

# HOUSE BILL No. 4661

May 18, 2011, Introduced by Reps. Darany, Lindberg and Santana and referred to the Committee on Judiciary.

A bill to amend 2008 IL 1, entitled  
"Michigan medical marihuana act,"  
by amending section 4 (MCL 333.26424).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           4. Protections for the Medical Use of Marihuana.

2           Sec. 4. (a) A qualifying patient who has been issued and  
3 possesses a registry identification card shall not be subject to  
4 arrest, prosecution, or penalty in any manner, or denied any right  
5 or privilege, including but not limited to civil penalty or  
6 disciplinary action by a business or occupational or professional  
7 licensing board or bureau, for the medical use of marihuana in  
8 accordance with this act, provided that the qualifying patient  
9 possesses an amount of marihuana that does not exceed 2.5 ounces of

1 usable marihuana, and, if the qualifying patient has not specified  
2 that a primary caregiver will be allowed under state law to  
3 cultivate marihuana for the qualifying patient, 12 marihuana plants  
4 kept in an enclosed, locked facility **THAT IS NOT LOCATED WITHIN 500**  
5 **FEET OF A CHURCH OR OTHER HOUSE OF WORSHIP; SCHOOL; OR DAY CARE**  
6 **CENTER AS DEFINED IN MCL 324.8303.** Any incidental amount of seeds,  
7 stalks, and unusable roots shall also be allowed under state law  
8 and shall not be included in this amount.

9 (b) A primary caregiver who has been issued and possesses a  
10 registry identification card shall not be subject to arrest,  
11 prosecution, or penalty in any manner, or denied any right or  
12 privilege, including but not limited to civil penalty or  
13 disciplinary action by a business or occupational or professional  
14 licensing board or bureau, for assisting a qualifying patient to  
15 whom he or she is connected through the department's registration  
16 process with the medical use of marihuana in accordance with this  
17 act, provided that the primary caregiver possesses an amount of  
18 marihuana that does not exceed:

19 (1) 2.5 ounces of usable marihuana for each qualifying patient  
20 to whom he or she is connected through the department's  
21 registration process; and

22 (2) for each registered qualifying patient who has specified  
23 that the primary caregiver will be allowed under state law to  
24 cultivate marihuana for the qualifying patient, 12 marihuana plants  
25 kept in an enclosed, locked facility **THAT IS NOT LOCATED WITHIN 500**  
26 **FEET OF A CHURCH OR OTHER HOUSE OF WORSHIP; SCHOOL; OR DAY CARE**  
27 **CENTER AS DEFINED IN MCL 324.8303;** and

1           (3) any incidental amount of seeds, stalks, and unusable  
2 roots.

3           (c) A person shall not be denied custody or visitation of a  
4 minor for acting in accordance with this act, unless the person's  
5 behavior is such that it creates an unreasonable danger to the  
6 minor that can be clearly articulated and substantiated.

7           (d) There shall be a presumption that a qualifying patient or  
8 primary caregiver is engaged in the medical use of marihuana in  
9 accordance with this act if the qualifying patient or primary  
10 caregiver:

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

12           (2) is in possession of an amount of marihuana that does not  
13 exceed the amount allowed under this act. The presumption may be  
14 rebutted by evidence that conduct related to marihuana was not for  
15 the purpose of alleviating the qualifying patient's debilitating  
16 medical condition or symptoms associated with the debilitating  
17 medical condition, in accordance with this act.

18           (e) A registered primary caregiver may receive compensation  
19 for costs associated with assisting a registered qualifying patient  
20 in the medical use of marihuana. Any such compensation shall not  
21 constitute the sale of controlled substances.

22           (f) A physician shall not be subject to arrest, prosecution,  
23 or penalty in any manner, or denied any right or privilege,  
24 including but not limited to civil penalty or disciplinary action  
25 by the Michigan board of medicine, the Michigan board of  
26 osteopathic medicine and surgery, or any other business or  
27 occupational or professional licensing board or bureau, solely for

1 providing written certifications, in the course of a bona fide  
2 physician-patient relationship and after the physician has  
3 completed a full assessment of the qualifying patient's medical  
4 history, or for otherwise stating that, in the physician's  
5 professional opinion, a patient is likely to receive therapeutic or  
6 palliative benefit from the medical use of marihuana to treat or  
7 alleviate the patient's serious or debilitating medical condition  
8 or symptoms associated with the serious or debilitating medical  
9 condition, provided that nothing shall prevent a professional  
10 licensing board from sanctioning a physician for failing to  
11 properly evaluate a patient's medical condition or otherwise  
12 violating the standard of care for evaluating medical conditions.

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

20 (h) Any marihuana, marihuana paraphernalia, or licit property  
21 that is possessed, owned, or used in connection with the medical  
22 use of marihuana, as allowed under this act, or acts incidental to  
23 such use, shall not be seized or forfeited.

24 (i) A person shall not be subject to arrest, prosecution, or  
25 penalty in any manner, or denied any right or privilege, including  
26 but not limited to civil penalty or disciplinary action by a  
27 business or occupational or professional licensing board or bureau,

1 solely for being in the presence or vicinity of the medical use of  
2 marihuana in accordance with this act, or for assisting a  
3 registered qualifying patient with using or administering  
4 marihuana.

5 (j) A registry identification card, or its equivalent, that is  
6 issued under the laws of another state, district, territory,  
7 commonwealth, or insular possession of the United States that  
8 allows the medical use of marihuana by a visiting qualifying  
9 patient, or to allow a person to assist with a visiting qualifying  
10 patient's medical use of marihuana, shall have the same force and  
11 effect as a registry identification card issued by the department.

12 (k) Any registered qualifying patient or registered primary  
13 caregiver who sells marihuana to someone who is not allowed to use  
14 marihuana for medical purposes under this act **OR WHO CULTIVATES**  
15 **MARIHUANA IN VIOLATION OF THE REQUIREMENTS OF THIS ACT** shall have  
16 his or her registry identification card revoked and is guilty of a  
17 felony punishable by imprisonment for not more than 2 years or a  
18 fine of not more than \$2,000.00, or both, in addition to any other  
19 penalties for the distribution of marihuana.