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Chairman Vincent C. Gray

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Councilmember David A. Catania

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Councilmember Phil Mendelson

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A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Chairman Gray, and Councilmembers Catania and Mendelson introduced the following bill,  
which was referred to the Committee on \_\_\_\_\_.

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To amend the Legalization of Marijuana for Medical Treatment Initiative of 1998 to define key terms; to limit the use of marijuana for medicinal purposes to qualifying patients; to require written recommendation from one’s primary physician as a condition for the medicinal use of marijuana; to clarify who may lawfully manufacture, possess, distribute, or use marijuana; to clarify how a primary caregiver may be designated; to limit the distribution of marijuana for medicinal purposes to registered dispensaries; to require the parent or guardian of a minor that is using marijuana for medicinal purposes to control the minor’s use; and to require the Mayor to issue rules to regulate the manufacture, possession, distribution, and use of marijuana for medicinal purposes.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Legalization of Marijuana for Medical Treatment Initiative Amendment Act of 2010”.

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Sec. 2. The Legalization of Marijuana for Medical Treatment Initiative of 1998, transmitted on December 21, 2009 (D.C. Act 13-138) is amended as follows:

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(a) A new Section 2a is added to read as follows:

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“Sec. 2a. Definitions. 1

“For purposes of this act, the term: 2

“(1) “Department” means Department of Health for the District of Columbia. 3

“(2) “Medical supply” means the quantity of marijuana that is determined pursuant to 4  
section 10(a)(1)(E) of this act. 5

“(3) “Primary physician” means a physician who maintains in good standing a license to 6  
practice medicine in the District of Columbia who has primary responsibility for the care and 7  
treatment of the qualifying patient. 8

“(4) “Qualifying patient” means a person who is registered by the Department of Health 9  
pursuant section 10(a)(1)(A)(i) of this act.”. 10

(b) Section 2 is amended to read as follows: 11

“Sec. 2. Permissible Use of Marijuana for Medicinal Purposes. 12

“All qualifying patients have the right to obtain and use marijuana for medical purposes 13  
when his or her primary physician has provided a written recommendation that bears his or her 14  
signature and license number asserting that the use of marijuana to be medically necessary for the 15  
patient for the treatment of a qualifying medical condition or to mitigate the side effects of a 16  
qualifying medical treatment.”. 17

(c) Section 3 is amended to read as follows: 18

“Sec. 3. Exemption to the Uniform Controlled Substances Act, Defenses. 19

“(a) Qualifying patients who use marijuana for medicinal purposes; primary caregivers 20  
who obtain marijuana for such patients; and other person authorized to manufacture, possess, and 21  
distribute marijuana for medical purposes by this act do not violate the District of Columbia 22

Uniform Controlled Substances Act of 1981, effective August 5, 1981 (DC Law 4-29; DC Code 1  
33-501 et seq.) ("Controlled Substances Act") and are not subject to criminal prosecution or 2  
sanction, provided that they are in compliance with this act and the rules created under this act. 3

“(b) The use of marijuana under the authority of this act shall not be a defense to any crime 4  
of violence, the crime of operating a motor vehicle while impaired or intoxicated, or a crime 5  
involving danger to another person or to the public, nor shall such use negate the mens rea for any 6  
offense. 7

“(c) Whoever distributes marijuana cultivated, distributed or intended to be distributed or 8  
used pursuant to this act to any person not entitled to possess or distribute marijuana under this act 9  
shall be guilty of a crime and subject to the penalty set forth in section 401(a)(2)(D) of the 10  
Controlled Substances Act (DC Code 33-541(a)(2)(D)).” 11

(d) Section 4 is repealed. 12

(e) Section 5 is amended to read as follows: 13

“Sec. 5. Protection of Physicians from Sanction. 14

“Notwithstanding any other law, no physician shall be punished, or denied any right, 15  
privilege or registration for recommending, while acting in the course of his or her professional 16  
practice, the use of marijuana for medical purposes. In any proceeding in which rights or defenses 17  
created by this act are asserted, a physician called as a witness shall be permitted to testify before 18  
a judge, in camera. Such testimony, when introduced in a public proceeding, if the physician 19  
witness so requests, shall have redacted the name of the physician and the court shall maintain the 20  
name and identifying characteristics of the physician under seal.” 21

(e) Section 6 is amended to read as follows: 22

“Sec. 6. Scope of Exemption from Criminal Sanction.

“(a) Any District law prohibiting the possession of marijuana or cultivation of marijuana shall not apply to a qualifying patient, a qualifying patient's primary caregiver, or other persons authorized to manufacture, distribute, or possess marijuana medical marijuana by this act provided that he or she is in compliance with this act and the rules created under this act. The exemption for cultivation shall apply only to marijuana specifically grown to provide a medical supply for a patient, and not to any marijuana grown for any other purpose.

“(b) The prohibition in the Controlled Substances Act against the manufacture, distribution, cultivation, or possession with intent to manufacture, distribute, or cultivate, or against possession, of marijuana shall not apply to a registered dispensary or an employee of a registered dispensary established pursuant to this act, provided that the registered dispensary and registered employee is in compliance with this act.”.

(e) Section 7 is amended to read as follows:

“Sec. 7. Designation of Primary Caregivers.

“(a) A qualifying patient may designate one licensed health care practitioner, spouse, domestic partner, case manager/worker, or close friend, parent, sibling, child, or other close relative, to serve as a primary caregiver to assist the qualifying patient’s medicinal use of marijuana for the purposes of this act. The qualifying patient must register the primary caregiver with the Department in compliance with the requirements of section 10 of this act.

“(b) For the purposes of this section, “close friend” means a friend who is feeding, nursing, bathing, or otherwise caring for the qualifying patient while the qualifying patient is in a weakened condition.”.

(f) Section 8 is repealed. 1

(g) Section 9 is amended to read as follows: 2

“Sec. 9. Application to Minors. 3

“(a) The exemption from prosecution for distribution of marijuana under this act shall not 4  
apply to the distribution of marijuana to any person under 18 years of age unless that person is an 5  
emancipated minor, or a parent or legal guardian of the minor has signed a written statement that 6  
such parent or legal guardian: 7

“(1) Understands the medical condition of the minor; 8

“(2) Understands the potential benefits and potential adverse effects of the use of 9  
marijuana generally and in the case of the minor; 10

“(3) Consents to the use of marijuana for the treatment of the minor's medical 11  
condition; and 12

“(4) Either consents to serve as the primary caregiver or designates a person over 13  
the age of 18 to serve as the primary caregiver. The primary caregiver for a minor shall control 14  
the acquisition, possession, dosage, and frequency of use of marijuana by the minor qualifying 15  
patient . 16

“(b) Violation of this section shall be subject to the penalties of the Controlled Substances 17  
Act.”. 18

(h) Section 10 is amended to read as follows: 19

“Sec. 10. Rulemaking. 20

“The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement this act. The rules shall:

“(1) Create a closed system for the manufacture, distribution, and use of medical marijuana including the following:

“(A) Require the following persons to register with the Department which shall issue to each eligible person a registry identification card that can be used by law enforcement to confirm whether a person is authorized to manufacture, distribute, possess, or use marijuana for medical purposes:

“(i) Qualifying patients;

“(ii) Primary caregivers; and

“(iii) Employees of registered dispensaries;

“(B) Require each dispensary to register with the Department, provided that:

“(i) No more than 5 dispensaries may register to conduct business in the District;

“(ii) No person with a midemeanor conviction for a drug-related offense or felony conviction shall own or work for a registered dispensary; and

“(iii) No dispensary is located within 1,000 feet of a school or youth center.

“(C) Require each owner and employee of a dispensary to register with the Department;

“(D) Require each qualifying patient to register which dispensary from which he or she will receive his or her medical marijuana;

“(E) Determine what quantity of marijuana constitutes an adequate medical supply of marijuana for a 30 day period and prohibit dispensaries from dispensing more than that quantity to any qualifying patient in any given 30 day period;

“(F) Determine what quantity of marijuana a dispensary is permitted to manufacture to ensure that it will be able to provide its patients with an adequate medical supply of marijuana for the qualifying patients registered to receive marijuana from the dispensary.

“(G) Determine the quantity of marijuana a dispensary may manufacture in order to provide an adequate medical supply to the number of qualifying patients that the Department anticipates will register in the near future to receive marijuana from each dispensary.

“(H) Prohibit dispensaries from manufacturing more than that quantity of marijuana described in subparagraphs (F) and (G);

“(I) Require dispensaries to maintain detailed and accurate medical records that specify at least the following:

“(i) The quantity of marijuana the dispensary sold, to whom, and on what date;

“(ii) The quantity of medical marijuana the dispensary manufactured;

“(iii) How the dispensary disposed of any marijuana that was manufactured but not purchased by a qualifying patient, including evidence of the disposal of the marijuana.

“(J) Require each dispensary to have and implement a security plan to prevent the

theft or diversion of marijuana, including maintaining all marijuana in a secure, locked room that is accessible only to authorized persons.

“(K) Create a framework for regulation and enforcement of the rules, including frequent unannounced inspections of each dispensary to ensure that dispensaries are in compliance with all applicable laws and rules. Any violations of criminal law discovered during an inspection shall be reported to local law enforcement authorities.

“(L) Revoke the registration of any dispensary that violates the rules or provisions of this act.

“(M) Set a registration and renewal fees for qualifying patients, as well as a sliding scale fee system for qualifying patients experiencing financial hardship based on the qualifying patient’s family income. The fees collected shall be applied toward the cost of administering this act.

“(N) Set a registration and renewal fee for dispensaries that shall be sufficient to offset the expenses related to administering this act.

“(2) Establish a list of qualifying medical conditions, which are the medical conditions that result in a medical necessity for the medicinal use of marijuana, and a list of qualifying medical treatments, which are a list of medical treatments which have side effects that result in a medical necessity for the medicinal use of marijuana. In order to be a qualifying medical condition or a qualifying medical treatment, the medical condition or the side effects of the medical treatment shall:

“(A) Be chronic or long-lasting,

“(B) Be debilitating or interfere with the basic functions of life, and be either:



“(i) Produce intractable pain which does not respond to ordinary medical or surgical measures, or

“(ii) Be a serious medical condition that cannot be effectively treated by any ordinary medical or surgical measure.

“(3) Require registered dispensaries to regularly distribute to all qualifying patients information created by the Department to education qualifying patients and their caregivers about potential harmful drug interactions while using marijuana for medicinal purposes and the importance of communicating one’s use of marijuana to one’s health care providers, including one’s pharmacist, in order to prevent harmful drug interactions.

“(4) Provide for the safe and affordable distribution of marijuana to all qualifying patients who are unable to afford to purchase a sufficient supply of medical marijuana with their current family income and existing resources.”.

Sec. 3. Applicability.

Section 2(a)-(g) shall not apply until the Mayor has issued rules in accordance with section 2(h) of this act.

Sec. 4. Fiscal Impact Statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, as amended, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective Date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

provided in section 602(c)(1) of the District of Columbia Home Rule Act, as amended, approved 1  
December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the 2  
District of Columbia Register. 3