



S.226; An Act Relating to Safe Access to Marijuana for Therapeutic Use Compassion Centers: Medical Marijuana Dispensaries

Vermont law, enacted in 2004, exempts seriously ill Vermonters from state arrest or prosecution for the medical use of marijuana, in private, if they are registered with the Department of Public Safety. About 200 seriously ill Vermonters are registered under that law.

Safe, reliable access to marijuana for therapeutic use is a problem. Patients shouldn't have to buy it on the criminal market – a difficult, expensive, and dangerous proposition. A patient can grow a few plants under the current law, but that option is unrealistic for seriously ill people physically unable to tend to cultivation of a plant that takes upwards of 3 months to grow.

S.226 would allow for the strict regulation of up to five state-regulated medical marijuana dispensaries. This would provide safe, reliable access to cannabis for patients registered with the state. It would remove the criminal market from the equation for these seriously ill patients.

There are currently 14 states with medical marijuana laws. About half of those state's have medical marijuana dispensaries,. There are generally two types of medical marijuana dispensary laws: highly regulated or poorly regulated. CA and CO are examples of states without statewide, well run regulations or strict limits on patient qualifications (unlike VT where patient qualification standards are strict). NM was the first state to adopt a statewide, strict regulation approach. RI, NJ and ME recently joined NM to enable state regulated dispensaries.

S.226 proposes a strict, statewide regulatory system that ensures the Dept of Health and the State Police have serious oversight in this area.

99% of marijuana law enforcement is conducted by state and local officials, making state law the key to protecting patients from arrest. Further, while medical marijuana dispensaries remain technically illegal under federal law, as of Oct 2009, Department of Justice policy is to not pursue anyone in compliance with state law.

Here are the main provisions of S.226:

Compassion Centers Allowed Activity

- Grow and dispense a limited amount of marijuana to registered patients, or their caregivers [4475(a)(1)(A)]
- Acquire seeds or starter plants from registered patients or other in-state Compassion Centers [4475(a)(1)(B)]
- Cultivation and Possession Limitations:
 - If dispensing to over 14 designated patients, the limits are 7 immature and 2 mature plants + two ounces of usable marijuana per patient [4475(a)(2)]. These limits track the current state law's protected amounts for individual patients growing or possessing on their own.
 - If dispensing to less than 14 designated patients (ex. start up period), the limits are 98 immature, 28 mature, and 28 usable ounces of marijuana [4475(a)(2)]
- Cultivation must take place in a locked, secure location either at the Compassion Center's principal place of business or at a separate, secure location. [4475(i)(5)]. The location of an off-site, secured facility to cultivate marijuana is confidential information but must be disclosed to the DoH, the DPS and local law enforcement agencies. [4475(c)(4)(C)].
- Must be operated on a nonprofit basis for the mutual benefit of its patients [4475(f)(1)]
- Must be operated by people without any past convictions for drug-related offenses or violent felonies [4475(b)(2)] and who do not have a criminal record history that the DPS determines poses a threat to public safety [4475(c)(7)-(8)].
- Must be operated in strict compliance with security, record-keeping, employment practice, and marijuana handling requirements set out in the Bill and developed further through rulemaking by the DoH and the DPS.
- Cannot acquire marijuana on the black market and resell to patients [4475(f)(7)(B)]

Dept of Health Oversight

- Governance Rulemaking [4475(b)(1)]
 - Minimum oversight
 - Record-keeping
 - Security requirements including alarm systems
 - Advertising restrictions
- Compassion Center Approval
 - No more than 5 allowed in Vermont [4475(b)(2)(6)]
 - DoH develop competitive application process
 - Conditions for Approval
 - Fingerprinting and criminal history records show applicant does not pose a threat to public safety [4475(b)(2) and (c)(1)(E)]
 - Compliance with security, record-keeping, proven business experience, etc [4475(c)(3)]
- Compassion Center Inspection
 - DoH inspects for compliance with the law [4475(e)]

Dept of Public Safety Oversight

- Background Checks and Approval of All Persons Operating a Center
 - No person may operate or be an employee, agent or volunteer for a compassion center without a DPS issued identification card. An identification card is obtained by submitting finger prints to the DPS and gaining prior approval from the DPS. DPS may deny a person permission to be involved with the running of a compassion center if they determine the person has been convicted of a drug related offense, a violent felony or there is other evidence in a criminal history record check demonstrating they pose a threat to public safety. [4475(c)(7)-(8)].
- Track and Match Number of Patients Designating Each Compassion Center
 - The amount of marijuana a compassion center may cultivate and possess is linked to the number of patients designating that dispensary as the one serving their needs. The DPS medical marijuana patient registry will track which, if any, compassion center a registered patient designates and notify the compassion center on a monthly basis the number and identities of the patients it may serve. [4475(c)(5)-(6)].

- Knowledge of All Involved with the Compassion Center and All Locations
 - Existing law gives DPS the authority to approve or deny a patient applying for registration in the medical marijuana law, subject to conditions in the statute.
 - This bill would extend that prior approval authority to everyone involved with running a compassion center. DPS would have monthly database tracking of every patient designating a compassion center for their medical marijuana. DPS would have total knowledge of any location growing marijuana in affiliation with compassion center.

Fees

- \$250 non-refundable Compassion Center application fee
- \$5,000 Compassion Center registration fee, renewed biannually.

Location

- Municipalities can enact ordinances banning, governing or restricting compassion centers [4475(j)]
- As a default for more strict local regulations, a compassion center may not be located within 1000 feet of a school [4475(f)(2)]

MAJOR SENATE GOVERNMENT OPERATIONS COMMITTEE REVISIONS TO BILL

*Reduction of the number of dispensaries to no more than 5

*Expansion of the provisions banning involvement by people with criminal history

*A ban on the sale of marijuana purchased on the criminal market

*Clarification that a dispensary may only get starter seeds or plants from registered patients or other Vermont compassion centers

*Removal of a limit on the notice required before a state inspection of a dispensary

*Removal of limits on local zoning regulation of medical marijuana dispensaries and increasing the minimum distance a compassion center can be located relative to schools.

*Expansion of the government officials given notice of a medical marijuana dispensary cultivation location, if it is separate from the principal place of business, to include all local, county and state law enforcement agencies.

ABOUT THE EXISTING MEDICAL MARIJUANA LAW: UNCHANGED

- The law **makes a strict distinction between medical and inappropriate use of marijuana.** Patients are still subject to arrest for all public use or display of marijuana.
- Individual patient cultivation of the limited authorized amount is only exempted if grown in a private, locked and secure indoor facility.
- The law defining the people eligible for protection under this statute is UNCHANGED. Existing law says only people with a debilitating medical condition may use marijuana. A “Debilitating medical condition” means:

(A) cancer, acquired immune deficiency syndrome (AIDS), positive status for human immunodeficiency virus (HIV), multiple sclerosis (MS), or the treatment of these conditions if the disease or the treatment results in severe, persistent, and intractable symptoms;

or

(B) a disease, medical condition, or its treatment that is chronic, debilitating and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome, severe pain or nausea or seizures.

- To qualify for the state medical use law exemption, a patient must be validly registered with the Dept of Public Safety. To become validly registered, a patient would submit their treating doctor's medical records to the DPS. This doctor must be someone that has personally cared for the patient for at least six months. If the DPS successfully verifies the patient's compliance with the strict state law standards, they will issue the patient a registry identification card.
- There are strict penalties in the bill to sanction anyone that makes false statements in their application for registration or to the police about their registration status.
- If necessary, a patient may designate one person to be the caregiver voluntarily registered to help them with their medical marijuana use. Caregivers can assist only one patient, and in order to do so must have a criminal record free of drug-related convictions.
- The law makes clear a treating doctor is not breaking state law when they make confidential treatment findings in a patient's medical record relating to the standards of the medical use law.
- To ensure the law is both strictly and simply enforced, the Health Dept would maintain a confidential database of those registered in the program. Law enforcement would have 24 hour access to the database to verify whether a patient they encounter or are investigating is validly registered.