

HB 698 -- Marijuana for Medicinal Purposes

Sponsor: Colona

This bill changes the laws regarding the classification of marijuana as a controlled substance and allows its use for medicinal purposes. In its main provisions, the bill:

- (1) Removes marijuana from the list of Schedule I controlled substances and reclassifies it to the list of Schedule II;
- (2) Prohibits the arrest, prosecution, or penalty in any manner of a qualifying patient who possesses a written certification for the medical use of marijuana if the quantity doesn't exceed an adequate supply. A qualifying patient younger than 18 years of age is also exempt from arrest, prosecution, or penalty if his or her physician has explained the potential risks and benefits and a parent or guardian consents in writing to and controls the medical use of marijuana. The exemption extends to the qualifying patient's primary caregivers when the qualifying patient is unable to acquire or administer the marijuana;
- (3) Prohibits a physician from being subject to arrest, prosecution, penalty, or denial of any right or privilege for providing written certification for the medical use of marijuana to a qualifying patient;
- (4) Requires a property interest possessed, owned, or used in connection with the medical use of marijuana not to be harmed while in the possession of law enforcement officials and requires marijuana, drug paraphernalia, or other property seized from a qualifying patient or primary caregiver in connection with the claimed medical use of marijuana to be returned to the patient or caregiver immediately upon a determination by a court or prosecutor that the individual is entitled to the protections contained in the bill;
- (5) Prohibits a person from being arrested or prosecuted for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of the medical use of marijuana;
- (6) Requires a medical marijuana patient to be afforded the same legal rights as any other pharmaceutically medicated individual as it pertains to routine traffic stops, interaction with law enforcement that does not involve an illegal act, employer interaction, and exoneration from drug testing pertaining to marijuana and its metabolites;
- (7) Allows a qualifying patient or a primary caregiver to assert

the medical use of marijuana as a defense to any prosecution involving marijuana possession or cultivation based on certain conditions;

(8) Prohibits the medical use of marijuana when it compromises the health or well-being of another. The smoking of marijuana is prohibited in public vehicles; in the workplace; on school grounds; in a correctional facility; or at any public park, beach, recreation center, or youth center, unless the area is designated for medical marijuana use;

(9) Prohibits the fraudulent representation to any law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution. A person who violates this provision will be guilty of a petty misdemeanor and subject to a \$500 fine;

(10) Requires the Department of Health and Senior Services to establish rules for governing the issuance and renewal of a registry identification card to a person as a qualifying patient or primary caregiver no later than 90 days after the bill's effective date. A qualifying patient or the primary caregiver is required to submit an application containing certain specified information before receiving the card. The department must approve or deny an application within 30 days of the receipt of the application and must issue the card within five days after the approval. The card will expire after one year;

(11) Requires the department to maintain a confidential list of persons who have been issued a card; and

(12) Requires an organization to annually register with the department in order to sell, administer, deliver, dispense, distribute, cultivate, or possess marijuana or related equipment, supplies, educational materials, or marijuana seeds for medical use.

The bill contains a referendum clause and will be submitted to qualified voters in November 2012.