

1 HB642
2 118390-1
3 By Representative Todd
4 RFD: Judiciary
5 First Read: 02-MAR-10

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8 SYNOPSIS: Under existing law, the possession and use
9 of marijuana is a criminal act.

10 This bill would authorize the medical use of
11 marijuana only for certain qualifying patients who
12 have been diagnosed by a physician as having a
13 debilitating medical condition.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To authorize the medical use of marijuana only for
20 certain qualifying patients who have been diagnosed by a
21 physician as having a debilitating medical condition.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act may be known and cited as "The
24 Michael Phillips Compassionate Care Act of Alabama."

25 Section 2. Modern medical research has discovered
26 beneficial uses for marijuana in treating or alleviating the
27 pain, nausea, and other symptoms associated with a variety of

1 debilitating medical conditions, as found by the National
2 Academy of Sciences' Institute of Medicine in March 1999.

3 (b) Subsequent studies since the 1999 National
4 Academy of Sciences' Institute of Medicine report continue to
5 show the therapeutic value of marijuana in treating a wide
6 array of debilitating medical conditions.

7 (c) Michael Phillips was an Alabama native who
8 suffered from inoperable brain tumors which caused life
9 threatening seizures. Michael's physicians and parents learned
10 that the medical use of marijuana provided the only proven
11 method to prevent Michael's life-threatening seizures. Before
12 his death in 2007, Michael participated with other patients,
13 parents, and medical professionals from across our state in
14 advocating for passage of a workable medical marijuana law in
15 Alabama. This act is named in honor of Michael and all Alabama
16 patients who suffer from debilitating health conditions.

17 (d) Data from the Federal Bureau of Investigation's
18 Uniform Crime Reports and the Compendium of Federal Justice
19 Statistics show that approximately 99 out of every 100
20 marijuana arrests in the United States are made under state
21 law, rather than under federal law. Consequently, changing
22 state law will have the practical effect of protecting from
23 arrest the vast majority of seriously ill patients who have a
24 medical need to use marijuana.

25 (e) Although federal law currently prohibits any use
26 of marijuana except under very limited circumstances, Alaska,
27 California, Colorado, Hawaii, Maine, Michigan, Montana,

1 Nevada, New Jersey, New Mexico, Oregon, Vermont, Rhode Island,
2 and Washington have removed state-level criminal penalties
3 from the medical use and cultivation of marijuana. Alabama
4 joins in this effort for the health and welfare of its
5 citizens.

6 (f) States are not required to enforce federal law
7 or prosecute people for engaging in activities prohibited by
8 federal law. Therefore, compliance with this act does not put
9 the State of Alabama in violation of federal law.

10 (g) State law should make a distinction between the
11 medical and non-medical uses of marijuana. Hence, the purpose
12 of this act is to protect patients with debilitating medical
13 conditions, as well as their practitioners, caregivers, and
14 providers, from arrest and prosecution, criminal and other
15 penalties, and property forfeiture if such patients engage in
16 the medical use of marijuana.

17 (h) The people of the State of Alabama declare that
18 they seek the enactment of this act pursuant to the police
19 power to protect the health of its citizens that is reserved
20 to the State of Alabama and its people under the 10th
21 Amendment to the United States Constitution.

22 Section 3. As used in this act, the following terms
23 shall have the following meanings:

24 (1) CARDHOLDER. A qualifying patient, a designated
25 caregiver, or a principal officer, board member, employee,
26 volunteer, or agent of a nonprofit compassion center who has

1 been issued and possesses a valid registry identification
2 card.

3 (b) DEBILITATING MEDICAL CONDITION. One or more of
4 the following:

5 a. Cancer, glaucoma, positive status for human
6 immunodeficiency virus, acquired immune deficiency syndrome,
7 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
8 agitation of Alzheimer's disease, nail patella, or the
9 treatment of these conditions.

10 b. A chronic or debilitating disease or medical
11 condition or its treatment that produces one or more of the
12 following: cachexia or wasting syndrome; severe pain; severe
13 nausea; seizures, including, but not limited to, those
14 characteristic of epilepsy; or severe and persistent muscle
15 spasms, including, but not limited to, those characteristic of
16 multiple sclerosis.

17 c. Any other medical condition or its treatment
18 approved by the department, as provided for in Section 5(b).

19 (3) CIRCUIT COURT. The Circuit Court of Montgomery
20 County.

21 (4) DEPARTMENT. The Alabama Department of Public
22 Health.

23 (5) ENCLOSED, LOCKED FACILITY. A closet, room,
24 greenhouse, or other enclosed area equipped with locks or
25 other security devices that permit access only by a
26 cardholder.

1 (6) EXCLUDED FELONY OFFENSE. A violation of a state
2 or federal controlled substance law that was classified as a
3 felony in the jurisdiction where the person was convicted. It
4 does not include any of the following:

5 a. An offense for which the sentence, including any
6 term of probation, incarceration, or supervised release, was
7 completed 10 or more years earlier.

8 b. An offense that consisted of conduct for which
9 this act would likely have prevented a conviction, but the
10 conduct either occurred prior to the enactment of this act or
11 was prosecuted by an authority other than the State of
12 Alabama.

13 (7) MARIJUANA. The same definition as provided in
14 Section 20-2-23, Code of Alabama 1975.

15 (8) MEDICAL USE. The acquisition, possession,
16 cultivation, manufacture, use, delivery, sale, transfer, or
17 transportation of marijuana or paraphernalia relating to the
18 administration of marijuana to treat or alleviate a qualifying
19 patient's debilitating medical condition or symptoms
20 associated with the patient's debilitating medical condition.

21 (9) PHYSICIAN. An individual who possesses a
22 certificate of qualification issued in his or her behalf by
23 the Alabama Board of Medical Examiners and a license
24 certificate of registration from the board.

25 (10) PRIMARY CAREGIVER. A person who is at least 21
26 years of age, who has agreed to assist with a qualifying
27 patient's medical use of marijuana, and who has never been

1 convicted of an excluded felony offense. A designated
2 caregiver may assist no more than three qualifying patients
3 with their medical use of marijuana.

4 (11) QUALIFYING PATIENT. A person who has been
5 diagnosed by a physician as having a debilitating medical
6 condition.

7 (12) REGISTERED COMPASSION CENTER. A not-for-profit
8 entity registered pursuant to Section 9 that acquires,
9 possesses, cultivates, manufactures, delivers, transfers,
10 transports, supplies, or dispenses marijuana or related
11 supplies and educational materials to cardholders. A
12 registered compassion center may receive monetary compensation
13 for all expenses incurred in its operation.

14 (13) REGISTERED PRIMARY CAREGIVER. A primary
15 caregiver who is registered with the department pursuant to
16 Section 6.

17 (14) REGISTERED QUALIFYING PATIENT. A qualifying
18 patient who is registered with the department pursuant to
19 Section 6.

20 (15) REGISTRY IDENTIFICATION CARD. A document issued
21 by the department that identifies a person as a registered
22 qualifying patient, registered designated caregiver, or a
23 registered principal officer, board member, employee,
24 volunteer, or agent of a registered compassion center.

25 (16) USEABLE MARIJUANA. The dried leaves and flowers
26 of the marijuana plant and any mixture or preparation thereof,
27 but does not include the seeds, stalks, and roots of the plant

1 and does not include the weight of any non-marijuana
2 ingredients combined with marijuana and prepared for
3 consumption as food.

4 (17) VISITING QUALIFYING PATIENT. A patient with a
5 debilitating medical condition who is not a resident of the
6 State of Alabama or who has been a resident of the State of
7 Alabama for less than 30 days.

8 (18) WRITTEN CERTIFICATION. A document signed by a
9 physician stating that in the physician's professional opinion
10 the patient is likely to receive therapeutic or palliative
11 benefit from the medical use of marijuana to treat or
12 alleviate the patient's debilitating medical condition or
13 symptoms associated with the debilitating medical condition. A
14 written certification shall be made only in the course of a
15 bona fide physician-patient relationship after the physician
16 has completed a full assessment of qualifying patient's
17 medical history. The written certification shall specify the
18 qualifying patient's debilitating medical condition.

19 Section 4. (a) A qualifying patient who has been
20 issued and possesses a registry identification card shall not
21 be subject to arrest, prosecution, or penalty in any manner,
22 or denied any right or privilege, including, but not limited
23 to, civil penalty or disciplinary action by a business or
24 occupational or professional licensing board or bureau, for
25 the medical use of marijuana in accordance with this act as
26 long as the qualifying patient possesses an amount of
27 marijuana that:

1 (1) Is not more than two and one-half ounces of
2 usable marijuana.

3 (2) If the qualifying patient has not specified that
4 a primary caregiver is allowed under state law to cultivate
5 marijuana for the qualifying patient, does not exceed six
6 marijuana plants, which shall be kept in an enclosed, locked
7 facility, unless they are being transported because the
8 qualifying patient is moving or if they are being transported
9 to the qualifying patient's or designated primary caregiver's
10 property.

11 (b) A primary caregiver, other than a nonprofit
12 compassion center, who has been issued and possesses a
13 registry identification card shall not be subject to arrest,
14 prosecution, or penalty in any manner, or denied any right or
15 privilege, including, but not limited to, civil penalty or
16 disciplinary action by a business or occupational or
17 professional licensing board or bureau, for assisting a
18 qualifying patient to whom the primary caregiver is connected
19 through the department's registration process with the medical
20 use of marijuana in accordance with this act as long as the
21 primary caregiver possess an amount of marijuana that:

22 (1) Is not more than two and one-half ounces of
23 usable marijuana for each qualifying patient to whom the
24 primary caregiver is connected through the department's
25 registration process.

26 (2) For each qualifying patient who has specified
27 that the primary caregiver is allowed under state law to

1 cultivate for the qualifying patient, does not exceed six
2 marijuana plants, which shall be kept in an enclosed, locked
3 facility, unless they are being transported because the
4 designated caregiver is moving or if they are being
5 transported to a designated caregiver's or a qualifying
6 patient's property.

7 (c) Any incidental amount of seeds, stalks, and
8 unusable roots must be allowed and may not be included in the
9 amounts specified in this section.

10 (d) There is a presumption that a qualifying patient
11 or primary caregiver is engaged in the medical use of
12 marijuana in accordance with this act if the qualifying
13 patient or primary caregiver:

14 1. Is in possession of a registry identification
15 card.

16 2. Is in possession of an amount of marijuana that
17 does not exceed the amount allowed under this act.

18 The presumption may be rebutted by evidence that
19 conduct related to marijuana was not for the purpose of
20 treating or alleviating the qualifying patient's debilitating
21 medical condition or symptoms associated with the debilitating
22 medical condition in accordance with this act.

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

1 of marijuana the person is allowed to possess under subsection
2 1 or 2 to a cardholder for the registered qualifying patient's
3 medical use when nothing of value is transferred in return or
4 for offering to do the same.

5 (f) A school, employers, or landlord may not refuse
6 to enroll or employ or lease to or otherwise penalize a person
7 solely for that person's status as a registered qualifying
8 patient or registered primary caregiver unless failing to do
9 so would put the school, employer, or landlord in violation of
10 federal law or cause it to lose a federal contract of funding.

11 (g) A person shall not be denied custody or
12 visitation of a minor for acting in accordance with this act
13 unless the person's behavior is such that it creates an
14 unreasonable danger to the minor that can be clearly
15 articulated and substantiated.

16 (h) A registered primary caregiver may receive
17 monetary or other compensation for costs associated with
18 assisting a registered qualifying patient's medical use of
19 marijuana as long as the registered primary caregiver is
20 connected to the registered qualifying patient through the
21 department's registration process. Any such compensation shall
22 not constitute the sale of controlled substances.

23 (i) A physician shall not be subject to arrest,
24 prosecution, or penalty in any manner, or denied any right or
25 privilege, including, but not limited to, civil penalty or
26 disciplinary action by the Alabama Board of Medical Examiners
27 or by any other business or occupational or professional

1 licensing board or bureau, solely for providing written
2 certifications or for otherwise stating that, in the
3 physician's professional opinion, a patient is likely to
4 receive therapeutic benefit from the medical use of marijuana
5 to treat or alleviate the patient's serious or debilitating
6 medical condition or symptoms associated with the serious or
7 debilitating medical condition except that nothing prevents a
8 professional licensing board from sanctioning a physician for
9 failing to properly evaluate a patient's medical condition or
10 otherwise violating the standard of care for evaluating
11 medical conditions.

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

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

25 (1) A person shall not be subject to arrest,
26 prosecution, or penalty in any manner, or denied any right or
27 privilege, including, but not limited to, civil penalty or

1 disciplinary action by a business or occupational or
2 professional licensing board or bureau, simply for being in
3 the presence or vicinity of the medical use of marijuana as
4 allowed under this act, or for assisting a registered
5 qualifying patient with using or administering marijuana.

6 (m) Identification card, or its equivalent, that is
7 issued under the laws of another state, district, territory,
8 commonwealth, or insular possession of the United States that
9 allows the medical use of marijuana by a visiting qualifying
10 patient has the same force and effect as a registry
11 identification card issued by the department.

12 Section 5. (a) The department may adopt rules in
13 accordance with the Alabama Administrative Procedure Act to
14 carry out the purposes of this act.

15 (b) Not later than 120 days after the effective date
16 of this act, the department shall adopt rules that govern the
17 manner in which the department shall consider petitions from
18 the public to add medical conditions or treatments to the list
19 of debilitating medical conditions set forth in Section 3(b).
20 In considering such petitions, the department shall include
21 public notice of, and an opportunity to comment in a public
22 hearing upon, such petitions. The department shall, after
23 hearing, approve or deny such petitions within 180 days of
24 their submission. The approval or denial of such a petition
25 constitutes final agency action, subject to judicial review.
26 Jurisdiction and venue for judicial review are vested in the
27 circuit court.

1 (c) Not later than 120 days after the effective date
2 of this act, the department shall adopt rules that govern the
3 manner in which it considers applications for renewals of
4 registry identification cards. The department's rules must
5 establish application and renewal fees that generate revenues
6 sufficient to offset all expenses of implementing and
7 administering this act. The department may establish a sliding
8 scale of application and renewal fees based upon a qualifying
9 patient's family income. The department may accept donations
10 from private sources in order to reduce the application and
11 renewal fees.

12 Section 6. (a) The department shall issue registry
13 identification cards to qualifying patients who submit the
14 following documents and information described in this
15 subsection, in accordance with the department's rules:

16 (1) Written certification.

17 (2) Application or renewal fee.

18 (3) Name, address, and date of birth of the
19 qualifying patient.

20 (4) Name, address, and telephone number of the
21 qualifying patient's physician.

22 (5) Name, address, and date of birth of each primary
23 caregiver, if any, of the qualifying patient.

24 (6) If the qualifying patient designates one or two
25 primary caregivers, a designation as to who will be allowed
26 under state law to cultivate marijuana plants for the
27 qualifying patient's medical use. Only one person may be

1 allowed to cultivate marijuana plants for a qualifying
2 patient.

3 (b) The department may not issue a registry
4 identification card to a qualifying patient who is under 18
5 years of age unless:

6 (1) The qualifying patient's physician has explained
7 the potential risks and benefits of the medical use of
8 marijuana to the qualifying patient and to a parent, guardian,
9 or person having legal custody of the qualifying patient.

10 (2) The parent, guardian, or person having legal
11 custody consents in writing to:

12 a. Allow the qualifying patient's medical use of
13 marijuana.

14 b. Serve as one of the qualifying patient's primary
15 caregivers.

16 c. Control the acquisition of the marijuana, the
17 dosage and the frequency of the medical use of marijuana by
18 the qualifying patient.

19 (c) The department shall verify the information
20 contained in an application or renewal submitted pursuant to
21 this section and shall approve or deny an application or
22 renewal within 30 days of receiving it. The department may
23 deny an application or renewal only if the applicant did not
24 provide the information required pursuant to this section or
25 the department determines that the information provided was
26 falsified. Rejection of an application or renewal is
27 considered a final agency action, subject to judicial review.

1 Jurisdiction and venue for judicial review are vested in the
2 circuit court.

3 (d) The department shall issue a registry
4 identification card to each primary caregiver, if any, who is
5 named in a qualifying patient's approved application pursuant
6 to subdivision (5) of subsection (a). Only one person may
7 cultivate marijuana for the qualifying patient's medical use,
8 who is determined based solely on the qualifying patient's
9 preference. That person may either be the qualifying patient
10 or one of the two primary caregivers.

11 (e) The department shall issue registry
12 identification cards to qualifying patients and to primary
13 caregivers within five days of approving an application or
14 renewal under this section. Registry identification cards
15 expire one year after the date of issuance. Registry
16 identification cards must contain the following:

17 (1) The name, address, and date of birth of the
18 qualifying patient.

19 (2) The name, address, and date of birth of each
20 primary caregiver, if any, of the qualifying patient.

21 (3) The date of issuance and expiration date of the
22 registry identification card.

23 (4) A random identification number that is unique
24 to the cardholder.

25 (5) A photograph, if the department decides to
26 require one.

1 (6) A clear designation showing whether the
2 cardholder will be allowed under state law to cultivate
3 marijuana plants for the qualifying patient's medical use,
4 which must be determined based solely on the qualifying
5 patient's preference.

6 (f) This subsection governs notification of changes
7 in status or the loss of a registry identification card.

8 (1) A registered qualifying patient shall notify the
9 department within 10 days of any change in the registered
10 qualifying patient's name, address, primary caregiver, or
11 preference regarding who may cultivate marijuana for the
12 registered qualifying patient or if the registered qualifying
13 patient ceases to have a debilitating medical condition.

14 (2) A registered qualifying patient who fails to
15 notify the department as required under subdivision (1)
16 commits a civil violation for which a fine of not more than
17 one hundred fifty dollars (\$150) may be adjudged. If the
18 registered qualifying patient's certifying physician notifies
19 the department in writing that the registered qualifying
20 patient has ceased to suffer from a debilitating medical
21 condition, the registered qualifying patient's registry
22 identification card becomes void upon notification by the
23 department to the qualifying patient.

24 (3) A registered primary caregiver shall notify the
25 department of any change in the caregiver's name or address
26 within 10 days of such change. A registered primary caregiver
27 who fails to notify the department of any of these changes

1 commits a civil violation for which a fine of not more than
2 one hundred fifty dollars (\$150) may be adjudged.

3 (4) When a registered qualifying patient or
4 registered primary caregiver notifies the department of any
5 changes listed in this subsection, the department shall issue
6 the registered qualifying patient and each registered primary
7 caregiver a new registry identification card within 10 days of
8 receiving the updated information and a ten dollar (\$10) fee.

9 (5) When a registered qualifying patient changes the
10 patient's registered primary caregiver, the department shall
11 notify the previous primary caregiver within 10 days. The
12 previous caregiver's protections as provided in this act
13 expire 10 days after notification by the department.

14 (6) If a cardholder loses the cardholder's registry
15 identification card, the cardholder shall notify the
16 department and submit a ten dollar (\$10) fee within 10 days of
17 losing the card. Within five days after such notification, the
18 department shall issue a new registry identification card with
19 a new random identification number.

20 (g) Possession of, or application for, a registry
21 identification card does not constitute probable cause or
22 reasonable suspicion, nor may it be used to support the search
23 of the person or property of the person possessing or applying
24 for the registry identification card. The possession of, or
25 application for, a registry identification card does not
26 prevent the issuance of a warrant if probable cause exists on
27 other grounds.

1 (h) This subsection governs confidentiality.

2 (1) Applications and supporting information
3 submitted by qualifying patients under this act, including
4 information regarding their primary caregivers and physicians,
5 are confidential.

6 (2) Applications and supporting information
7 submitted by primary caregivers operating in compliance with
8 this act, including the physical address of a compassion
9 center, are confidential.

10 (3) The department shall maintain a confidential
11 list of the persons to whom the department has issued registry
12 identification cards. Individual names and other identifying
13 information on the list are confidential and not subject to
14 disclosure except to authorized employees of the department as
15 necessary to perform official duties of the department.

16 (4) The department shall verify to law enforcement
17 personnel whether a registry identification card is valid
18 without disclosing more information than is reasonably
19 necessary to verify the authenticity of the registry
20 identification card.

21 (5) Notwithstanding this subsection, department
22 employees may notify law enforcement about falsified or
23 fraudulent information submitted to the department as long as
24 the employee who suspects that falsified or fraudulent
25 information has been submitted confers with the employee's
26 supervisor and both agree that circumstances exist that
27 warrant reporting.

1 (i) Any cardholder who sells marijuana to a person
2 is not allowed to possess marijuana for medical purposes under
3 this act shall have that cardholder's registry identification
4 card revoked and is liable for any other penalties for the
5 sale of marijuana. The department may revoke the registry
6 identification card of any cardholder who violates this act,
7 and the cardholder is liable for any other penalties for the
8 violation.

9 (j) The department shall submit to the Legislature
10 an annual report that does not disclose any identifying
11 information about cardholders or physicians, but does contain,
12 at a minimum:

13 (1) The number of applications and renewals filed
14 for registry identification cards.

15 (2) The number of qualifying patients and primary
16 caregivers approved in each county.

17 (3) The nature of the debilitating medical
18 conditions of the qualifying patients.

19 (4) The number of registry identification cards
20 revoked.

21 (5) The number of physicians providing written
22 certifications for qualifying patients.

23 (6) The number of registered compassion centers.

24 (7) The number of principal officers, board members,
25 employees, and agents of compassion centers.

26 Section 7. (a) This act does not permit any person
27 to do the following:

1 (1) Undertake any task under the influence of
2 marijuana when doing so would constitute negligence or
3 professional malpractice.

4 (2) Possess marijuana or otherwise engage in the
5 medical use of marijuana:

6 a. In a school bus.

7 b. On the grounds of any preschool or primary or
8 secondary school.

9 c. In any correctional facility.

10 (3) Smoke marijuana in any public place.

11 (4) Operate, navigate, or be in actual physical
12 control of any motor vehicle, aircraft, or motorized boat, or
13 vessel, or sailboat while under the influence of marijuana.

14 (5) Use marijuana if that person does not have a
15 debilitating medical condition.

16 (b) This act may not be construed to require the
17 following:

18 (1) A government medical assistance program or
19 private health insurer to reimburse a person for costs
20 associated with the medical use of marijuana.

21 (2) An employer to accommodate the ingestion of
22 marijuana in any workplace or any employee working while under
23 the influence of marijuana.

24 (c) Fraudulent representation to a law enforcement
25 official of any fact or circumstance relating to the medical
26 use of marijuana to avoid arrest or prosecution is a civil
27 violation punishable by a fine of five hundred dollars (\$500),

1 which must be in addition to any other penalties that may
2 apply for making a false statement or for the use of marijuana
3 other than use undertaken pursuant to this act.

4 Section 8. (a) Except as provided in Section 7, a
5 qualifying patient and a qualifying patient's primary
6 caregiver, other than a compassion center, may assert the
7 medical purpose for using marijuana as a defense to any
8 prosecution involving marijuana, and this defense must be
9 presumed valid where the evidence shows any of the following:

10 (1) A physician has stated that, in the physician's
11 professional opinion, after having completed a full assessment
12 of the qualifying patient's medical history and current
13 medical condition made in the course of a bona fide
14 physician-patient relationship, the qualifying patient is
15 likely to receive therapeutic or palliative benefit from the
16 medical use of marijuana to treat or alleviate the qualifying
17 patient's debilitating medical condition or symptoms
18 associated with the qualifying patient's debilitating medical
19 condition.

20 (2) The qualifying patient and the qualifying
21 patient's primary caregiver, if any, were collectively in
22 possession of a quantity of marijuana that was not more than
23 was reasonably necessary to ensure the uninterrupted
24 availability of marijuana for the purpose of treating or
25 alleviating the qualifying patient's debilitating medical
26 condition or symptoms associated with the qualifying patient's
27 debilitating medical condition.

1 (3) The qualifying patient and the qualifying
2 patient's primary caregiver, if any, were engaged in the
3 acquisition, possession, cultivation, manufacture, use,
4 delivery, transfer, or transportation of marijuana or
5 paraphernalia relating to the administration of marijuana
6 solely to treat or alleviate the qualifying patient's
7 debilitating medical condition or symptoms associated with the
8 qualifying patient's debilitating medical condition.

9 (b) A person may assert the medical purpose for
10 using marijuana in a motion to dismiss, and the charges must
11 be dismissed following an evidentiary hearing where the person
12 proves the elements listed in subsection (a).

13 (c) If a qualifying patient or a qualifying
14 patient's primary caregiver demonstrates the qualifying
15 patient's medical purpose for using marijuana pursuant to this
16 section, the qualifying patient and the qualifying patient's
17 primary caregiver may not be subject, for the qualifying
18 patient's medical use of marijuana, to any state sanction,
19 including the following:

20 (1) Disciplinary action by a business or
21 occupational or professional licensing board or bureau.

22 (2) Forfeiture of any interest in or right to
23 property.

24 Section 9. (a) All provisions of this act pertaining
25 to a primary caregiver apply to a nonprofit compassion center
26 unless they conflict with a provision contained in this
27 section.

1 (b) This subsection governs the registration of a
2 nonprofit compassion center.

3 (1) The department shall register a nonprofit
4 compassion center and issue a registration certificate within
5 30 days to any person or entity that provides the following:

6 a. A reasonable fee paid to the department in the
7 amount established by the department.

8 b. The legal name of the nonprofit compassion
9 center.

10 c. The physical address of the nonprofit compassion
11 center and the physical address of one additional location, if
12 any, where marijuana will be cultivated.

13 d. The name, address, and date of birth of each
14 principal officer and board member of the nonprofit compassion
15 center.

16 e. The name, address, and date of birth of any
17 person who is an agent of or employed by the nonprofit
18 compassion center.

19 (2) The department shall track the number of
20 registered qualifying patients who designate a nonprofit
21 compassion center as a primary caregiver and issue to each
22 nonprofit compassion center a written statement of the number
23 of qualifying patients who have designated the nonprofit
24 compassion center to cultivate marijuana for them. This
25 statement must be updated each time a new registered
26 qualifying patient designates the nonprofit compassion center
27 or ceases to designate the nonprofit compassion center and may

1 be transmitted electronically if the department's rules so
2 provide. The department may provide by rule that the updated
3 written statements may not be issued more frequently than once
4 each week.

5 (3) The department shall issue each principal
6 officer, board member, agent, and employee of a nonprofit
7 compassion center a registry identification card within 10
8 days of receipt of the person's name, address, and date of
9 birth under subparagraph (A) and a fee in an amount
10 established by the department. Each card must specify that the
11 cardholder is a principal officer, board member, agent, or
12 employee of a nonprofit compassion center and must contain the
13 following:

14 a. The name, address, and date of birth of the
15 principal officer, board member, agent, or employee.

16 b. The legal name of the nonprofit compassion center
17 with which the principal officer, board member, agent, or
18 employee is affiliated.

19 c. A random identification number that is unique to
20 the cardholder.

21 d. The date of issuance and expiration date of the
22 registry identification card.

23 e. A photograph, if the department decides to
24 require one.

25 (4) The department may not issue a registry
26 identification card to any principal officer, board member,
27 agent, or employee of a nonprofit compassion center who has

1 been convicted of a felony drug offense. The department may
2 conduct a background check of each principal officer, board
3 member, agent, or employee in order to carry out this
4 provision. The department shall notify the nonprofit
5 compassion center in writing of the purpose for denying the
6 registry identification card.

7 (c) Not later than 120 days after the effective date
8 of this act, the department shall adopt rules governing the
9 manner in which it considers applications for and renewals of
10 registration certificates for nonprofit compassion centers,
11 including rules governing:

12 (1) The fee for registration.

13 (2) The form and content of registration and renewal
14 applications.

15 (3) Minimum oversight requirements for nonprofit
16 compassion centers.

17 (4) Minimum record-keeping requirements for
18 nonprofit compassion centers.

19 (5) Minimum security requirements for nonprofit
20 compassion centers.

21 (6) Procedures for suspending or terminating the
22 registration of nonprofit compassion centers that violate the
23 provisions of this section or the rules adopted pursuant to
24 this subsection.

25 (d) A nonprofit compassion center registration
26 certificate and the registry identification card for each
27 principal officer, board member, agent, or employee expire one

1 year after the date of issuance. The department shall issue a
2 renewal nonprofit compassion center registration certificate
3 and renewal registry identification cards within 10 days to
4 any person who complies with the requirements contained in
5 subsection (b). A registry identification card of a principal
6 officer, board member, agent, or employee expires 10 days
7 after notification by a nonprofit compassion center that such
8 person ceases to work at the nonprofit compassion center.

9 (e) A nonprofit compassion center is subject to
10 reasonable inspection by the department. The department shall
11 give reasonable notice of an inspection under this subsection.

12 (f) This subsection governs the operations of
13 nonprofit compassion centers.

14 (1) A nonprofit compassion center must be operated
15 on a not-for-profit basis for the mutual benefit of its
16 members and patrons. The bylaws of a nonprofit compassion
17 center and its contracts with patrons must contain such
18 provisions relative to the disposition of revenues and
19 receipts as may be necessary and appropriate to establish and
20 maintain its nonprofit character. A nonprofit compassion
21 center need not be recognized as a tax exempt organization
22 under 26 United States Code, Section 501(c)(3).

23 (2) A nonprofit compassion center shall notify the
24 department within 10 days of when a principal officer, board
25 member, agent, or employee ceases to work at the nonprofit
26 compassion center.

1 (3) A nonprofit compassion center shall notify the
2 department in writing of the name, address, and date of birth
3 of any new principal officer, board member, agent, or employee
4 and shall submit a fee in an amount established by the
5 department for a new registry identification card before the
6 new principal officer, board member, agent, or employee begins
7 working at the nonprofit compassion center.

8 (4) A nonprofit compassion center shall implement
9 appropriate security measures to deter and prevent
10 unauthorized entrance into areas containing marijuana and the
11 theft of marijuana.

12 (5) The operating documents of a nonprofit
13 compassion center must include procedures for the oversight of
14 the nonprofit compassion center and procedures to ensure
15 accurate record keeping.

16 (6) A nonprofit compassion center is prohibited from
17 acquiring, possessing, cultivating, manufacturing, delivering,
18 transferring, transporting, supplying, or dispensing marijuana
19 for any purpose except to assist registered qualifying
20 patients with the medical use of marijuana directly or through
21 the registered qualifying patients' other primary caregivers.

22 (7) All principal officers and board members of a
23 nonprofit compassion center must be residents of the State of
24 Alabama.

25 (8) All cultivation of marijuana must take place in
26 an enclosed, locked facility.

1 (g) A nonprofit compassion center or a principal
2 officer, board member, agent, or employee of a nonprofit
3 compassion center may not dispense more than 2 1/2 ounces of
4 usable marijuana to a qualifying patient or to a primary
5 caregiver on behalf of a qualifying patient at one time.

6 (h) This subsection governs immunity for a nonprofit
7 compassion center.

8 (1) A nonprofit compassion center may not be subject
9 to prosecution, search, seizure, or penalty in any manner or
10 denied any right or privilege, including, but not limited to,
11 a civil penalty or disciplinary action by a business or
12 occupational or professional licensing board or entity, solely
13 for acting in accordance with this section to provide usable
14 marijuana to or to otherwise assist registered qualifying
15 patients to whom it is connected through the department's
16 registration process with the medical use of marijuana.

17 (2) Principal officers, board members, agents, and
18 employees of a registered nonprofit compassion center may not
19 be subject to arrest, prosecution, search, seizure, or penalty
20 in any manner or denied any right or privilege, including, but
21 not limited to, a civil penalty or disciplinary action by a
22 business or occupational or professional licensing board or
23 entity, solely for working for or with a nonprofit compassion
24 center to provide usable marijuana to or to otherwise assist
25 registered qualifying patients to whom the nonprofit
26 compassion center is connected through the department's

1 registration process with the medical use of marijuana in
2 accordance with this act.

3 (i) The prohibitions in this subsection apply to a
4 nonprofit compassion center.

5 (1) A nonprofit compassion center may not possess
6 more than six live marijuana plants for each registered
7 qualifying patient who has designated the nonprofit compassion
8 center as a primary caregiver and designated that the
9 compassion center will be permitted to cultivate marijuana for
10 the registered qualifying patient's medical use.

11 (2) A nonprofit compassion center may not dispense,
12 deliver, or otherwise transfer marijuana to a person other
13 than a qualifying patient who has designated the nonprofit
14 compassion center as a primary caregiver or to the patient's
15 other registered primary caregiver.

16 (3) The department shall immediately revoke the
17 registry identification card of a principal officer, board
18 member, employee, or agent of a nonprofit compassion center
19 who is found to have violated subdivision (2), and such a
20 person is disqualified from serving as a principal officer,
21 board member, employee, or agent of a nonprofit compassion
22 center.

23 (4) A person who has been convicted of a felony drug
24 offense may not be a principal officer, board member, agent,
25 or employee of a nonprofit compassion center.

1 (5) A nonprofit compassion center may not acquire
2 usable marijuana or mature marijuana plants except through the
3 cultivation of marijuana by that nonprofit compassion center.

4 (j) This act does not prohibit a political
5 subdivision of the State of Alabama from limiting the number
6 of nonprofit compassion centers that may operate in the
7 political subdivision or from enacting reasonable zoning
8 regulations applicable to nonprofit compassion centers.

9 Section 10. (a) If the department fails to adopt
10 rules to implement this act within 120 days of the effective
11 date of this act, a qualifying patient may commence an action
12 in the circuit court to compel the department to perform the
13 actions mandated pursuant to the provisions of this act.

14 (b) If the department fails to issue a valid
15 registry identification card or a registration certificate in
16 response to a valid application or renewal submitted pursuant
17 to this act within 45 days of its submission, the registry
18 identification card or registration certificate is deemed
19 granted, and a copy of the registry identification application
20 or renewal is deemed a valid registry identification card.

21 (c) If at any time after the 140 days following the
22 effective date of this act, the department is not accepting
23 applications, including if it has not adopted rules allowing
24 qualifying patients to submit applications, a notarized
25 statement by a qualifying patient containing the information
26 required in an application, pursuant to Section 6, is deemed a
27 valid registry identification card.

1 Section 11. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.