the name and address of the registered organization to  
2 which the sale, delivery or distribution was made.

3 § 3367. Evaluation; research programs; report by department. 1. The  
4 commissioner may provide for the analysis and evaluation of the opera-  
5 tion of this title. The commissioner may enter into agreements with one  
6 or more persons, not-for-profit corporations or other organizations, for  
7 the performance of an evaluation of the implementation and effectiveness  
8 of this title.

9 2. The department may develop, seek any necessary federal approval  
10 for, and carry out research programs relating to medical use of marihua-  
11 na. Participation in any such research program shall be voluntary on  
12 the part of practitioners, patients, and designated caregivers.

13 3. The department shall report every two years, beginning two years  
14 after the effective date of this title, to the governor and the legisla-  
15 ture on the medical use of marihuana under this title and make appropri-  
16 ate recommendations.

17 § 3368. Registered organization assessments. 1. Each registered organ-  
18 ization shall be charged an assessment in the amount of seven and one-  
19 tenth percent of its gross receipts received from all medical marihuana  
20 sold, delivered or distributed, less refunds, on a cash basis. The  
21 assessment shall be submitted by or on behalf of the registered organ-  
22 ization to the commissioner or his or her designee on a schedule to be  
23 determined by the commissioner.

24 2. The gross receipts tax owed by a registered organization under  
25 section twenty-eight hundred seven-d of this chapter, attributable to  
26 the sale, delivery or distribution of medical marihuana under this  
27 title, shall be deductible by the registered organization from any gross  
28 receipts assessment owed by it under this title.

29 3. The registered organization shall maintain the documentation neces-  
30 sary to establish what amount is owed pursuant to this section and such  
31 records shall be subject to audit by the commissioner or his or her  
32 designee.

33 4. No governmental agency operating as a registered organization shall  
34 pay an assessment pursuant to this section.

35 § 3369. Relation to other laws. 1. The provisions of this article  
36 shall apply to this title, except that where a provision of this title  
37 conflicts with another provision of this article, this title shall  
38 apply.

39 2. Nothing in this title shall be construed to require or prohibit an  
40 insurer or health plan under the insurance law or the public health law  
41 to provide coverage for medical marihuana. Nothing in this title shall  
42 be construed to require coverage for medical marihuana under article  
43 twenty-five of this chapter or article five of the social services law.

44 3. A person or entity shall not be subject to criminal or civil  
45 liability or professional discipline for acting reasonably and in good  
46 faith pursuant to this title.

47 § 3. Section 853 of the general business law is amended by adding a  
48 new subdivision 3 to read as follows:

49 3. This article shall not apply to any sale, furnishing or possession  
50 which is for a lawful purpose under title five-A of article thirty-three  
51 of the public health law.

52 § 4. This act shall take effect immediately.