

SF 2076

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1 1 Section 1. Section 124.401, subsection 5, Code Supplement
1 2 1999, is amended by adding the following new unnumbered
1 3 paragraph:
1 4 NEW UNNUMBERED PARAGRAPH. It is lawful for a person to
1 5 knowingly or intentionally possess marijuana if the possession
1 6 is in accordance with the provisions of section 124.401G or
1 7 124.511.
1 8 Sec. 2. NEW SECTION. 124.401G MARIJUANA FOR THERAPEUTIC
1 9 PURPOSES.
1 10 Notwithstanding other provisions of law to the contrary,
1 11 the following provisions apply to possession of marijuana for
1 12 therapeutic purposes in accordance with this section or
1 13 section 124.511.
1 14 1. It is lawful for a person who is eighteen years of age
1 15 or older to knowingly or intentionally possess marijuana if
1 16 any of the following circumstances exist:
1 17 a. The person possessing the marijuana was diagnosed by a
1 18 physician as having glaucoma before the person was alleged to
1 19 unlawfully possess the marijuana.
1 20 b. The person possessing the marijuana is being treated
1 21 with chemotherapy or radiation therapy and has suffered from
1 22 significant nausea or vomiting as a result of the treatment.
1 23 c. The person possessing the marijuana was diagnosed by a
1 24 physician as having multiple sclerosis, hyperparathyroidism,
1 25 nail patella syndrome, or acquired immune deficiency syndrome,
1 26 and having symptoms of pain or spasms due to the diagnosed
1 27 condition, before the person was alleged to unlawfully possess
1 28 the marijuana.
1 29 d. The person possessing the marijuana has obtained the
1 30 marijuana from a licensed physician or surgeon, osteopath,
1 31 osteopathic physician or surgeon, or pharmacist and the
1 32 marijuana is dispensed in accordance with section 147.107.
1 33 2. Possession of marijuana in accordance with this section
1 34 or section 124.511 is an affirmative defense to a prosecution
1 35 for possession of marijuana.
2 1 3. A person who possesses marijuana in accordance with
2 2 this section or section 124.511 is not subject to the
2 3 provisions of chapter 809 and 809A, relating to seizable and
2 4 forfeitable property, based upon that possession.
2 5 Sec. 3. Section 124.506, subsection 2, Code 1999, is

2 6 amended to read as follows:

2 7 2. Upon written application by the board, the court by
2 8 whom the forfeiture of controlled substances has been decreed
2 9 may order the delivery of any of them, except controlled
2 10 substances listed in schedule I, to the board for distribution
2 11 or destruction, as provided by this section or section
2 12 124.511.

2 13 Sec. 4. NEW SECTION. 124.511 MARIJUANA THERAPEUTIC
2 14 RESEARCH PROGRAM.

2 15 1. The general assembly finds that research has indicated
2 16 that the use of marijuana may alleviate nausea and other side
2 17 effects of chemotherapy and radiation therapy as well as some
2 18 symptoms of glaucoma and other conditions with symptoms of
2 19 pain, stress, spasms, nausea, or loss of appetite. The
2 20 general assembly finds that further research and strictly
2 21 controlled experimentation regarding the therapeutic uses of
2 22 marijuana is necessary and desirable. The purpose of this
2 23 section is to encourage this research and experimentation.

2 24 2. As used in this section, unless the context otherwise
2 25 requires, "program" means the marijuana therapeutic research
2 26 program established in this section.

2 27 3. A marijuana therapeutic research program is established
2 28 under the board. The board shall adopt rules for the proper
2 29 administration of the program. In adopting rules, the board
2 30 shall consider pertinent rules adopted by the United States
2 31 drug enforcement agency, United States food and drug
2 32 administration, national institute on drug abuse, and any
2 33 other applicable federal agency.

2 34 4. The board shall contract with the national institute on
2 35 drug abuse for the receipt of marijuana under pertinent rules
3 1 adopted by the national institute on drug abuse, the United
3 2 States food and drug administration, and the United States
3 3 drug enforcement administration. However, if within a
3 4 reasonable period of time, the board is unable to complete a
3 5 contract with the national institute on drug abuse, the board
3 6 shall apply to the court for delivery of marijuana under
3 7 section 124.506. The board may receive the confiscated
3 8 marijuana and shall distribute it in accordance with this
3 9 section. Any marijuana received under this subsection shall
3 10 be made free of impurities and analyzed for potency by the
3 11 board.

3 12 5. The board shall deliver marijuana received under
3 13 subsection 4 to appropriate licensed pharmacists designated by
3 14 the board. Any marijuana delivered to a pharmacist shall only
3 15 be distributed to a patient pursuant to a written prescription
3 16 of a licensed physician who is approved by the participation

3 17 review committee established by this section. A pharmacist
3 18 designated by the board is not liable, except for intentional
3 19 misconduct or gross negligence, in any civil action related to
3 20 marijuana distributed to a patient in accordance with this
3 21 section.

3 22 6. A participation review committee is established and
3 23 staffing for the committee shall be provided by the board.
3 24 The membership of the committee shall consist of three members
3 25 appointed as follows: a registered pharmacist appointed by
3 26 the board of pharmacy examiners, a licensed physician who is
3 27 board certified in ophthalmology or otorhinolaryngology
3 28 appointed by the board of medical examiners, and a licensed
3 29 physician who is board certified in internal medicine with a
3 30 subspecialty certification in medical oncology appointed by
3 31 the board of medical examiners. Committee members shall serve
3 32 at the pleasure of the appointing authority and are eligible
3 33 for payment of per diem and reimbursement of actual and
3 34 necessary expenses incurred while performing official duties.
3 35 The committee shall have authority to review and approve
4 1 physician applications to participate in the program. The
4 2 committee meetings to review applications shall be closed in
4 3 the same manner as a meeting to discuss the contents of a
4 4 licensing examination in accordance with section 21.5,
4 5 subsection 1, paragraph "d". Applicants must submit a twenty-
4 6 five dollar fee with the application.

4 7 7. A physician approved by the participation review
4 8 committee for participation in the program is authorized to
4 9 prescribe marijuana for a patient under any of the following
4 10 circumstances:

4 11 a. The patient is diagnosed as having glaucoma by the
4 12 physician.

4 13 b. The patient is being treated with chemotherapy or
4 14 radiation therapy and has suffered from significant nausea or
4 15 vomiting as a result of the treatment.

4 16 c. The patient is diagnosed by a physician as having
4 17 multiple sclerosis, hyperparathyroidism, nail patella
4 18 syndrome, acquired immune deficiency syndrome, or other
4 19 condition with symptoms of pain or spasms.

4 20 8. A physician approved by the participation review
4 21 committee for participation in the program is expressly
4 22 authorized to prescribe marijuana. A patient for whom
4 23 marijuana is prescribed by a physician approved to participate
4 24 in the program is expressly authorized to possess marijuana.
4 25 A registered pharmacist designated by the board under this
4 26 section is expressly authorized to possess and distribute
4 27 marijuana under this section.

4 28 9. Only the following persons shall have access to the
4 29 name and other identifying characteristics of a patient for
4 30 whom marijuana is prescribed under this section:

4 31 a. The board.

4 32 b. The attorney general or a designee of the attorney
4 33 general.

4 34 c. A person directly connected with the program who has a
4 35 legitimate need for the information.

5 1 d. A person for whom access has been specifically
5 2 authorized by that patient.

5 3 10. The board and the participation review committee shall
5 4 annually report findings and recommendations concerning the
5 5 program to the governor and the general assembly.

5 6 Sec. 5. Section 453B.6, Code 1999, is amended by adding
5 7 the following new unnumbered paragraph:

5 8 NEW UNNUMBERED PARAGRAPH. A person who is in possession of
5 9 marijuana for medical purposes in accordance with section
5 10 124.401G or 124.511 is in lawful possession of a taxable
5 11 substance and is not subject to the requirements of this
5 12 chapter.

5 13 EXPLANATION

5 14 This bill relates to the use of marijuana for therapeutic
5 15 purposes by expressly authorizing its use for certain medical
5 16 conditions and establishing a marijuana therapeutic research
5 17 program.

5 18 Code section 124.401, relating to prohibited acts involving
5 19 controlled substances, is amended to provide that it is lawful
5 20 to knowingly possess marijuana if the possession is in
5 21 accordance with the provisions of the bill.

5 22 New Code section 124.401G authorizes adult persons to
5 23 possess marijuana under any of the following circumstances:
5 24 the person was diagnosed as having glaucoma before being
5 25 charged with unlawful possession; the person is being treated
5 26 with chemotherapy or radiation therapy and has suffered from
5 27 significant nausea or vomiting due to that treatment; the
5 28 person was diagnosed as having any of the following illnesses:
5 29 multiple sclerosis, hyperparathyroidism, nail patella
5 30 syndrome, or acquired immune deficiency syndrome, and as
5 31 having pain or spasms due to the illness; or the person
5 32 obtained the marijuana in accordance with a legal
5 33 prescription. Possession in accordance with the bill's
5 34 requirements is an affirmative defense to prosecution for
5 35 possession of marijuana and such possession is not subject to
6 1 Code chapter 809 and 809A, relating to seizable and
6 2 forfeitable property.

6 3 Code section 124.506, relating to disposal of controlled

6 4 substances, is amended to allow the board of pharmacy
6 5 examiners to apply to the court to take possession of
6 6 confiscated controlled substances, except those listed in
6 7 schedule I. Upon taking possession, the board may either
6 8 destroy the drugs or utilize them in the marijuana therapeutic
6 9 research program.

6 10 The therapeutic research program is created in new Code
6 11 section 124.511. The bill includes legislative findings as to
6 12 the need for the program. The program is to be administered
6 13 by the board of pharmacy examiners. The board is to consult
6 14 with various federal bodies in implementing the program and to
6 15 enter into a contract to receive illegal drugs from the
6 16 national institute on drug abuse. If unable to contract
6 17 within a reasonable period, the board is to apply to the court
6 18 to receive confiscated drugs. The board is to establish a
6 19 participation review committee to review and approve physician
6 20 applications to participate in the program. Approved
6 21 physicians may legally prescribe the drug for the illnesses
6 22 and medical conditions specified in the bill. Physicians,
6 23 pharmacists, and patients participating in the program are
6 24 expressly authorized to prescribe, dispense, and possess
6 25 marijuana. The bill contains provisions to address
6 26 confidentiality. The board and the committee are to report
6 27 annually to the governor and general assembly.

6 28 Code section 453B.6, relating to tax stamps for controlled
6 29 substances, is amended to specify that possession in
6 30 accordance with the bill is lawful possession and a tax stamp
6 31 is not required.

6 32 LSB 5283XS 78

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