

SENATE FILE NO. SF0044

Medical marihuana.

Sponsored by: Senator(s) Goodenough

A BILL

for

1 AN ACT relating to public health and safety; authorizing  
2 the use of marihuana for medical purposes as specified;  
3 excepting medical use of marihuana from prosecution;  
4 providing for a confidential registry of patients;  
5 authorizing registration identification cards;  
6 reclassifying marihuana as a schedule II controlled  
7 substance; providing criminal penalties as specified;  
8 providing definitions; authorizing the department of health  
9 to make rules and set fees; and providing for an effective  
10 date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 35-7-1060 and 35-7-1601 through  
15 35-7-1613 are created to read:

16

17 **35-7-1060. Exception to provisions.**

1

2 The provisions and penalties of this act shall not apply to  
3 the medical use of marihuana when used in accordance with  
4 the provisions of W.S. 35-7-1601 through 35-7-1613.

5

6

## ARTICLE 16

7

## MEDICAL USE OF MARIHUANA

8

9

**35-7-1601. Definitions.**

10

11 (a) As used in this act:

12

13 (i) "Adequate supply" means an amount of  
14 marihuana collectively possessed between the patient and  
15 the patient's primary caregiver that is not more than  
16 medically necessary as defined under W.S. 35-7-1610;

17

18 (ii) "Debilitating medical condition" means:

19

20 (A) Cancer, glaucoma, positive status for  
21 human immunodeficiency virus, acquired immune deficiency  
22 syndrome or the treatment of these conditions;

23

1 (B) A chronic or debilitating disease or  
2 medical condition or its treatment that produces one (1) or  
3 more of the following: cachexia or wasting syndrome;  
4 severe pain; severe nausea; seizures, including those  
5 characteristic of epilepsy; or severe and persistent muscle  
6 spasms, including those characteristic of multiple  
7 sclerosis or Crohn's disease; or

8  
9 (C) Any other medical condition or its  
10 treatment approved by the department, as provided for in  
11 W.S. 35-7-1602.

12  
13 (iii) "Department" means state department of  
14 health;

15  
16 (iv) "Marihuana" means as defined by W.S.  
17 35-7-1002(a)(xiv);

18  
19 (v) "Medical use" means the acquisition,  
20 possession, cultivation, use, transfer, transportation of  
21 marihuana or paraphernalia relating to the administration  
22 of marihuana to alleviate the symptoms or effects of a  
23 qualifying patient's debilitating medical condition. For  
24 the purposes of "medical use," the term "transfer" is

1 limited to the transfer of marihuana and paraphernalia  
2 between a primary caregiver and patient;

3

4 (vi) "Patient" means a person who has been  
5 diagnosed by a physician as having a debilitating medical  
6 condition;

7

8 (vii) "Physician" means a person who is licensed  
9 pursuant to W.S. 33-26-301 et seq.;

10

11 (viii) "Primary caregiver" means a person who is  
12 at least eighteen (18) years old and who has agreed to  
13 undertake responsibility for managing the well-being of a  
14 patient with respect to the medical use of marihuana;

15

16 (ix) "Registry identification card" means a  
17 document issued by the department that identifies a patient  
18 authorized to engage in the medical use of marihuana and  
19 identifies the patient's primary caregiver, if any has been  
20 designated;

21

22 (x) "Written certification" means the patient's  
23 medical records or a statement signed by a physician,  
24 stating that in the physician's professional opinion, after

1 having completed a full assessment of the patient's medical  
2 history and current medical condition made in the course of  
3 a bona fide physician-patient relationship, the patient has  
4 a debilitating medical condition and the potential benefits  
5 of the medical use of marihuana would likely outweigh the  
6 health risks for the patient;

7

8 (xi) "This act" means W.S. 35-7-1601 through  
9 35-7-1613.

10

11 **35-7-1602. Addition of debilitating medical**  
12 **conditions.**

13

14 On or before July 1, 2004, the department shall promulgate  
15 regulations governing the manner in which it will consider  
16 petitions submitted by physicians or patients to add  
17 debilitating medical conditions to those included in this  
18 act. In considering the petitions, the department shall  
19 include public notice of, and an opportunity to comment in  
20 a public hearing upon, the petitions. The department  
21 shall, after hearing, approve or deny the petitions within  
22 one hundred eighty (180) days of submission. The approval  
23 or denial of the petition shall be considered a final  
24 agency action, subject to judicial review.

1

2           **35-7-1603. Exemption from criminal and civil**  
3 **penalties for the medical use of marihuana.**

4

5           (a) A patient who has in his possession a registry  
6 identification card shall not be subject to arrest,  
7 prosecution or penalty in any manner for the medical use of  
8 marihuana, provided the quantity of marihuana does not  
9 exceed an adequate supply.

10

11           (b) Subsection (a) of this section shall not apply to  
12 a patient under the age of eighteen (18) years, unless:

13

14           (i) The patient's physician has explained the  
15 potential risks and benefits of the medical use of  
16 marihuana to the patient and to a parent, guardian or  
17 person having legal custody of the patient; and

18

19           (ii) A parent, guardian or person having legal  
20 custody consents in writing to:

21

22           (A) Allow the patient's medical use of  
23 marihuana;

24

1 (B) Serve as the patient's primary  
2 caregiver;

3

4 (C) Control the acquisition of the  
5 marihuana, the dosage and the frequency of the medical use  
6 of marihuana by the patient; and

7

8 (D) Submit an application for a registry  
9 identification card to the department and upon approval,  
10 retain possession of the registry identification card.

11

12 (c) When the acquisition, possession, cultivation,  
13 transportation or administration of marihuana by a patient  
14 is not practicable, the legal protections established by  
15 this act for a qualifying patient shall extend to the  
16 patient's primary caregivers, provided that the primary  
17 caregivers' actions are necessary for the patient's medical  
18 use of marihuana.

19

20 (d) A physician shall not be subject to arrest or  
21 prosecution, penalized in any manner or denied any right or  
22 privilege for providing written certification for the  
23 medical use of marihuana to patients.

24

1           (e) Any property interest that is possessed, owned or  
2 used in connection with the medical use of marihuana or  
3 acts incidental to the use shall not be harmed, neglected,  
4 injured or destroyed while in the possession of state or  
5 local law enforcement officials, provided that law  
6 enforcement agencies seizing live plants as evidence shall  
7 not be responsible for the care and maintenance of  
8 marihuana plants. Any property interest shall not be  
9 forfeited under any provision of state or local law  
10 providing for the forfeiture of property other than as a  
11 sentence imposed after conviction of a criminal offense or  
12 entry of a plea of guilty to a criminal offense.  
13 Marihuana, paraphernalia or other property seized from a  
14 patient or primary caregiver in connection with the claimed  
15 medical use of marihuana shall be returned immediately upon  
16 the determination by a court or prosecutor that the patient  
17 or primary caregiver is entitled to the protections of this  
18 act, as may be evidenced by a decision not to prosecute,  
19 the dismissal of charges or an acquittal.

20

21           (f) The provisions and penalties of the Wyoming  
22 Controlled Substance Act of 1971 shall not apply to the  
23 medical use of marihuana when used in accordance with the  
24 provisions of this act.



1

2 (g) No person shall be subject to arrest or  
3 prosecution for "constructive possession," "conspiracy" or  
4 any other offense for simply being in the presence or  
5 vicinity of the medical use of marihuana as permitted under  
6 this act.

7

8 **35-7-1604. Confidential registry and the**  
9 **identification card.**

10

11 (a) The department shall create and maintain a  
12 confidential registry of patients who have applied for and  
13 are entitled to receive a registry identification card  
14 according to the criteria set forth in this act. The  
15 department may determine and levy reasonable fees to cover  
16 any costs for the administration of this act.

17

18 (b) Except for authorized employees of the  
19 commissioner in the course of their official duties and  
20 except as provided in subsection (c) of this section, no  
21 person shall be permitted access to any information about  
22 patients in the registry or any information about physicians  
23 and primary caregivers. All information contained in the  
24 registry shall remain confidential.

1

2 (c) Authorized state or local law enforcement officers  
3 who have stopped or arrested a person who claims to be  
4 engaged in the medical use of marijuana and is in possession  
5 of a registry identification card issued under this act  
6 shall be permitted to verify that the person who presented  
7 the registry identification card is lawfully in possession  
8 of the card.

9

10 (d) Any person who releases or makes public any  
11 confidential record or any confidential information  
12 contained in the record that is provided to or by the  
13 confidential registry under this act without the written  
14 authorization of the registry patient is guilty of a  
15 misdemeanor punishable by imprisonment for not more than one  
16 (1) year, a fine of not more than one thousand dollars  
17 (\$1,000.00), or both.

18

19 **35-7-1605. Registry; requirements and application.**

20

21 (a) To be placed on the registry, a patient shall  
22 reside in Wyoming and submit the completed application form  
23 approved by the department, including the following  
24 information:

1

2 (i) The original or a copy of written  
3 certification stating that the patient has been diagnosed  
4 with a debilitating medical condition and the physician's  
5 conclusion that the patient might benefit from the medical  
6 use of marijuana;

7

8 (ii) The name, address, date of birth and social  
9 security number of the patient;

10

11 (iii) The name, address and telephone number of  
12 the patient's physician; and

13

14 (iv) The name and address of the patient's  
15 primary caregiver, if one is designated at the time of  
16 application.

17

18 (b) Within thirty (30) days of receiving the  
19 application, the department shall verify the medical  
20 information contained in the patient's written  
21 documentation.

22

23 **35-7-1606. Application denied.**

24

1           (a) The department shall notify the applicant that the  
2 application for a registry identification card has been  
3 denied if the documentation discloses that information has  
4 not been provided or has been falsified; the documentation  
5 fails to state that the patient has a debilitating medical  
6 condition or the physician does not have a license to  
7 practice medicine in Wyoming.

8

9           (b) A patient whose application has been denied by the  
10 department may not reapply during the six (6) months  
11 following the date of the denial. The denial of a registry  
12 identification card shall be considered a final agency  
13 action. Only the patient whose application has been denied  
14 shall have standing to contest the agency action.

15

16           **35-7-1607. Application approved; registry**  
17 **identification card issued.**

18

19           (a) Not more than five (5) days after verifying the  
20 information, the department shall issue one (1) serially  
21 numbered registry identification card to the patient,  
22 stating:

23

1           (i) The patient's name, address, date of birth  
2 and social security number;

3

4           (ii) That the patient's name has been certified  
5 to the department as a person who has a debilitating medical  
6 condition and the medical use of marihuana may be  
7 beneficial;

8

9           (iii) The date of issuance and expiration of the  
10 registry identification card. The registry identification  
11 card shall expire one (1) year from the date of issuance;  
12 and

13

14           (iv) The name and address of the patient's  
15 primary caregiver, if any is designated at the time of  
16 application.

17

18           **35-7-1608. Application deemed approved.**

19

20 If the department fails to issue a registry identification  
21 card within thirty-five (35) days of receipt of an  
22 application or fails to issue verbal or written notice that  
23 the application has been denied, the patient's application  
24 for the card shall be deemed to have been approved. Receipt

1 shall be deemed to have occurred upon delivery to the  
2 department or deposit in the United States mail. A patient  
3 who is questioned by any state or local law enforcement  
4 official about his medical use of marihuana shall provide a  
5 copy of the submitted application, including the written  
6 certification and proof of the date of mailing or delivery  
7 to the department, which shall be accorded the same legal  
8 effect as a registry identification card, until the patient  
9 receives notice that the application has been denied.

10

11 **35-7-1609. Additional requirements; renewal.**

12

13 (a) The patient shall notify the department within ten  
14 (10) days of any change in the name, address, physician or  
15 primary caregiver of a patient who has a registry  
16 identification card. A patient who does not designate a  
17 primary caregiver at the time of application to the  
18 department may do so in writing at any time during the  
19 effective period of the registry identification card, and  
20 the primary caregiver may act in this capacity after such  
21 designation.

22

23 (b) To maintain an effective registry identification  
24 card, a patient shall annually resubmit, at least thirty

1 (30) days prior to the expiration date stated on the  
2 registry identification card, an updated written  
3 certification to the department, including the name and  
4 address of the patient's primary caregiver, if any is  
5 designated.

6

7 (c) A patient who no longer has a debilitating medical  
8 condition shall return the registry identification card to  
9 the department within twenty-four (24) hours of receiving a  
10 diagnosis by his physician.

11

12 **35-7-1610. Adequate supply; limitations.**

13

14 (a) A patient may engage in the medical use of  
15 marihuana with an adequate supply, but no more marihuana  
16 than is medically necessary to address a debilitating  
17 medical condition. A patient's medical use of marihuana,  
18 within the following limits, is lawful:

19

20 (i) No more than two (2) ounces of marihuana; and

21

22 (ii) No more than six (6) marihuana plants, with  
23 three (3) or fewer being mature, flowering plants that are  
24 producing marihuana.

1

2 (b) For quantities of marihuana in excess of these  
3 amounts, a patient or his primary caregiver may raise as an  
4 affirmative defense against a criminal charge that the  
5 greater amounts were medically necessary to address the  
6 patient's debilitating medical condition.

7

8 **35-7-1611. Prohibitions, restrictions and limitations**  
9 **regarding the medical use of marihuana.**

10

11 (a) The authorization for the medical use of  
12 marihuana in this act shall not apply to:

13

14 (i) The medical use of marihuana that endangers  
15 the health or well being of another person, such as driving  
16 or operating heavy machinery while under the influence of  
17 marihuana;

18

19 (ii) The use of marihuana by a patient, primary  
20 caregiver or any other person for purposes other than  
21 medical use permitted by this act; or

22

23 (iii) The smoking of marihuana:

24



1 (A) In a school bus, public bus or other  
2 public vehicle;

3

4 (B) In the workplace of one's employment;

5

6 (C) On any school grounds;

7

8 (D) In any correctional facility;

9

10 (E) At any public park, public beach,  
11 public recreation center or youth center.

12

13 (b) Insurance coverage shall not be required for the  
14 medical use of marihuana.

15

16 (c) Notwithstanding any law to the contrary,  
17 fraudulent representation to a law enforcement official of  
18 any fact or circumstance relating to the medical use of  
19 marihuana to avoid arrest or prosecution shall be a  
20 misdemeanor and subject to a fine of not more than five  
21 hundred dollars (\$500.00). This penalty shall be in  
22 addition to any other penalties that may apply for the  
23 nonmedical use of marihuana.

24

1           **35-7-1612. Establishing a defense in court for**  
2 **patients and primary caregivers.**

3

4           (a) A patient or primary caregiver may assert the  
5 medical use of marihuana as a defense to any prosecution  
6 involving marihuana, and this defense shall be presumed  
7 valid where the evidence shows that:

8

9           (i) The patient's medical records indicate, or a  
10 physician has stated that, in the physician's professional  
11 opinion, after having completed a full assessment of the  
12 patient's medical history and current medical condition  
13 made in the course of a bona fide physician-patient  
14 relationship, the potential benefits of the medical use of  
15 marihuana would likely outweigh the health risks for the  
16 patient;

17

18           (ii) The patient and the patient's primary  
19 caregiver were collectively in possession of a quantity of  
20 marihuana that does not exceed an adequate supply.

21

22           **35-7-1613. Severability of this act.**

23

1 If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, the invalidity  
3 does not affect other provisions or applications of the act  
4 which can be given effect without the invalid provision or  
5 application, and to this end the provisions of this act are  
6 severable.

7

8 **Section 2.** W.S. 35-7-1002(a) (xxviii) and 35-7-1016(g)  
9 by creating a new paragraph (iii) are amended to read:

10

11 **35-7-1002. Definitions.**

12

13 (a) As used in this act:

14

15 (xxviii) "This act" means W.S. 35-7-1001 through  
16 ~~35-7-1059~~ 35-7-1060.

17

18 **35-7-1016. Substances included in Schedule II.**

19

20 (g) Hallucinogenic substances:

21

22 (iii) Marihuana.

23

24 **Section 3.** W.S. 35-7-1014(d) (xiii) is repealed.

1

2           **Section 4.** On or before July 1, 2004, the department  
3 of health shall develop and make available to residents of  
4 Wyoming an application form for persons seeking to be listed  
5 on the confidential registry of patients. The department  
6 shall also enact rules of administration, including but not  
7 limited to rules governing the establishment and  
8 confidentiality of the registry, the verification of medical  
9 information, the issuance and form of registry  
10 identification cards, and communications with law  
11 enforcement officials about registry identification cards.

12

13           **Section 5.** This act is effective July 1, 2003.

14

15

(END)