

1 HB386  
2 127758-1  
3 By Representative Todd  
4 RFD: Health  
5 First Read: 31-MAR-11

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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."

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

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

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

8 (c) Data from the Federal Bureau of Investigation's  
9 Uniform Crime Reports and the Compendium of Federal Justice  
10 Statistics show that approximately 99 out of every 100  
11 marijuana arrests in the United States are made under state  
12 law rather than federal law.

13 (d) Although federal law currently prohibits any use  
14 of marijuana except under very limited circumstances, Alaska,  
15 California, Colorado, Hawaii, Maine, Michigan, Montana,  
16 Nevada, New Jersey, New Mexico, Oregon, Vermont, Rhode island,  
17 and Washington have removed state level criminal penalties  
18 from the medical use and cultivation of marijuana. Alabama  
19 joins in this effort for the health and welfare of its  
20 citizens.

21 (e) States are not required to enforce federal law  
22 or prosecute people for engaging in activities prohibited by  
23 federal law. Therefore, compliance with this act does not put  
24 the State of Alabama in violation of federal law.

25 (f) State law should make a distinction between the  
26 medical and nonmedical uses of marijuana. Hence, the purpose  
27 of this act is to protect patients with debilitating medical

1 conditions, as well as their practitioners, caregivers, and  
2 providers, from arrest and prosecution, criminal and other  
3 penalties, and property forfeiture if such patients engage in  
4 the medical use of marijuana.

5 (g) The Legislature declares that this act is  
6 enacted pursuant to police power to protect the health of the  
7 state's citizens that is reserved to the State of Alabama and  
8 its people under the 10th Amendment to the United States  
9 Constitution.

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

12 (1) CARDHOLDER. A qualifying patient, designated  
13 caregiver, or principal officer, board member, employee,  
14 volunteer, or agent of a nonprofit compassion center who has  
15 been issued and possesses a valid registry identification  
16 card.

17 (2) DEBILITATING MEDICAL CONDITION. One or more of  
18 the following:

19 a. Cancer, glaucoma, positive status for human  
20 immunodeficiency virus, acquired immune deficiency syndrome,  
21 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,  
22 agitation of Alzheimer's disease, nail patella, or the  
23 treatment of these conditions.

24 b. A chronic or debilitating disease or medical  
25 condition or its treatment that produces one or more of the  
26 following: Cachexia or wasting syndrome; severe pain; severe  
27 nausea; seizures, including, but not limited to, those

1 characteristic of epilepsy; or severe and persistent muscle  
2 spasms, including, but not limited to, those characteristic of  
3 multiple sclerosis.

4 c. Any other medical condition or its treatment  
5 approved by the department, as provided for in subsection (b)  
6 of Section 5.

7 (3) DEPARTMENT. The Department of Public Health or  
8 its successor agency.

9 (4) ENCLOSED, LOCKED FACILITY. A closet, room,  
10 greenhouse, or other enclosed indoor or outdoor area equipped  
11 with the locks or other security devices that permit access  
12 only by a cardholder.

13 (5) EXCLUDED FELONY OFFENSE. A violation of a state  
14 or federal controlled substance law that was classified as a  
15 felony in the jurisdiction where the person was convicted. It  
16 does not include the following:

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

20 b. An offense that consisted of conduct for which  
21 this act would likely have prevented a conviction, but the  
22 conduct either occurred prior to the enactment of this act or  
23 was prosecuted by an authority other than the State of  
24 Alabama.

25 (6) MATURE MARIJUANA PLANT. A marijuana plant that  
26 has flowers or buds that are readily observable by an unaided  
27 visual examination.

1           (7) MEDICAL USE. The acquisition, possession,  
2           cultivation, manufacture, use, delivery, sale, transfer, or  
3           transportation of marijuana or paraphernalia relating to the  
4           administration of marijuana to treat or alleviate a qualifying  
5           patient's debilitating medical condition or symptoms  
6           associated with the patient's debilitating medical condition.

7           (8) PHYSICIAN. An individual who possesses a  
8           certificate of qualification issued on his or her behalf by  
9           the Board of Medical Examiners and a license and certificate  
10          of registration from the board.

11          (9) PRIMARY CAREGIVER. A person who is at least 21  
12          years of age, who has agreed to assist with a qualifying  
13          patient's medical use of marijuana, and who has never been  
14          convicted of an excluded felony offense. A primary caregiver,  
15          other than a registered compassion center, may assist no more  
16          than three qualifying patients with their medical use of  
17          marijuana.

18          (10) QUALIFYING PATIENT. A person who has been  
19          diagnosed by a physician as having a debilitating medical  
20          condition.

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

1           (12) REGISTERED PRIMARY CAREGIVER. A primary  
2 caregiver who is registered with the department pursuant to  
3 Section 6.

4           (13) REGISTERED QUALIFYING PATIENT. A qualifying  
5 patient who is registered with the department pursuant to  
6 Section 6.

7           (14) REGISTRY IDENTIFICATION CARD. A document issued  
8 by the department that identifies a person as a registered  
9 qualifying patient, registered designated caregiver, or a  
10 registered principal officer, board member, employee,  
11 volunteer, or agent of a registered compassion center.

12           (15) USABLE MARIJUANA. The dried leaves and flowers  
13 of the marijuana plant and any mixture or preparation thereof,  
14 but does not include the seeds, stalks, and roots of the plant  
15 and does not include the weight of any non-marijuana  
16 ingredients combined with marijuana and prepared for  
17 consumption as food.

18           (16) VISITING QUALIFYING PATIENT. A patient with a  
19 debilitating medical condition who is not a resident of the  
20 State of Alabama or who has been a resident of the State of  
21 Alabama for less than 30 days.

22           (17) WRITTEN CERTIFICATION. A document signed by a  
23 physician, stating that, in the physician's professional  
24 opinion, the patient is likely to receive therapeutic or  
25 palliative benefit from the medical use of marijuana to treat  
26 or alleviate the patient's debilitating medical condition or  
27 symptoms associated with the debilitating medical condition. A

1 written certification shall be made only in the course of a  
2 bona fide physician-patient relationship after the physician  
3 has completed a full assessment of the qualifying patient's  
4 medical history. The written certification shall specify the  
5 qualifying patient's debilitating medical condition.

6 Section 4. (a) A qualifying patient who has been  
7 issued and possesses a registry identification card shall not  
8 be subject to arrest, prosecution, or penalty in any manner,  
9 or denied any right or privilege, including, but not limited  
10 to, civil penalty or disciplinary action by a business or  
11 occupational or professional licensing board or bureau, for  
12 the medical use of marijuana in accordance with this act as  
13 long as the qualifying patient possesses an amount of  
14 marijuana that:

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

17 (2) Does not exceed six mature and six immature  
18 marijuana plants, provided that the qualifying patient has not  
19 specified that a primary caregiver is allowed under state law  
20 to cultivate marijuana for the qualifying patient. The plants  
21 shall be kept in an enclosed, locked facility, unless they are  
22 being transported because the qualifying patient is moving or  
23 they are being transported to the qualifying patient's or  
24 designated primary caregiver's property.

25 (b) A primary caregiver other than a nonprofit  
26 compassion center, who has been issued and possesses a  
27 registry identification card shall not be subject to arrest,



1 prosecution, or penalty in any manner, or denied any right or  
2 privilege, including, but not limited to, civil penalty or  
3 disciplinary action by a business or occupational or  
4 professional licensing board or bureau, for assisting a  
5 qualifying patient to whom the primary caregiver is connected  
6 through the department's registration process with the medical  
7 use of marijuana in accordance with this act as long as the  
8 primary caregiver possesses an amount of marijuana that:

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

13 (2) For each qualifying patient who has specified  
14 that the primary caregiver is allowed under state law to  
15 cultivate for the qualifying patient, does not exceed six  
16 mature and six immature marijuana plants, which shall be kept  
17 in an enclosed, locked facility, unless they are being  
18 transported because the designated caregiver is moving or they  
19 are being transported to a designated caregiver's or a  
20 qualifying patient's property.

21 (c) Any incidental amount of marijuana seeds,  
22 stalks, and unusable roots may not be included in the amounts  
23 specified in this section.

24 (d) (1) There is a presumption that a qualifying  
25 patient or primary caregiver is engaged in the medical use of  
26 marijuana in accordance with this act if the qualifying  
27 patient or primary caregiver:

1           A. Is in possession of a registry identification  
2 card.

3           B. Is in possession of an amount of marijuana that  
4 does not exceed the amount allowed under this act.

5           (2) The presumption under subdivision (1) may be  
6 rebutted by evidence that conduct related to marijuana was not  
7 for the purpose of treating or alleviating the qualifying  
8 patient's debilitating medical condition or symptoms  
9 associated with the debilitating medical condition in  
10 accordance with this act.

11           (e) A school, employer, or landlord may not refuse  
12 to enroll or employ or lease to or otherwise penalize a person  
13 solely for that person's status as a registered qualifying  
14 patient or registered primary caregiver unless failing to do  
15 so would put the school, employer, or landlord in violation of  
16 federal law or cause it to lose a federal contract of funding.

17           (f) For the purposes of medical care, including  
18 organ transplants, a registered qualifying patient's  
19 authorized use of marijuana shall be considered the equivalent  
20 of the authorized use of any other medication used at the  
21 direction of a physician, and shall not constitute the use of  
22 an illicit substance for purposes of qualification for an  
23 organ transplant.

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

1 unreasonable danger to the minor that can be clearly  
2 articulated and substantiated.

3 (h) A registered primary caregiver may receive  
4 monetary or other compensation for costs associated with  
5 assisting a registered qualifying patient's medical use of  
6 marijuana as long as the registered primary caregiver is  
7 connected to the registered qualifying patient through the  
8 department's registration process. Any such compensation shall  
9 not constitute the sale of controlled substances.

10 (i) A physician 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 the Board of Medical Examiners or by  
14 any other business or occupational or professional licensing  
15 board or bureau, solely for providing written certifications  
16 or for otherwise stating that, in the physician's professional  
17 opinion, a patient is likely to receive therapeutic benefit  
18 from the medical use of marijuana to treat or alleviate the  
19 patient's serious or debilitating medical condition or  
20 symptoms associated with the serious or debilitating medical  
21 condition, except that nothing prevents a professional  
22 licensing board from sanctioning a physician for failing to  
23 properly evaluate a patient's medical condition or otherwise  
24 violating the standard of care for evaluating medical  
25 condition.

26 (j) A person shall not be subject to arrest,  
27 prosecution, or penalty in any manner, or denied any right or

1 privilege, including, but not limited to, civil penalty or  
2 disciplinary action by a business or occupational or  
3 professional licensing board or bureau, for providing a  
4 registered qualifying patient or a registered primary  
5 caregiver with marijuana paraphernalia for a qualifying  
6 patient's medical use of marijuana.

7 (k) Any marijuana, marijuana paraphernalia, licit  
8 property, or interest in licit property that is possessed,  
9 owned, or used in connection with the medical use of marijuana  
10 as allowed under this act, or property incidental to such use,  
11 may not be seized or forfeited.

12 (l) 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, simply for being in  
17 the presence or vicinity of the medical use of marijuana as  
18 allowed under this act, or for assisting a registered  
19 qualifying patient with using or administering marijuana.

20 (m) A registry identification card or its equivalent  
21 issued under the laws of another state, district, territory,  
22 commonwealth, or insular possession of the United States that  
23 allows the medical use of marijuana by a visiting qualifying  
24 patient has the same force and effect as a registry  
25 identification card issued by the department.

1           Section 5. (a) The department may adopt rules in  
2           accordance with the Administrative Procedure Act to carry out  
3           the purposes of this act.

4           (b) Not later than 120 days after the effective date  
5           of this act, the department shall adopt rules that govern the  
6           manner in which the department shall consider petitions from  
7           the public to add medical conditions or treatments to the list  
8           of debilitating medical conditions set forth in subsection (b)  
9           of Section 3. In considering such petitions, the department  
10          shall include public notice of, and an opportunity to comment  
11          in a public hearing upon such petitions. The department, after  
12          hearing, shall approve or deny such petitions within 180 days  
13          of their submission. The approval or denial of such a petition  
14          constitutes final agency action subject to judicial review.  
15          Jurisdiction and venue for judicial review are vested in the  
16          circuit court.

17          (c) Not later than 120 days after the effective date  
18          of this act, the department shall adopt rules governing the  
19          manner in which it considers applications for and renewals of  
20          registry identification cards. The department's rules must  
21          establish application and renewal fees that generate revenues  
22          sufficient to offset all expenses of implementing and  
23          administering this act. The department may establish a sliding  
24          scale of application and renewal fees based upon a qualifying  
25          patient's family income. The department may accept donations  
26          from private sources in order to reduce the application and  
27          renewal fees.

1           Section 6. (a) The department shall issue registry  
2           identification cards to qualifying patients who submit the  
3           documents and information described in this subsection, in  
4           accordance with the department's rules:

5                   (1) Written certification.

6                   (2) Application or renewal fee.

7                   (3) Name, address, and date of birth of the  
8           qualifying patient.

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

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

13                  (6) If the qualifying patient designates one or two  
14          primary caregivers, a designation as to who will be allowed  
15          under state law to cultivate marijuana plants for the  
16          qualifying patient's medical use. Only one person may be  
17          allowed to cultivate marijuana plants for a qualifying  
18          patient.

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

22                   (1) The qualifying patient's physician has explained  
23          the potential risks and benefits of the medical use of  
24          marijuana to the qualifying patient.

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

1           a. Allow the qualifying patient's medical use of  
2 marijuana.

3           b. Serve as one of the qualifying patient's primary  
4 caregivers.

5           c. Control the acquisition of the marijuana and the  
6 dosage and the frequency of the medical use of marijuana by  
7 the qualifying patient.

8           (c) The department shall verify the information  
9 contained in an application or renewal submitted pursuant to  
10 this section and shall approve or deny an application or  
11 renewal within 30 days of receiving it. The department may  
12 deny an application or renewal only if the applicant did not  
13 provide the information required pursuant to this section or  
14 the department determines that the information provided was  
15 falsified. Rejection of an application or renewal is  
16 considered a final agency action, subject to judicial review.  
17 Jurisdiction and venue for judicial review are vested in the  
18 circuit court.

19           (d) The department shall issue a registry  
20 identification card to each primary caregiver, if any, who is  
21 named in a qualifying patient's approved application pursuant  
22 to subdivision (5) of subsection (a). Only one person may  
23 cultivate marijuana for the qualifying patient's medical use.  
24 The person may either be the qualifying patient or one of the  
25 two primary caregivers as determined by the qualifying  
26 patient.

1           (e) The department shall issue registry  
2     identification cards to qualifying patients and to primary  
3     caregivers within five days of approving an application or  
4     renewal under this section. Registry identification cards  
5     expire one year after the date of issuance. Registry  
6     identification cards must contain the following:

7           (1) The name, address, and date of birth of the  
8     qualifying patient.

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

11          (3) The date of issuance and expiration date of the  
12    registry identification card.

13          (4) A random identification number that is unique to  
14    the cardholder.

15          (5) A photograph, if the department decides to  
16    require one.

17          (6) A clear designation showing whether the  
18    cardholder is allowed under state law to cultivate marijuana  
19    plants for the qualifying patient's medical use, which must be  
20    determined based solely on the qualifying patient's  
21    preference.

22          (f) (1) A registered qualifying patient shall notify  
23    the department within 10 days of any change in the registered  
24    qualifying patient or preference regarding who may cultivate  
25    marijuana for the registered qualifying patient or if the  
26    registered qualifying patient ceases to have a debilitating  
27    medical condition.



1           (2) Except for good cause, a registered qualifying  
2 patient who fails to notify the department as required under  
3 subdivision (1) commits a civil violation for which a fine of  
4 not more than one hundred fifty dollars (\$150) may be imposed.  
5 If the registered qualifying patient's certifying physician  
6 notifies the department in writing that the registered  
7 qualifying patient has ceased to suffer from a debilitating  
8 medical condition, the registered qualifying patient's  
9 registry identification card becomes void upon notification by  
10 the department to the qualifying patient.

11           (3) A registered primary caregiver shall notify the  
12 department of any change in the caregiver's name or address  
13 within 10 days of the change. A registered primary caregiver  
14 who fails to notify the department of any of these changes  
15 commits a civil violation for which a fine of not more than  
16 one hundred fifty dollars (\$150) may be imposed.

17           (4) When a registered qualifying patient or  
18 registered primary caregiver notifies the department of any  
19 changes listed in this subsection, the department shall issue  
20 the registered qualifying patient and each registered primary  
21 caregiver a new registry identification card within 10 days of  
22 receiving the updated information and a ten dollar (\$10) fee.

23           (5) When a registered qualifying patient changes the  
24 patient's registered primary caregiver, the department shall  
25 notify the previous primary caregiver within 10 days. The  
26 previous primary caregiver's protections as provided in this  
27 act expire 10 days after notification by the department.

1           (6) If a cardholder loses the cardholder's registry  
2     identification card, the cardholder shall notify the  
3     department and submit a ten dollar (\$10) fee within 10 days of  
4     losing the card. Within five days after the notification, the  
5     department shall issue a new registry identification card with  
6     a new random identification number.

7           (g) Possession of, or application for, a registry  
8     identification card does not constitute probable cause or  
9     reasonable suspicion, nor may it be used to support the search  
10    of the person or property of the person possessing or applying  
11    for the registry identification card. The possession of, or  
12    application for, a registry identification card does not  
13    prevent the issuance of a warrant if probable cause exists on  
14    other grounds.

15           (h) (1) Applications and supporting information  
16    submitted by qualifying patients under this act, including  
17    information regarding their primary caregivers and physicians,  
18    are confidential.

19           (2) Applications and supporting information  
20    submitted by primary caregivers operating in compliance with  
21    this act, including the physical address of a compassion  
22    center, are confidential.

23           (3) The department shall maintain a confidential  
24    list of the persons to whom the department has issued registry  
25    identification cards. Individual names and other identifying  
26    information on the list are confidential and not subject to

1 disclosure except to authorized employees of the department as  
2 necessary to perform official duties of the department.

3 (4) The department shall verify to law enforcement  
4 personnel whether a registry identification card is valid  
5 without disclosing more information than is reasonably  
6 necessary to verify the authenticity of the registry  
7 identification card.

8 (5) Notwithstanding this subsection, department  
9 employees may notify law enforcement about falsified or  
10 fraudulent information submitted to the department as long as  
11 the employee who suspects that falsified or fraudulent  
12 information has been submitted confers with the employee's  
13 supervisor and both agree that circumstances exist that  
14 warrant reporting.

15 (i) Any cardholder who sells marijuana to a person  
16 who is not allowed to possess marijuana for medical purposes  
17 under this act shall have the cardholder's registry  
18 identification card revoked and is liable for any other  
19 penalties for the sale of marijuana as provided by law. The  
20 department may revoke the registry identification card of any  
21 cardholder who violates this act.

22 (j) The department shall submit to the Legislature  
23 an annual report that does not disclose any identifying  
24 information about cardholders or physicians, but does contain,  
25 at a minimum:

26 (1) The number of applications and renewals filed  
27 for registry identification cards.

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

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

5           (4) The number of registry identification cards  
6 revoked.

7           (5) The number of physicians providing written  
8 certifications for qualifying patients.

9           (6) The number of registered compassion centers.

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

12          Section 7. (a) This act does not permit any person  
13 to:

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

17           (2) Possess marijuana or otherwise engage in the  
18 medical use of marijuana:

19           a. On a school bus.

20           b. On the grounds of any preschool or primary or  
21 secondary school.

22           c. In any correctional facility.

23           (3) Smoke marijuana in any public place.

24           (4) Operate, navigate, or be in actual physical  
25 control of any motor vehicle, aircraft, or motorboat while  
26 under the influence of marijuana.

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

3           (b) This act may not be construed to require:

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

7           (2) An employer to accommodate the ingestion of  
8       marijuana in any workplace or any employee working while under  
9       the influence of marijuana.

10          (c) Fraudulent representation to a law enforcement  
11       official of any fact or circumstance relating to the medical  
12       use of marijuana to avoid arrest or prosecution is a civil  
13       violation punishable by a fine of five hundred dollars (\$500)  
14       which must be in addition to any other penalties that may  
15       apply for making a false statement or for the use of marijuana  
16       other than use undertaken pursuant to this act.

17          Section 8. (a) Except as provided in Section 7, a  
18       qualifying patient and a qualifying patient's primary  
19       caregiver, other than a compassion center, may assert the  
20       medical use of marijuana as a defense to any prosecution  
21       involving marijuana, and this defense must be presumed valid  
22       when the evidence shows that:

23          (1) A physician has stated that, in the physician's  
24       professional opinion, after having completed a full assessment  
25       of the qualifying patient's medical history and current  
26       medical condition made in the course of a bona fide  
27       physician-patient relationship, the qualifying patient is

1 likely to receive therapeutic or palliative benefit from the  
2 medical use of marijuana to treat or alleviate the qualifying  
3 patient's debilitating medical condition or symptoms  
4 associated with the qualifying patient's debilitating medical  
5 condition or symptoms associated with the qualifying patient's  
6 debilitating medical condition.

7 (2) The qualifying patient and the qualifying  
8 patient's primary caregiver, if any, were collectively in  
9 possession of a quantity of marijuana that was not more than  
10 was reasonably necessary to ensure the uninterrupted  
11 availability of marijuana for the purpose of treating or  
12 alleviating the qualifying patient's debilitating medical  
13 condition.

14 (3) The qualifying patient and the qualifying  
15 patient's primary caregiver, if any, were engaged in the  
16 acquisition, possession, cultivation, manufacture, use,  
17 delivery, transfer, or transportation of marijuana or  
18 paraphernalia relating to the administration of marijuana  
19 solely to treat or alleviate the qualifying patient's  
20 debilitating medical condition or symptoms associated with the  
21 qualifying patient's debilitating medical condition.

22 (b) A person may assert the medical use of marijuana  
23 in a motion to dismiss, and the charges must be dismissed  
24 following an evidentiary hearing where the person proves the  
25 elements listed in subsection (a).

26 (c) If a qualifying patient or a qualifying  
27 patient's primary caregiver demonstrates the qualifying

1 patient's medical use of marijuana pursuant to this section,  
2 the qualifying patient and the qualifying patient's primary  
3 caregiver may not be subject to any state sanction, including:

4 (1) Disciplinary action by a business or  
5 occupational or professional licensing board or bureau.

6 (2) Forfeiture of any interest in or right to  
7 property.

8 Section 9. (a) Provisions pertaining to primary  
9 caregiver apply to nonprofit compassion centers. All  
10 provisions of this act pertaining to a primary caregiver apply  
11 to a nonprofit compassion center unless the provision  
12 conflicts with a provision contained in this section.

13 (b) (1) The department shall register a nonprofit  
14 compassion center and issue within 30 days a registration  
15 certificate to up to three persons or entities that provide:

16 a. A reasonable fee paid to the department in the  
17 amount established by the department.

18 b. The legal name of the nonprofit compassion  
19 center.

20 c. The physical address of the nonprofit compassion  
21 center and the physical address of one additional location, if  
22 any, where marijuana will be cultivated.

23 d. The name, address, and date of birth of each  
24 principal officer and board member of the nonprofit compassion  
25 center.

1           e. The name, address, and date of birth of any  
2 person who is an agent of or employed by the nonprofit  
3 compassion center.

4           (2) The department shall track the number of  
5 registered qualifying patients who designate a nonprofit  
6 compassion center as a primary caregiver and issue to each  
7 nonprofit compassion center a written statement of the number  
8 of qualifying patients who have designated the nonprofit  
9 compassion center to cultivate marijuana for them. This  
10 statement must be updated each time a new registered  
11 qualifying patient designates the nonprofit compassion center  
12 or ceases to designate the nonprofit compassion center and may  
13 be transmitted electronically if the department's rules so  
14 provide. The department may provide by rule that the updated  
15 written statements may not be issued more frequently than once  
16 each week.

17           (3) The department shall issue each principal  
18 officer, board member, agent, and employee of a nonprofit  
19 compassion center a registry identification card within 10  
20 days of receipt of the person's name, address, and date of  
21 birth under paragraph a. and a fee in an amount established by  
22 the department. Each card must specify that the cardholder is  
23 a principal officer, board member, agent, or employee of a  
24 nonprofit compassion center and must contain the following:

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



1           b. The legal name of the nonprofit compassion center  
2 with which the principal officer, board member, agent, or  
3 employee is affiliated.

4           c. A random identification number that is unique to  
5 the cardholder.

6           d. The date of issuance and expiration date of the  
7 registry identification card.

8           e. A photograph, if the department decides to  
9 require one.

10           (4) The department may not issue a registry  
11 identification card to any principal officer, board member,  
12 agent, or employee of a nonprofit compassion center who has  
13 been convicted of an excluded felony drug offense. The  
14 department may conduct a background check of each principal  
15 officer, board member, agent, or employee in order to carry  
16 out this provision. The department shall notify the nonprofit  
17 compassion center in writing of the purpose for denying the  
18 registry identification card.

19           (5) Any time one or more compassion center  
20 registration applications are being considered, the department  
21 shall also allow for comment by the public and shall solicit  
22 input from registered qualifying patients, registered primary  
23 caregivers, and the town or city officials where the  
24 applicants would be located.

25           (6) Each time a compassion center certificate is  
26 granted, the decision shall be based upon the overall health

1 needs of qualified patients and the safety of the public,  
2 including, but not limited to, the following factors:

3 a. Convenience to patients from throughout the State  
4 of Alabama to the compassion centers if the applicant were  
5 approved.

6 b. The applicant's ability to provide a steady  
7 supply to the registered qualifying patients in the state.

8 c. The applicant's experience running a nonprofit or  
9 business.

10 d. The interest of qualifying patients regarding  
11 which applicant be granted a registration certificate.

12 e. The interest of the city or town where the  
13 compassion center would be located.

14 f. The sufficiency of the applicant's plans for  
15 record keeping and security which records shall be considered  
16 confidential health care information under Alabama law and are  
17 intended to be deemed protected health care information for  
18 purposes of the Federal Health Insurance Portability and  
19 Accountability Act of 1996, as amended.

20 g. The sufficiency of the applicant's plans for  
21 safety and security, including proposed location, security  
22 devices employed, and staffing.

23 (c) Not later than 120 days after the effective date  
24 of this act, the department shall adopt rules governing the  
25 manner in which it considers applications for and renewals of  
26 registration certificates for nonprofit compassion centers,  
27 including rules governing:

- 1                   (1) The fee for registration.
- 2                   (2) The form and content of registration and renewal
- 3 applications.
- 4                   (3) Minimum oversight requirements for nonprofit
- 5 compassion centers.
- 6                   (4) Minimum record keeping requirements for
- 7 nonprofit compassion centers.
- 8                   (5) Minimum security requirements for nonprofit
- 9 compassion centers.
- 10                  (6) Procedures for suspending or terminating the
- 11 registration of nonprofit compassion centers that violate the
- 12 provisions of this section or the rules adopted pursuant to
- 13 this subsection.
- 14                  (d) A nonprofit compassion center registration
- 15 certificate and the registry identification card for each
- 16 principal officer, board member, agent, or employee expire one
- 17 year after the date of issuance. The department shall issue a
- 18 renewal nonprofit compassion center registration certificate
- 19 and renewal registry identification cards within 10 days to
- 20 any person who complies with the requirements contained in
- 21 subsection (b). A registry identification card of a principal
- 22 officer, board member, agent, or employee expires 10 days
- 23 after notification by a nonprofit compassion center that such
- 24 person ceases to work at the nonprofit compassion center.
- 25                  (e) A nonprofit compassion center is subject to
- 26 reasonable inspection by the department. The department shall
- 27 give reasonable notice of an inspection under this subsection.

1 (f) (1) A nonprofit compassion center must be  
2 operated on a not-for-profit basis for the mutual benefit of  
3 its members and patrons. The bylaws of a nonprofit compassion  
4 center and its contracts with patrons must contain such  
5 provisions relative to the disposition of revenues and  
6 receipts as may be necessary and appropriate to establish and  
7 maintain its nonprofit character. A nonprofit compassion  
8 center need not be recognized as a tax exempt organization  
9 under 26 United States Code, Section 501(c)(3).

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

14 (3) A nonprofit compassion center shall notify the  
15 department in writing of the name, address, and date of birth  
16 of any new principal officer, board member, agent, or employee  
17 and shall submit a fee in an amount established by the  
18 department for a new registry identification card before the  
19 new principal officer, board member, agent, or employee begins  
20 working at the nonprofit compassion center.

21 (4) A nonprofit compassion center shall implement  
22 appropriate security measures to deter and prevent  
23 unauthorized entrance into areas containing marijuana and the  
24 theft of marijuana.

25 (5) The operating documents of a nonprofit  
26 compassion center must include procedures for the oversight of

1 the nonprofit compassion center and procedures to ensure  
2 accurate record keeping.

3 (6) A nonprofit compassion center is prohibited from  
4 acquiring, possessing, cultivating, manufacturing, delivering,  
5 transferring, transporting, supplying, or dispensing marijuana  
6 for any purpose except to assist registered qualifying  
7 patients with the medical use of marijuana directly or through  
8 the registered qualifying patient's other primary caregivers.

9 (7) All principal officers and board members of a  
10 nonprofit compassion center must be residents of the State of  
11 Alabama.

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

14 (g) A nonprofit compassion center or a principal  
15 officer, board member, agent, or employee of a nonprofit  
16 compassion center may not dispense more than two and one-half  
17 ounces of usable marijuana to a qualifying patient or to a  
18 primary caregiver on behalf of a qualifying patient at one  
19 time.

20 (h) (1) A nonprofit compassion center may not be  
21 subject to prosecution, search, seizure, or penalty in any  
22 manner or denied any right or privilege, including, but not  
23 limited to, a civil penalty or disciplinary action by a  
24 business, occupational, or professional licensing board or  
25 entity, solely for acting in accordance with this section to  
26 provide usable marijuana to or to otherwise assist registered  
27 qualifying patients with the medical use of marijuana.

1           (2) Principal officers, board members, agents, and  
2 employees of a registered nonprofit compassion center are not  
3 subject to arrest, prosecution, search, seizure, or penalty in  
4 any manner and may not be deprived any right or privilege,  
5 solely for working for or with a nonprofit compassion center  
6 to provide usable marijuana to or to otherwise assist  
7 registered qualifying patients with the medical use of  
8 marijuana in accordance with this act.

9           (i)(1) A nonprofit compassion center may not possess  
10 more than six mature marijuana plants and six immature  
11 marijuana plants for each registered qualifying patient who  
12 has designated the nonprofit compassion center as a primary  
13 caregiver and designated that the compassion center will be  
14 permitted to cultivate marijuana for the registered qualifying  
15 patient's medical use.

16           (2) A nonprofit compassion center may not dispense,  
17 deliver, or otherwise transfer marijuana to a person other  
18 than a qualifying patient who has designated the nonprofit  
19 compassion center as a primary caregiver or to the patient's  
20 other registered primary caregiver.

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

1           (4) A person who has been convicted of an excluded  
2 felony drug offense as defined in Section 3 of this act may  
3 not be a principal officer, board member, agent, or employee  
4 of a nonprofit compassion center.

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

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

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

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

25           (c) If at any time after the 140 days following the  
26 effective date of this act the department is not accepting  
27 applications or has not adopted rules allowing qualifying

1 patients to submit applications, a notarized statement by a  
2 qualifying patient containing the information required in an  
3 application, pursuant to Section 6, is deemed a valid registry  
4 identification card.

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