

A BILL TO BE ENTITLED
AN ACT

To add Chapter 52 of Title 43 of the Official Code of Georgia Annotated, authorizing the medical use of marijuana only for certain qualifying patients who have been diagnosed by a physician as having a debilitating medical condition. To change existing law to conform to this act.

BE IT ENACTED BY THE LEGISLATURE OF GEORGIA:

Section 1.

To add Chapter 52 of Title 43 of the Official Code of Georgia Annotated, authorizing the medical use of marijuana only for certain qualifying patients who have been diagnosed by a physician as having a debilitating medical condition.

Section 2.

This act may be known and cited as "The Georgia Compassionate Health Care Act."



~~Section 3.~~

(A) Modern medical research has discovered beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

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

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

(D) The United States Department of Health and Human Services, through the Compassionate Investigational New Drug (IND) program, provides marijuana by prescription to a number of individuals for their use as medicine. The marijuana is grown at the federal marijuana research garden at the University of Mississippi and is processed and distributed by the Research Triangle Institute in Research Triangle Park, North Carolina. The patients receive the marijuana monthly in canisters of approximately 300 pre-rolled cigarettes. The dosage for patients in the IND program ranges from seven to nine grams per day. Since the program's inception in 1978, patients in the IND program have received and consumed approximately 6.5 pounds of marijuana per year, thereby establishing a safe and effective dosage for chronic

daily use patients to possess and consume. The IND program was closed to new applicants in 1991.

(E) In 1992, the United States Drug Enforcement Administration (DEA) published research in a report entitled "Cannabis Yields" stating that canopy cover, rather than the number of plants, is the most accurate indicator of a garden's yield. According to the DEA report, 100 square feet of mature garden canopy will typically yield three pounds of processed marijuana per year, a common amount for patients who use marijuana daily, but less than half the amount prescribed in the federal IND patients.

(F) Although federal law currently prohibits any use of marijuana except under very limited circumstances, Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Vermont, Rhode Island, and Washington have removed state-level criminal penalties from the medical use and cultivation of marijuana. Georgia joins in this effort for the health and welfare of its citizens.



~~(G) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the State of Georgia in violation of federal law.~~

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

(I) This act will create a Regulated medical marijuana supply system that will enable those that need medical marijuana will have access to it with full control and accountability by all parties.

(J) This act is intended to make only those changes to existing Georgia laws that are necessary to protect patients and their doctors from criminal and civil penalties and is not intended to change current civil and criminal laws governing the use of marijuana for non-medical purposes.



~~(K) Because Georgia recognizes the value and efficacy of Medical Marijuana, marijuana will be removed from Schedule I and added to Schedule II.~~



(K) Based on data gathered from other states where medical marijuana has been regulated, this act will result in revenues for the State approximately sixty million dollars (\$60,000,000) per year within four years of implementation.



~~(L) The people of the State of Georgia declare that they seek the enactment of this act pursuant to the police power to protect the health of its citizens that is reserved to the State of Georgia and its people under the 10th Amendment to the United States Constitution.~~

Section 4.

As used in this act, the following terms shall have the following meanings:

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

(B) **DEBILITATING MEDICAL CONDITION.** One or more of the following:

(1) Cancer, glaucoma, ~~positive status for human immunodeficiency virus (HIV)~~, acquired immune deficiency syndrome (AIDS), hepatitis C, porphyria, amyotrophic lateral sclerosis (Lou Gehrig's disease or ALS), Crohn's disease, ~~agitation of~~ Alzheimer's disease, nail patella syndrome, Tourette's syndrome, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; anorexia, severe chronic pain, including, but not limited to severe migraines, rheumatoid arthritis, fibromyalgia, neuropathic pain, and phantom pain; severe nausea; seizures, including, but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including, but not limited to, those characteristic of multiple sclerosis (MS), injury or disease to the spinal cord, spinal column, or vertebra; mylomalacia; Celiac disease; or the treatment of such conditions;

(3) Any other medical condition or its treatment approved by the Agency, as provided for in Section 6 (B).



(C) **CIRCUIT COURT.** A Circuit Court of Georgia in Fulton County.

(D) **DEPARTMENT.** The Georgia Composite Medical Board.

(E) **AGENCY.** An agency created by, subject to, and reporting to the Georgia Composite Medical Board for the administration of this act.

(F) **ENCLOSED, LOCKED FACILITY.** A closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by an adult cardholder.

(G) **FELONY DRUG OFFENSE.** A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. It does not include any of the following:

(1) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed 10 or more years earlier.

(2) An offense that consisted of conduct for which this act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this act or was prosecuted by an authority other than the State of Georgia.

(3) An offense of simple possession of marijuana of less than one ounce.



(H) MARIJUANA. The same definition as provided in Section 16-13-21 (16).

(I) MATURE MARIJUANA PLANT. A mature marijuana plant is defined as showing its female sex and having flowers or buds that are readily observable by an unaided visual examination. An immature plant is one in which the sex of the plant cannot be determined or the plant is a male.

(J) USEABLE MARIJUANA. The dried leaves and flowers of a mature female marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food.

(K) ADEQUATE SUPPLY. An amount of usable marijuana possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's designated caregiver that is not more than is reasonably necessary to assure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of qualifying patient's debilitating medical condition and that is derived solely from the intrastate source; provided that an "adequate supply"



(1) Is not more than 24 ounces of usable marijuana, and

(2) Does not exceed a garden with up to 100 square feet of total garden canopy of mature female marijuana plants, if the qualifying patient has not specified a designated caregiver that is allowed under state law to cultivate marijuana for the qualifying patient, and shall be kept in an enclosed, locked facility, unless they are being transported because the qualifying patient is moving or if they are being transported to the qualifying patient's or designated caregiver's property.

If usable marijuana is added as an ingredient to food, salve, tincture, or any other preparation to be consumed or used by a registered qualifying patient, the weight of the other ingredients that are not usable marijuana shall not be included for purposes of determining whether a registered qualified patient possesses more usable cannabis than permitted under this act.

(L) CANOPY. Canopy means the foliage of growing plants; the area shaded by foliage is called its "canopy cover."

(M) MEDICAL USE. The acquisition, possession, cultivation, manufacture, use, delivery, sale, transfer, or transportation of marijuana, marijuana plants, marijuana seed, or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating

medical condition.

(N) PHYSICIAN. An individual who possesses a certificate of qualification issued in his or her behalf by the Georgia Composite Medical Board and a license certificate of registration from the board.

(O) DESIGNATED CAREGIVER. A person who is at least 21 years of age, who has agreed to assist with a qualifying patient's medical use of marijuana, and who has never been convicted of an excluded felony offense. A caregiver may also be a qualifying patient. A designated caregiver may assist no more than **ten** qualifying patients, including themselves, with their medical use of marijuana.

(P) PARENT CAREGIVER. The parent, guardian, or person having legal custody of a person under the age of 18 who has been issued a registration card under Section 7 (B) and serves as one of the qualifying minor patient's designated caregivers.

(Q) QUALIFYING PATIENT. A person who has been diagnosed by a physician as having a debilitating medical condition.

(R) QUALIFYING MINOR PATIENT. A person under the age of 18 who has been issued a registration card under Section 7 (B).

(S) REGISTERED COMPASSION CENTER. A not-for-profit entity registered pursuant to Section 10 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses usable marijuana, marijuana plants, or marijuana seeds, or related supplies including paraphernalia and educational materials to cardholders, caregivers, and other compassion centers. A registered compassion center may receive monetary compensation for all expenses incurred in its operation.

(T) REGISTERED DESIGNATED CAREGIVER. A designated caregiver who is registered with the Agency pursuant to Section 7.

(U) REGISTERED QUALIFYING PATIENT. A qualifying patient who is registered with the Agency pursuant to Section 7.

(V) REGISTRY IDENTIFICATION CARD. A document issued by the Agency that identifies a person as a registered qualifying patient, registered designated caregiver, or a registered principal officer, board member, employee, volunteer, or agent of a registered compassion center.

(W) VISITING QUALIFYING PATIENT. A patient with a debilitating medical condition who is not a resident of the State of Georgia or who has been a resident of the State of Georgia for less than 30 days and qualifies in another state as a Medical Marijuana patient. A qualifying patient of another state who is establishing residency in Georgia has 90 days to acquire a Georgia registration card.

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

(Y) REGULATED MEDICAL MARIJUANA SUPPLY SYSTEM or "system" means the method authorized by rules adopted by the Agency for producing and distributing marijuana to registry identification cardholders and the individuals and nonprofit entities licensed to produce and distribute marijuana to registry identification cardholders.

Section 5.



(A) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, or forfeiture, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this act as long as the qualifying patient possesses an adequate supply of marijuana.

(B) A designated caregiver, other than a nonprofit compassion center, who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, or forfeiture, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom the designated caregiver is connected through the Agency's registration process with the medical use of marijuana in accordance with this act as long as the designated caregiver possesses an adequate supply of marijuana for each qualifying patient.



(C) Any incidental amount of immature plants, seeds, stalks, and unusable roots must be allowed and may not be included in the amounts specified in this section.

(D) A law enforcement officer, or agent designated by the Agency, who determines that a qualifying patient, designated caregiver, or compassion center is in possession of amounts of usable marijuana or is maintaining a garden of marijuana plants in excess of the amount or size authorized by this act may confiscate only any usable marijuana or plants that are in excess of the amount authorized.

(E) A qualified patient or a designated caregiver shall be granted the full legal protection provided in this section if the patient or caregiver is in possession of a registry identification card. There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana in accordance with this act if the qualifying patient or designated caregiver:

(1) Is in possession of a registry identification card.

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

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

(F) Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or applying for the registry identification card, or otherwise subject the person or his property to inspection by

any governmental agency.

(FG) A registered cardholder shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, or forfeiture, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for giving an amount of marijuana the person is allowed to possess under subsection (A) or (B) to a cardholder for the registered qualifying patient's medical use when nothing of value is transferred in return or for offering to do the same.

~~(H) If the qualified patient or designated caregiver is not in possession of a registry identification card, the patient or caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated. If arrested for possession of an amount of marijuana that does not exceed the allowable amount or is charged with this, the qualifying patient or designated caregiver shall be released from custody and the charges dismissed upon production of a valid registry identification card issued in the person's name.~~

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

(J) Licensed nursing facilities and boarding care homes may adopt reasonable restrictions on the use of medical marijuana by their residents. The restrictions may include a provision that the facility will not store or maintain a patient's supply of medical marijuana, that the caregivers or the hospice agencies serving the residents are not responsible for providing the medical marijuana for qualifying patients, that medical marijuana be consumed in a method other than smoking, and that medical marijuana be consumed only in a place specified by the facility. Nothing contained herein, however, shall require the facilities to adopt such restrictions and no facility shall unreasonably limit a qualifying patient's access to or use of medical marijuana.

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

(L) For the purposes of **medical care**, including organ transplants, a registered qualifying patient's authorized use of marijuana shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance.

(M) A registered designated caregiver may receive monetary or other compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana as long as the registered designated caregiver is connected to the registered qualifying patient through the Agency's registration process. Any such compensation shall not constitute the sale of controlled substances. Compensation costs may include, but are not limited to, rent and

furnishings, utilities, mileage and travel expenses, cost of supplies and materials, cost of security, record-keeping expenses, and registration fees.

(N) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, or forfeiture, including, but not limited to, civil penalty or disciplinary action by the Georgia Composite Medical Board or by any other business or occupational or professional licensing board or bureau,

(1) solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition except that nothing prevents a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions, or

(2) advising a patient about the risks and benefits of medical use of marijuana or that the patient may benefit from the medical use of marijuana where such use is in the individual physician's medical judgment, or

(3) Providing a patient with valid documentation, based upon the physician's assessment of the patient's medical history and current medical condition, that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular patient.

(O) A practitioner nurse or pharmacist shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau for discussing the benefits or health risks of medical marijuana or its interaction with other substances with a patient.

(P) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, or forfeiture, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered designated caregiver with **marijuana paraphernalia** for purposes of a qualifying patient's medical use of marijuana.

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

(R) Any interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana, or acts incidental to such use, shall not be harmed, neglected, injured, or destroyed while in the possession of State or local law enforcement officials where such property has been seized in connection with the claimed medical use of marijuana. Any such property interest shall not be forfeited under any provision of State law providing for the

forfeiture of property other than as a sentence imposed after conviction of a criminal violation of this act or entry of a plea of guilty to such offense. Marijuana, paraphernalia or other property seized from a qualified patient, designated caregiver, or compassion center in connection with the claimed medical use of marijuana shall be returned immediately upon the determination by a court or prosecutor that the qualified patient, designated caregiver, or compassion center is entitled to the protections of the provisions of this act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges, or acquittal.



~~(S) A person shall not be subject to:~~


~~(1) arrest, prosecution, forfeiture, or seizure, or penalty in any manner, including, but not limited to, constructive possession, conspiracy, aiding and abetting, or being an accessory, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this act, or for assisting a registered qualifying patient with using or administering marijuana, or~~

~~(2) penalty in any manner, or denied any right or privilege, or forfeiture, or seizure, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this act, or for assisting a registered qualifying patient with using or administering marijuana.~~


(T) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marijuana by a visiting qualifying patient, or to permit a person to assist with a qualifying patient's medical use of marijuana, has the same force and effect as a registry identification card issued by the Agency.

Section 6.

(A) The Agency may adopt rules in accordance with the Georgia Administrative Procedure Act to carry out the purposes of this act.



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



(C) Not later than 120 days after the effective date of this act, the Agency shall adopt rules that govern the manner in which it considers applications for renewals of registry identification cards. The Agency's rules must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this act. The Agency may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The Agency may accept donations from private sources in order to reduce the application and renewal fees of indigent qualifying patients.

Section 7.

(A) The Agency shall issue registry identification cards to qualifying patients who submit the following documents and information described in this subsection, in accordance with the Agency's rules:

- (1) Written certification.
- (2) Application or renewal fee.
- (3) Name, address, and date of birth of the qualifying patient.
- (4) Name, address, and telephone number of the qualifying patient's physician.
- (5) Name, address, and date of birth of each designated caregiver, if any, of the qualifying patient.
- (6) If the qualifying patient designates one or two designated caregivers, a designation as to who will be allowed under state law to cultivate marijuana plants for the qualifying patient's medical use. Only one person may be allowed to cultivate marijuana plants for a qualifying patient at any one time.
- ~~(7) If the first designated caregiver is unable to supply the qualifying patient an adequate supply of marijuana, the qualifying patient may switch to the secondary caregiver after notifying the Agency in writing as to the change. The Agency will issue notification to the first and second caregivers as to the change within ten days.~~



(B) The Agency may not issue a registry identification card to a qualifying patient who is under 18 years of age unless:

- (1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient.
- (2) The parent, guardian, or person having legal custody consents in writing to:
 - (a) Allow the qualifying patient's medical use of marijuana.
 - (b) Serve as one of the qualifying patient's designated caregivers.
 - (c) Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying patient.

(C) The Agency shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 30 days of

receiving it. The Agency may deny an application or renewal only if the applicant did not provide the information required pursuant to this section or the Agency determines that the information provided was falsified. Rejection of an application or renewal is considered a final Agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court.

(E) The Agency shall issue registry identification cards to qualifying patients within five days of approving an application or renewal under this section. Registry identification cards expire **two** years after the date of issuance. Registry identification cards must contain the following:

- (1) The name, address, and date of birth of the qualifying patient.
- (2) A photograph, if the Agency decides to require one.
- (3) The date of issuance and expiration date of the registry identification card.
- (4) A random identification number that is unique to the cardholder.

(D) The Agency shall issue a registry identification card to each designated caregiver, if any, who is named in a qualifying patient's approved application pursuant to subdivision (5) of subsection (A).

(1) Only one designated caregiver may cultivate marijuana for the qualifying patient's medical use, who is determined based solely on the qualifying patient's preference. That person may either be the qualifying patient or one of the two designated caregivers.

(2) The Agency shall issue registry identification cards to designated caregivers within five days of approving an application or renewal under this section. Registry identification cards expire **two** years after the date of issuance. Registry identification cards must contain the following:

- (a) The name, address, and date of birth of the designated caregiver.
- (b) A photograph, if the Agency decides to require one.
- (c) The date of issuance and expiration date of the registry identification card.
- (d) A random identification number that is unique to the cardholder.
- (e) A clear designation showing the cardholder is allowed under this act to cultivate marijuana plants for the qualifying patient's medical use, which must be determined based solely on the qualifying patient's preference.

(3) The Agency shall issue documentation to the designated caregiver showing each registered qualifying patient that the designated caregiver is allowed to provide for.

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

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

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

(3) A registered designated caregiver shall notify the Agency of any change in the caregiver's name or address within 10 days of such change. A registered designated caregiver who fails to notify the Agency of any of these changes commits a civil violation for which a fine of not more than one hundred fifty dollars (\$150) may be adjudged.

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

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

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



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

(H) If an individual being investigated by a law enforcement officer employed by a State-funded or locally funded law enforcement agency credibly asserts during the course of the investigation that he or she is a registered qualifying patient or registered designated caregiver, neither the law enforcement officer nor the law enforcement agency shall provide any information, except as required by federal law of the United States Constitution, from any marijuana-related investigation of the person to any law enforcement authority that does not recognize the protection of this act. Any prosecution of the individual for a violation of this act shall be conducted pursuant to the laws of this State.

(I) This subsection governs confidentiality.

(1) Applications and supporting information submitted by qualifying patients under this act, including information regarding their designated caregivers and physicians, are confidential.

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

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

(4) The Agency shall verify to law enforcement personnel whether a registry identification card is valid solely by confirming the random registry identification number.

(5) No court shall issue a warrant or subpoena for multiple Agency records. A warrant or subpoena may be issued for the records of a single, identified person.

(6) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$1,000) fine, for any person, including an employee or official of the Agency, the department, or another state Agency or local government, to breach the confidentiality of information obtained pursuant to this section.

(6) Where any law enforcement agency arrests an individual who, during the course of the investigation, asserts that he or she is a qualifying patient or designated caregiver, the law enforcement agency shall not provide any information from the investigation to any law enforcement authority that does not recognize the protection of this act.

(7) Notwithstanding this subsection, Agency employees may notify law enforcement about falsified or fraudulent information submitted to the Agency as long as the employee who suspects that falsified or fraudulent information has been submitted

confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.

(J) Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this act shall have that cardholder's registry identification card revoked and is liable for any other penalties for the sale of marijuana. The Agency may revoke the registry identification card of any cardholder who violates this act, and the cardholder is liable for any other penalties for the violation.

(K) The Agency shall submit to the Legislature an annual report that does not disclose any identifying information about cardholders or physicians, but does contain, at a minimum:

- (1) The number of applications and renewals filed for registry identification cards.
- (2) The number of qualifying patients and designated caregivers approved in each county.
- (3) The nature of the debilitating medical conditions of the qualifying patients.
- (4) The number of registry identification cards revoked.
- (5) The number of physicians providing written certifications for qualifying patients.
- (6) The number of registered compassion centers.
- (7) The number of principal officers, board members, employees, and agents of compassion centers.

Section 8.

(A) This act does not permit a person to do the following:

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

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

(a) In a school bus or other form of public transportation.

(b) On the grounds of any preschool or primary or secondary school, except

(i) a parent caregiver may possess a suitable amount necessary for the medical treatment of a registered qualifying minor patient.

(ii) Treatment of a registered qualifying minor patient may be performed by the parent caregiver on school grounds in a controlled and secure environment provided by school officials.

(c) In any correctional facility, except

(i) if the inmate has a prior debilitating medical condition, was a registered qualifying patient, and the correctional facility physician recommends continued treatment.

(ii) Treatment of a qualifying inmate will be in a controlled and secure environment provided by correctional facility officials and performed by an attending correctional facility physician.

(iii) The correctional facility physician will be registered as a caregiver and is authorized to receive a quantity of medical marijuana from the inmate's designated caregiver that will be used in the treatment of the inmate. The correctional facility physician will keep detailed records of the treatments and the amounts used.

(3) Smoke marijuana in any public place.

(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorized boat, or vessel, or sailboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence solely for having marijuana metabolites in his or her system.

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

(6) Where exposure to the marijuana smoke significantly, adversely affects the health, safety, or welfare of children.

(B) This act may not be construed to require the following:

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

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

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

Section 9.

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

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

(2) The qualifying patient and the qualifying patient's designated caregiver, if any, were collectively in possession of an adequate supply of marijuana.

(3) The qualifying patient and the qualifying patient's designated caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, sale, transfer, or transportation of marijuana, marijuana plants, marijuana seed, or paraphernalia relating to the administration of marijuana solely to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

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

(C) If a qualifying patient or a qualifying patient's designated caregiver demonstrates the qualifying patient's medical purpose for using marijuana pursuant to this section, the qualifying patient and the qualifying patient's designated caregiver may not be subject, for the qualifying patient's medical use of marijuana, to any state sanction, including the following:

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

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

(D) It is unlawful for an employer to discriminate against a person in hiring, termination or any term or condition of employment or otherwise penalize a person if the discrimination is based on:

(1) The status of the person as a registry identification cardholder; or

(2) A positive drug test for marijuana if the person is a registered identification cardholder and the medical use of marijuana does not occur on the property or premises of the place of employment or during the hours of employment.

(E) The prohibition established by this section does not apply to an person employed in a safety-sensitive position. As used in this section, 'safety-sensitive position' means a position in which:

(1) The medical use of marijuana could affect the performance of the employee and endanger the health and safety of others;

(2) The duties involve a greater than normal level of trust, responsibility for or impact on the health and safety of others;

(3) Errors in judgment, inattentiveness, or diminished coordination, dexterity, or composure while performing the duties of the position could clearly result in mistakes that would endanger the health and safety of others; and

(4) The employee works independently, or performs tasks of a nature that it cannot safely be assumed that mistakes such as those described in this subsection could be prevented by a supervisor or another employee.

(G) Nothing in this section prohibits an employer from terminating the employment of, or taking other corrective action against, an employee who is impaired on the property or premises of the place of employment or during the hours of employment, because of the medical use of marijuana.

(H) Any violation of this section by an employer is an unlawful employment practice.

(1) Complaints alleging a violation of this section may be filed by an employee with the Commissioner of the Department of Labor. The commissioner shall enforce this section in the manner provided in O.C.G.A. Title 34 for the enforcement of other unlawful employment practices.

(2) Any person claiming to be aggrieved by a violation of this section may bring a civil action in the manner provided in O.C.G.A. Title 34.

Section 10.

(A) All provisions of this act pertaining to a designated caregiver apply to a nonprofit compassion center unless they conflict with a provision contained in this section.

(B) This subsection governs the registration of a nonprofit compassion center.

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

(a) A reasonable fee paid to the Agency in the amount established by the Agency.

(b) The legal name of the nonprofit compassion center.

(c) The physical address of the nonprofit compassion center and the physical address of any additional locations, if any, where marijuana will be cultivated by the compassion center.

(d) The name, address, and date of birth of each principal officer and board member of the nonprofit compassion center.

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

(2) The Agency shall track the number of registered qualifying patients who designate a nonprofit compassion center as a designated caregiver and issue to each nonprofit compassion center a written statement of the number of qualifying patients who have designated the nonprofit compassion center to cultivate marijuana for them. This statement must be updated each time a new registered qualifying patient designates the nonprofit compassion center or ceases to designate the nonprofit compassion center and may be transmitted electronically if the Agency's rules so provide. The Agency may provide by rule that the updated written statements may not be issued more frequently than once each week.

(3) The Agency shall issue each principal officer, board member, agent, and employee of a nonprofit compassion center a registry identification card within 10 days of receipt of the person's name, address, and date of birth under subparagraph (A) and a fee in an amount established by the Agency.

Each card must specify that the cardholder is a principal officer, board member, agent, or employee of a nonprofit compassion center and must contain the following:

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

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

(c) A random identification number that is unique to the cardholder.

(d) The date of issuance and expiration date of the registry identification card.

(e) A photograph, if the Agency decides to require one.

(4) The Agency may not issue a registry identification card to any principal officer, board member, agent, or employee of a nonprofit compassion center who has been convicted of a felony drug offense. The Agency may conduct a background check of each principal officer, board member, agent, or employee in order to carry out this provision. The Agency shall notify the nonprofit compassion center in writing of the purpose for denying the registry identification card.

(C) Not later than 120 days after the effective date of this act, the Agency shall adopt rules governing the manner in which it considers applications for and renewals of registration certificates for nonprofit compassion centers, including rules governing:

(1) The fee for registration.

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

(3) Minimum oversight requirements for nonprofit compassion centers.

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

(5) Minimum security requirements for nonprofit compassion centers.

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

(D) A nonprofit compassion center registration certificate and the registry identification card for each principal officer, board member, agent, or employee expire one year after the date of issuance. The Agency shall issue a renewal nonprofit compassion center registration certificate and renewal registry identification cards within 10 days to any person who complies with the requirements contained in subsection (B). A registry identification card of a principal officer, board member, agent, or employee expires 10 days after notification by a nonprofit compassion center that such person ceases to work at the nonprofit compassion center.

(E) A nonprofit compassion center is subject to reasonable inspection by the Agency or its designated agent. The Agency shall give reasonable notice of an inspection under this

subsection.

(F) This subsection governs the operations of nonprofit compassion centers.

(1) A nonprofit compassion center must be operated on a not-for-profit basis for the mutual benefit of its members and patrons. The bylaws of a nonprofit compassion center and its contracts with patrons must contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit character. Any such revenues and receipts shall not constitute the sale of controlled substances. Revenues and receipts may include such compensation for, but are not limited to, rent and furnishings, employee wages, utilities, mileage, travel expenses, cost of supplies and materials, growing expenses, cost of security, record-keeping expenses, and registration fees. A nonprofit compassion center need not be recognized as a tax exempt organization under 26 United States Code, Section 501(c)(3).

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

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

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

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

(6) Each time a new registered qualifying patient visits a compassion center, it shall provide the patient with frequently asked questions designed by the Agency, which explains the limitations on the right to use medical marijuana under state law;

(7) Each compassion center shall develop, implement, and maintain on the premises employee and agent policies and procedures to address the following requirements:

(a) A job description or employment contract developed for all employees and a volunteer agreement for all volunteers, which includes duties, authority, responsibilities, qualification, and supervision; and

(b) Training in and adherence to state confidentiality laws; and

(c) Shall maintain a personnel record for each employee and each volunteer that includes an application for employment or to volunteer and a record of any disciplinary action taken; and

(d) Shall develop, implement, and maintain on the premises on-site training curriculum, or enter into contractual relationships with outside resources capable of meeting employee training needs, which includes, but is not limited to, the following topics:

(i) Professional conduct, ethics, and patient confidentiality; and

(ii) Informational developments in the field of medical use of marijuana; and

(e) Shall provide each employee and each volunteer, at the time of his or her initial appointment, training in the following:

(i) The proper use of security measures and controls that have been adopted; and

(ii) Specific procedural instructions on how to respond to an emergency, including robbery or violent accident; and

(f) Shall prepare training documentation for each employee and have employees sign a statement indicating the date, time, and place the employee received said training and topics discussed, to include name and title of presenters. The compassion center shall maintain documentation of an employee's and a volunteer's training for a period of at least six (6) months after termination of an employee's employment or the volunteer's volunteering.

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

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

(8) All cultivation of marijuana must take place in an enclosed, locked facility. The facility shall be located in an area zoned for business or agriculture.

(G) A nonprofit compassion center or a principal officer, board member, agent, or employee of a nonprofit compassion center may not dispense more than **six** ounces of usable marijuana to a qualifying patient or to a designated caregiver on behalf of a qualifying patient at one time.

(H) This subsection governs immunity for a nonprofit compassion center.

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

(2) Principal officers, board members, agents, and employees of a registered nonprofit compassion center may not be subject to arrest, prosecution, search, seizure, forfeiture, or penalty in any manner or denied any right or privilege, including, but not limited to, a civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, solely for working for or with a nonprofit compassion center to provide usable marijuana to or to otherwise assist registered qualifying patients to whom the nonprofit compassion center is connected through the Agency's registration process with the medical use of marijuana in accordance with this act.

(I) The prohibitions in this subsection apply to a nonprofit compassion center.

(1) A nonprofit compassion center may not possess more than an adequate supply for each registered qualifying patient who has designated the nonprofit compassion center as a designated caregiver and designated that the compassion center will be permitted to cultivate marijuana for the registered qualifying patient's medical use.

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

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

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

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

(J) This act does not prohibit a political subdivision of the State of Georgia from limiting the

number of nonprofit compassion centers that may operate in the political subdivision or from enacting reasonable zoning regulations applicable to nonprofit compassion centers. A political subdivision must allow at least one nonprofit compassion center within its control.

Section 11.

(A) If the Agency fails to adopt rules to implement this act within 120 days of the effective date of this act, a qualifying patient may commence an action in the circuit court to compel the Agency to perform the actions mandated pursuant to the provisions of this act.

(B) If the Agency fails to issue a valid registry identification card or a registration certificate in response to a valid application or renewal submitted pursuant to this act within 45 days of its submission, the registry identification card or registration certificate is deemed granted, and a copy of the registry identification application or renewal is deemed a valid registry identification card.

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

Section 12.

(A) The Agency will establish reciprocal agreements with other states that allow medical marijuana to allow Georgia qualifying patients the same rights and privileges as a qualifying patient of the other state.

(B) (1) The Agency shall assist and approve training materials for the Georgia Peace Officer Standards and Training Council (P.O.S.T.) in regard to this act.

(2) P.O.S.T. will have 180 days after this act goes into effect to have training materials and a training program finalized.

(3) After this act has been in effect for one year, any law enforcement agency in the State of Georgia that has not implemented the P.O.S.T. training in regard to this act, shall be fined \$1000.00 per week until a training program is implemented. The fines shall be assigned to the P.O.S.T. operating account.

Section 13.

~~(A) Where reasonable articulable suspicion invokes a probable cause arrest for the violation of Driving Under the Influence OCGA 40-6-391, and upon presentation of a registration card for a registered qualified patient, the chemical testing for marijuana as indicated in OCGA 40-5-55, shall not apply. Testing for other chemicals and drugs, such as alcohol, will remain in effect.~~

~~(B) Where subsection (A) is applicable, testing for effect-based Driving Under the Influence will be applied. The Department of Public Safety will develop effect-based tests.~~


Section 14.

(A) Repeal OCGA § 16-13-25 (3)(P). Add to OCGA § 16-13-26 the definition of "Tetrahydrocannabinols."


(B) Repeal OCGA § 16-13-30.6 (b); Repeal O.C.G.A. § 16-13-32; Repeal O.C.G.A. § 16-13-32.1; Repeal O.C.G.A. § 16-13-32.2; Remove "marijuana or" from O.C.G.A. § 16-11-134 (a) (3); Remove "For the purposes of this Code section, the term "controlled substance" shall include marijuana as defined by paragraph(16) of Code Section 16-13-21." from O.C.G.A. § 16-13-1 (a)(1); Repeal O.C.G.A. § 16-13-30 (j)(1);

(C) O.C.G.A. § 48-15-4 shall apply to all marijuana in this act.

Section 15.



(A) Anyone who falsifies information to a physician or the Agency in order to obtain a registration card shall be guilty of a felony and imprisoned for no less than 1 year and a \$5,000 fine for each individual offense.



(B) Any Federal agent, confidential informant, or person who receives any compensation, monetary or not, who knowing violates the rights of a registered qualifying patient, a registered qualifying patient's designated caregiver, or registered principal officers, board members, agents, and employees of a registered nonprofit compassion center in the performance of acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana, or a visiting qualifying patient shall be guilty of a felony and imprisoned for no less than 5 years and a \$50,000 fine for each individual offense.

Section 16.

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

Notes not part of the bill but are included for understanding:

O.C.G.A. § 16-13-21 Definitions

(16) "Marijuana" means all parts of the plant of the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include samples as described in subparagraph(P) of paragraph(3) of Code Section 16-13-25 and shall not include the completely defoliated mature stalks of such plant, fiber produced from such stalks, oil, or cake, or the completely sterilized samples of seeds of the plant which are incapable of germination.

O.C.G.A. § 16-13-25 Schedule I

(3) (P) Tetrahydrocannabinols which shall include, but are not limited to:

- (i) All synthetic or naturally produced samples containing more than 15 percent by weight of tetrahydrocannabinols; and
- (ii) All synthetic or naturally produced tetrahydrocannabinol samples which do not contain plant material exhibiting the external morphological features of the plant cannabis;

§ 16-13-30.6. Prohibition on purchase and sale of marijuana flavored products

(a) As used in this Code section, the term:

(1) "Marijuana flavored product" means any product, including lollipops, gumdrops, or other candy, which is flavored to taste like marijuana or hemp. The term shall include, but is not limited to, "Chronic Candy," "Kronic Kandy," or "Pot Suckers."

(2) "Minor" means any person under the age of 18 years.

(3) "Person" means any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, limited liability company, joint venture, joint stock association, or other entity or business organization of any kind.

(b) The General Assembly finds and determines that:

(1) According to the "2004 Monitoring the Future Study" conducted by the University of Michigan, 16.3 percent of eighth graders, 35.1 percent of tenth graders, and 45.7 percent of twelfth graders reported using marijuana at least once during their lifetimes;

(2) According to a 2002 Substance Abuse and Mental Health Service Administration report, "Initiation of Marijuana Use: Trends, Patterns and Implications," the younger children are when they first use marijuana, the more likely they are to use cocaine and heroin and become drug dependent as adults;

(3) Marijuana abuse is associated with many negative health effects, including frequent respiratory infections, impaired memory and learning, increased heart rate, anxiety, and panic attacks;

(4) Marijuana users have many of the same respiratory problems that are associated with tobacco use;

(5) According to the "2001 National Household Survey on Drug Abuse," marijuana is the nation's most commonly used illicit drug, and more than 83,000,000 Americans aged 12 and older have tried marijuana at least once;

(6) Use of marijuana has been shown to lower test scores among high school students, and workers who smoke marijuana are more likely to have problems on their jobs;

(7) Federal, state, and local governments spend millions of dollars annually on programs educating people about the hazards of drugs, and the marketing of marijuana flavored substances would have an adverse impact upon these programs;

(8) The sale of marijuana flavored products, including lollipops and gum drops, which claim "every lick is like taking a hit" is a marketing ploy that perpetuates an unhealthy culture and



should not be permitted in the State of Georgia;

(9) Marijuana flavored products are a threat to minors in the State of Georgia because such products give the false impression that marijuana is fun and safe;

(10) Marijuana flavored products packaged as candy or lollipops falling into the hands of unsuspecting minors may serve as a gateway to future use of marijuana and other drugs; and

(11) Merchants who sell marijuana flavored products are promoting marijuana use and creating new customers for drug dealers in the State of Georgia. Therefore, the purpose of this Code section is to prohibit the purchase and sale of marijuana flavored products to minors in the State of Georgia.

(c) It shall be unlawful for any person knowingly to sell, deliver, distribute, or provide to a minor or knowingly possess with intent to sell, deliver, distribute, or provide to a minor any marijuana flavored product in the State of Georgia.

(d) It shall be unlawful for any minor falsely to represent to any person that such minor is 18 years of age or older with the intent to purchase or otherwise obtain any marijuana flavored product.

(e) Any person who violates subsection (c) of this Code section shall be guilty of a misdemeanor and shall be subject to a fine of \$500.00 for each offense. Each sale in violation of this Code section shall constitute a separate offense.



TITLE 48. REVENUE AND TAXATION
CHAPTER 15. EXCISE TAX ON MARIJUANA AND CONTROLLED SUBSTANCES

§ 48-15-2. Definitions

As used in this chapter, the term:

- (1) "Commissioner" means the state revenue commissioner.
- (2) "Controlled substance" shall have the same meaning as defined in paragraph (4) of Code Section 16-13-21 and shall mean any drug, substance, or immediate precursor, whether real or counterfeit, that is held, possessed, transported, transferred, sold, or offered for sale in violation of the laws of this state.
- (3) "Marijuana" shall have the same meaning as defined in paragraph (16) of Code Section 16-13-21 and shall mean any marijuana, whether real or counterfeit, that is held, possessed, transported, transferred, sold, or offered for sale in violation of the laws of this state.

§ 48-15-3. Imposition of tax

- (a) There is imposed, in addition to all other applicable taxes, a state excise tax upon each use, possession, consumption, storage, or transfer of marijuana or any controlled substance.
- (b) The tax imposed by this Code section shall apply regardless of whether the substance exists in solid, liquid, or gaseous form and regardless of the degree of purity of the substance. Each person who uses, possesses, consumes, stores, or transfers a substance identified in this Code section shall be liable for the tax imposed by this Code section.

§ 48-15-4. Exemption

Nothing in this chapter shall require persons who are lawfully in possession of marijuana or a controlled substance under a valid medical prescription or a licensed pharmacist or medical practitioner licensed to dispense marijuana or any controlled substance to pay the tax required under this chapter when such person, pharmacist, or practitioner is lawfully using, possessing, consuming, storing, or transferring such marijuana or controlled substance.

§ 48-15-6. Tax rates

A tax is imposed on marijuana and controlled substances as defined in Code Section 48-15-2 at the following rates:

- (1) On each gram of marijuana, or each portion of a gram, \$3.50;

(2) On each gram of controlled substance, or portion of a gram, \$200.00; and

(3) On each ten dosage units of a controlled substance that is not sold by weight, or portion thereof, \$400.00.

State by state medical marijuana limits, in order of highest to lowest possession limits (if states were tied, the tiebreaker went to the state that allowed greater mature plant cultivation):

California – People v. Kelly, Case No. S164830 California Supreme Court, stated that any limits are unconstitutional. The new standard is ‘whatever is reasonable for the patient’s needs.’

Washington – 15 plants (any size). There is a 24 ounce possession limit per patient.

Oregon – 24 plants (only 6 mature). There is a 24 ounce possession limit per patient.

New Mexico – 16 plants (only 4 mature). There is a 6 ounce possession limit per patient.

Michigan – 12 plants (any size), but they have to be in an enclosed, locked facility (no outdoor cultivation). There is a 2.5 ounce possession limit per patient.

Rhode Island – 12 plants (any size; can’t be outdoors). There is a 2.5 ounce possession limit per patient.

Maine – 6 plants (only 3 mature). There is a 2.5 ounce possession limit per patient.

Vermont – 9 plants (only 2 mature). There is a 2 ounce possession limit per patient.

Colorado – 6 plants (only 3 mature). There is a 2 ounce possession limit per patient.

Hawaii – 7 plants (only 3 mature). There is a 1 ounce possession limit per patient.

Nevada – 7 plants (only 3 mature). There is a 1 ounce possession limit per patient.

Montana – 6 plants (any size). There is a 1 ounce possession limit per patient.

Alaska – 6 plants (only 3 mature). There is a 1 ounce possession limit per patient.

New Jersey – Patients are not allowed to grow their own marijuana; they are allowed to purchase medical marijuana via state licensed dispensaries, and possess up to 1 ounce. State licensed dispensaries are tentatively scheduled to begin in 2010.