

HOUSE BILL NO. 748

INTRODUCED BY M. CAFERRO

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MARIJUANA POSSESSION AND PURCHASE LIMITS FOR REGISTERED CARDHOLDERS; AND AMENDING SECTION 16-12-515, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-12-515, MCA, is amended to read:

"16-12-515. Legal protections -- allowable amounts. (1) (a) A registered cardholder who has elected to obtain marijuana and marijuana products through the system of licensed cultivators, manufacturers, or dispensaries may:

(i) possess up to ~~4-ounce~~ 5 ounces of usable marijuana; and

(ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than ~~4-ounce~~ 5 ounces of usable marijuana a day.

(b) (i) A registered cardholder may petition the department for an exception to the monthly limit on purchases. The request must be accompanied by a confirmation from the physician who signed the cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an amount exceeding the monthly limit.

(ii) If the department approves an exception to the limit, the approval must establish the monthly amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-sale tracking system.

(2) Except as provided in 16-12-108 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts

1 allowed under this section; or

2 (b) the registered cardholder acquires or uses marijuana.

3 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any
4 right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical
5 examiners or the department of labor and industry, solely for providing written certification for a patient with a
6 debilitating medical condition.

7 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
8 professional licensing board or the department of labor and industry if:

9 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

10 (b) a physician violates the standard of care or other requirements of this part.

11 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
12 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
13 of the use of marijuana and marijuana products as permitted under this part.

14 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the
15 vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana in
16 excess of the amounts otherwise provided in this chapter and is not a registered cardholder.

17 (6) Possession of or application for a registry identification card does not alone constitute probable
18 cause to search the person or individual or the property of the person or individual or otherwise subject the
19 person or individual or property of the person or individual possessing or applying for the card to inspection by
20 any governmental agency, including a law enforcement agency.

21 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
22 individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a
23 criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card
24 after an arrest or the filing of a criminal charge.

25 (8) (a) A registered cardholder is presumed to be engaged in the use of marijuana as allowed by
26 this part if the person:

27 (i) is in possession of a valid registry identification card; and

28 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under

1 this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition and exceeded the allowable amount of marijuana otherwise provided for in this part."

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