

1 HB61
2 172469-2
3 By Representatives Ball, Hill (M), Sessions, Martin, Johnson
4 (K), Wood, Brown, McCutcheon, Hubbard, Williams (JD),
5 Sanderford, Todd, Hall, Farley, Daniels, Butler, Fridy, Shedd,
6 Patterson, Whorton (R), Williams (P), Tuggle, Whorton (I),
7 Coleman, Robinson, Rogers, Moore (M), Nordgren, Greer,
8 Garrett, Howard and Scott
9 RFD: Judiciary
10 First Read: 02-FEB-16

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8 SYNOPSIS: Under existing law, it is an affirmative
9 defense to a prosecution for the unlawful
10 possession of marijuana if the defendant has a
11 debilitating epileptic condition and he or she, or
12 a parent or caretaker, used or possessed
13 cannabidiol (CBD) pursuant to a prescription by a
14 health care practitioner employed by the Department
15 of Neurology at the University of Alabama at
16 Birmingham (UAB). The availability of the
17 affirmative defense is repealed on July 1, 2019.

18 This bill would revise the affirmative
19 defense to include a defendant who is prosecuted
20 for unlawful possession of marijuana in the second
21 degree if the defendant used the cannabidiol (CBD)
22 because he or she was diagnosed with a debilitating
23 medical condition, as defined in the bill, by a
24 physician with whom he or she had a bona fide
25 physician-patient relationship and the CBD provides
26 the defendant with therapeutic or palliative relief.

1 This bill would provide that the affirmative
2 defense is also available to parents or legal
3 guardians possessing CBD for a minor who was
4 prescribed CBD to treat a debilitating medical
5 condition and would eliminate the requirement that
6 CBD be prescribed by health care practitioners
7 employed by UAB.

8 This bill would also remove the repeal of
9 the affirmative defense on July 1, 2019.

10 Amendment 621 of the Constitution of Alabama
11 of 1901, now appearing as Section 111.05 of the
12 Official Recompilation of the Constitution of
13 Alabama of 1901, as amended, prohibits a general
14 law whose purpose or effect would be to require a
15 new or increased expenditure of local funds from
16 becoming effective with regard to a local
17 governmental entity without enactment by a 2/3 vote
18 unless: it comes within one of a number of
19 specified exceptions; it is approved by the
20 affected entity; or the Legislature appropriates
21 funds, or provides a local source of revenue, to
22 the entity for the purpose.

23 The purpose or effect of this bill would be
24 to require a new or increased expenditure of local
25 funds within the meaning of the amendment. However,
26 the bill does not require approval of a local
27 governmental entity or enactment by a 2/3 vote to

1 become effective because it comes within one of the
2 specified exceptions contained in the amendment.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 To amend Section 13A-12-214.2, Code of Alabama 1975,
9 relating to the possession and use of cannabidiol; to further
10 provide for an affirmative defense for the use or possession
11 of cannabidiol for certain debilitating conditions; to
12 eliminate the requirement that cannabidiol be prescribed by a
13 health care practitioner employed by UAB; and in connection
14 therewith would have as its purpose or effect the requirement
15 of a new or increased expenditure of local funds within the
16 meaning of Amendment 621 of the Constitution of Alabama of
17 1901, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This act may be cited and shall be known
22 as Leni's Law.

23 Section 2. Section 13A-12-214.2, Code of Alabama
24 1975, is amended to read as follows:

25 "§13A-12-214.2.

26 "(a) This section shall be known and may be cited as
27 "Carly's Law."

1 (b) As used in this section, the following words
2 shall have the following meanings:

3 ~~"(1) AUTHORIZED BY THE UAB DEPARTMENT. Authorized by~~
4 ~~the UAB Department means that Cannabidiol (CBD) has been~~
5 ~~prescribed by a health care practitioner employed by or on~~
6 ~~behalf of the UAB Department~~ BONA FIDE PHYSICIAN-PATIENT
7 RELATIONSHIP. A relationship in which a physician has ongoing
8 responsibility for the assessment, care, and treatment of a
9 patient's medical condition.

10 "(2) DEBILITATING MEDICAL CONDITION. A chronic or
11 debilitating disease or medical condition or the treatment of
12 a chronic or debilitating disease or medical condition that
13 produces one or more of the following, as documented by a
14 physician with whom the patient has a bona fide
15 physician-patient relationship:

16 "a. Cachexia or wasting syndrome.

17 "b. Severe or chronic pain.

18 "c. Severe nausea.

19 "d. Seizures.

20 "e. Severe and persistent muscle spasms.

21 "f. Any other condition that is severe and resistant
22 to conventional medicine.

23 ~~"(2)~~ (3) CANNABIDIOL (CBD). [13956-29-1]. A
24 (nonpsychoactive) cannabinoid found in the plant Cannabis
25 sativa L. or any other preparation thereof that is essentially
26 free from plant material, and has a THC level of no more than
27 3 percent. Also known as (synonyms):

1 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-p
2 entyl-1,3-benzenediol;
3 trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;
4 (-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);
5 D1(2)-trans-Cannabidiol.

6 ~~"(3) DEBILITATING EPILEPTIC CONDITION. Epilepsy or~~
7 ~~other neurological disorder, or the treatment of epilepsy or~~
8 ~~other neurological disorder that, as diagnosed by a~~
9 ~~board-certified neurologist under the employment or authority~~
10 ~~of the UAB Department, produces serious, debilitating, or~~
11 ~~life-threatening seizures.~~

12 ~~"(4) UAB DEPARTMENT. The Department of Neurology at~~
13 ~~the University of Alabama at Birmingham, its successors, or~~
14 ~~any subdivisions.~~

15 "(c) In a prosecution for the unlawful possession of
16 marijuana under the laws of this state in the second degree
17 under Section 13A-12-214, it is an affirmative and complete
18 defense ~~to the prosecution~~ that the defendant ~~has a~~
19 ~~debilitating epileptic condition~~ and used or possessed
20 cannabidiol (CBD) ~~pursuant to a prescription authorized by the~~
21 ~~UAB Department~~ because the defendant has a debilitating
22 medical condition that has been diagnosed by a physician with
23 whom the defendant has a bona fide physician-patient
24 relationship and the cannabidiol is likely to provide the
25 defendant with therapeutic or palliative relief from the
26 debilitating medical condition.

1 "(d) In a prosecution for the unlawful possession of
2 marijuana ~~under the laws of this state~~ in the second degree
3 under Section 13A-12-214, it is an affirmative and complete
4 defense ~~to the prosecution~~ that the defendant possessed
5 cannabidiol (CBD) because he or she is the parent or ~~caretaker~~
6 ~~of an individual who has a debilitating epileptic condition~~
7 ~~and who has a prescription for the possession and use of~~
8 ~~cannabidiol (CBD) as authorized by the UAB Department, and~~
9 ~~where the parent or caretaker's possession of the CBD is on~~
10 ~~behalf of and otherwise for the prescribed person's use only~~
11 legal guardian of a minor who was prescribed cannabidiol for
12 therapeutic or palliative relief from a debilitating medical
13 condition by a physician with whom the minor has a bona fide
14 physician-patient relationship.

15 "(e) An agency of this state or a political
16 subdivision thereof, including any law enforcement agency, may
17 not initiate proceedings to remove a child from the home of a
18 parent based solely upon the parent's or child's possession or
19 use of cannabidiol (CBD) as authorized by this section.

20 "~~(f) A prescription for the possession or use of~~
21 ~~cannabidiol (CBD) as authorized by this section shall be~~
22 ~~provided exclusively by the UAB Department for a debilitating~~
23 ~~epileptic condition. Health care practitioners of the UAB~~
24 ~~Department shall be the sole authorized source of any~~
25 ~~prescription for the use of cannabidiol (CBD), and shall be~~
26 ~~the sole authorized source to use cannabidiol (CBD) in or as a~~
27 ~~part of the treatment of a person diagnosed with a~~

1 ~~debilitating epileptic condition. A health care practitioner~~
2 ~~of the UAB Department shall have the sole authority to~~
3 ~~determine the use or amount of cannabidiol (CBD), if any, in~~
4 ~~the treatment of an individual diagnosed with a debilitating~~
5 ~~epileptic condition.~~

6 ~~"(g) The UAB Department and any UAB School of~~
7 ~~Medicine affiliated pediatric training entity, including any~~
8 ~~authorized physician, nurse, attendant, or agent thereof,~~
9 ~~shall not be subject to prosecution for the unlawful~~
10 ~~possession, use, distribution, or prescription of marijuana~~
11 ~~under the laws of this state for its activities arising~~
12 ~~directly out of or directly related to the prescription or use~~
13 ~~of cannabidiol (CBD) in the treatment of individuals diagnosed~~
14 ~~with a debilitating epileptic condition.~~

15 ~~"(h) The UAB Department will establish a research~~
16 ~~and development study purposed to determine medical uses and~~
17 ~~benefits of cannabidiol (CBD) for individuals with~~
18 ~~debilitating epileptic conditions.~~

19 ~~"(i) The UAB Department and any UAB School of~~
20 ~~Medicine affiliated pediatric training entity, including any~~
21 ~~authorized physician, nurse, attendant or agent thereof, shall~~
22 ~~not be subject to prosecution for the unlawful possession,~~
23 ~~use, or distribution of marijuana under the laws of this state~~
24 ~~for its activities arising directly out of or directly related~~
25 ~~to the department's research and development activities in~~
26 ~~pursuit of medical benefits and uses of cannabidiol (CBD), as~~
27 ~~long as the prescription, treatment or use of cannabidiol~~

1 ~~(CBD) is provided only to individuals diagnosed with a~~
2 ~~debilitating epileptic condition.~~

3 ~~"(j) Pursuant to the filing requirements of Rule~~
4 ~~15.3 of the Alabama Rules of Criminal Procedure, the defendant~~
5 ~~shall produce a valid prescription, certification of a~~
6 ~~debilitating epileptic condition, and the name of the~~
7 ~~prescribing health care professional authorized by the UAB~~
8 ~~Department.~~

9 ~~"(k) This section is repealed July 1, 2019.~~

10 ~~"(l) (e) Nothing in this section shall be construed~~
11 ~~to allow or accommodate the prescription, testing, medical~~
12 ~~use, or possession of any other form of Cannabis other than~~
13 ~~that defined by this section."~~

14 Section 3. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 4. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.