

HOUSE BILL No. 4850

June 30, 2011, Introduced by Reps. Walsh, Haines, Crawford, Callton, Olson, MacGregor, Horn, MacMaster, Knollenberg, Moss, Tyler, Kowall, Heise, Cavanagh, Haveman, Liss, Cotter, Price, Outman, Goike, Rendon, Bledsoe, Agema, Daley, Lyons, Meadows, Kurtz and Jacobsen 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
10 usable marihuana, and, if the qualifying patient has not specified

1 that a primary caregiver will be allowed under state law to
2 cultivate marihuana for the qualifying patient, 12 marihuana plants
3 kept in an enclosed, locked facility. Any incidental amount of
4 seeds, stalks, and unusable roots shall also be allowed under state
5 law and shall not be included in this amount.

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

16 (1) 2.5 ounces of usable marihuana for each qualifying patient
17 to whom he or she is connected through the department's
18 registration process; and

19 (2) for each registered qualifying patient who has specified
20 that the primary caregiver will be allowed under state law to
21 cultivate marihuana for the qualifying patient, 12 marihuana plants
22 kept in an enclosed, locked facility; and

23 (3) any incidental amount of seeds, stalks, and unusable
24 roots.

25 (c) A person shall not be denied custody or visitation of a
26 minor for acting in accordance with this act, unless the person's
27 behavior is such that it creates an unreasonable danger to the

1 minor that can be clearly articulated and substantiated.

2 (d) There shall be a presumption that a qualifying patient or
3 primary caregiver is engaged in the medical use of marihuana in
4 accordance with this act if the qualifying patient or primary
5 caregiver:

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

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

13 (e) A registered primary caregiver may receive compensation
14 for costs associated with assisting a registered qualifying patient
15 ~~in the medical use of marihuana.~~ **TO WHOM HE OR SHE IS CONNECTED**
16 **THROUGH THE DEPARTMENT'S REGISTRATION PROCESS.** Any such
17 compensation shall not constitute the sale of controlled
18 substances.

19 (f) A physician shall not be subject to arrest, prosecution,
20 or penalty in any manner, or denied any right or privilege,
21 including but not limited to civil penalty or disciplinary action
22 by the Michigan board of medicine, the Michigan board of
23 osteopathic medicine and surgery, or any other business or
24 occupational or professional licensing board or bureau, solely for
25 providing written certifications, in the course of a bona fide
26 physician-patient relationship and after the physician has
27 completed a full assessment of the qualifying patient's medical

1 history, or for otherwise stating that, in the physician's
2 professional opinion, a patient is likely to receive therapeutic or
3 palliative benefit from the medical use of marihuana to treat or
4 alleviate the patient's serious or debilitating medical condition
5 or symptoms associated with the serious or debilitating medical
6 condition, provided that nothing shall prevent a professional
7 licensing board from sanctioning a physician for failing to
8 properly evaluate a patient's medical condition or otherwise
9 violating the standard of care for evaluating medical conditions.

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

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

21 (i) A person shall not be subject to arrest, prosecution, or
22 penalty in any manner, or denied any right or privilege, including
23 but not limited to civil penalty or disciplinary action by a
24 business or occupational or professional licensing board or bureau,
25 solely for being in the presence or vicinity of the medical use of
26 marihuana in accordance with this act, or for assisting a
27 registered qualifying patient with using or administering

1 marihuana.

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

9 (k) Any registered qualifying patient or registered primary
10 caregiver who sells marihuana to someone who is not allowed to use
11 marihuana for medical purposes under this act shall have his or her
12 registry identification card revoked and is guilty of a felony
13 punishable by imprisonment for not more than 2 years or a fine of
14 not more than \$2,000.00, or both, in addition to any other
15 penalties for the distribution of marihuana.

16 **(l) A HOLDER OF A REGISTRY IDENTIFICATION CARD IS INELIGIBLE TO**
17 **ASSERT A DEFENSE OTHERWISE AVAILABLE UNDER THIS ACT IN A**
18 **PROSECUTION UNDER THIS OR ANY OTHER LAW AND THE DEPARTMENT SHALL**
19 **PERMANENTLY REVOKE THE REGISTRY IDENTIFICATION CARD IF THE**
20 **INDIVIDUAL DOES ANY OF THE FOLLOWING:**

21 **(1) TRANSFERS MARIHUANA, IF THE TRANSFEROR IS NOT THE PRIMARY**
22 **CAREGIVER FOR THE TRANSFEREE AS DESIGNATED IN THE APPLICATION FOR**
23 **THE REGISTRY IDENTIFICATION CARD.**

24 **(2) ACQUIRES MARIHUANA FROM A TRANSFEROR WHO IS NOT THE**
25 **INDIVIDUAL'S PRIMARY CAREGIVER AS DESIGNATED IN THE APPLICATION FOR**
26 **THE REGISTRY IDENTIFICATION CARD.**