

CANNABIS-BASED MEDICINE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill enacts and amends provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows an individual with a qualifying illness to possess and use cannabis-based medicine under certain circumstances;
- ▶ modifies the membership of the Controlled Substances Advisory Committee; and
- ▶ directs the Controlled Substances Advisory Committee to report on which illnesses should be considered a qualifying illness for treatment with cannabis-based medicine.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-38a-201, as last amended by Laws of Utah 2011, Chapter 60

58-38a-203, as last amended by Laws of Utah 2011, Chapters 12 and 340

ENACTS:

58-37-3.6, Utah Code Annotated 1953

58-38a-203.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-37-3.6** is enacted to read:

58-37-3.6. Exemption for possession or use of cannabis-based medicine.

(1) As used in this section:

33 (a) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

34 (b) "Cannabis-based medicine" means a product intended for human ingestion that:

35 (i) contains an extract or concentrate that is obtained from cannabis;

36 (ii) is prepared in a medicinal dosage form as required by Section 4-42-602; and

37 (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

38 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

39 (d) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
40 description in Subsection 58-37-4(2)(a)(iii)(AA).

41 (2) Notwithstanding any other provision of this chapter:

42 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
43 the penalties described in this title for the growth, possession, sale, or offer for sale of
44 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
45 or offer for sale of cannabis otherwise complies with state law regulating cannabis-based
46 medicine;

47 (b) an individual who possesses, sells, or offers to sell cannabis-based medicine is not
48 subject to the penalties described in this title for the possession, sale, or offer for sale of
49 marijuana or tetrahydrocannabinol to the extent that the individual's possession, sale, or offer
50 for sale of cannabis-based medicine otherwise complies with state law regulating
51 cannabis-based medicine; and

52 (c) an individual who possesses, sells, or offers to sell cannabis-based medicine is not
53 subject to the penalties described in this title for the possession, sale, or offer for sale of
54 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth,
55 possession, sale, or offer for sale of cannabis-based medicine otherwise complies with state law
56 regulating cannabis-based medicine.

57 Section 2. Section **58-38a-201** is amended to read:

58 **58-38a-201. Controlled Substances Advisory Committee.**

59 There is created within the Division of Occupational and Professional Licensing the
60 Controlled Substances Advisory Committee. The committee consists of:

61 (1) the director of the Department of Health or the director's designee;

62 (2) the State Medical Examiner or the examiner's designee;

63 (3) the commissioner of the Department of Public Safety or the commissioner's

64 designee;

65 (4) one physician who is a member of the Physicians Licensing Board and is
66 designated by that board;

67 (5) one pharmacist who is a member of the Utah State Board of Pharmacy and is
68 designated by that board;

69 ~~[(6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board
70 and is designated by that board;]~~

71 ~~[(7) one physician who is currently licensed and practicing in the state, to be appointed
72 by the governor;]~~

73 ~~[(8)]~~ (6) one psychiatrist who is currently licensed and practicing in the state, to be
74 appointed by the governor;

75 ~~[(9)]~~ (7) one individual with expertise in substance abuse addiction, to be appointed by
76 the governor;

77 ~~[(10)]~~ (8) one representative from the Statewide Association of Prosecutors, to be
78 designated by that association;

79 ~~[(11) one naturopathic physician who is currently licensed and practicing in the state,
80 to be appointed by the governor;]~~

81 ~~[(12)]~~ (9) one advanced practice registered nurse who is currently licensed and
82 practicing in this state, to be appointed by the governor; ~~[and]~~

83 (10) two medical research professionals with expertise in controlled substances,
84 including one medical research professional who is affiliated with a research-based higher
85 education institution;

86 (11) one representative of the Utah Chiefs of Police Association; and

87 ~~[(13)]~~ (12) one member of the public, to be appointed by the governor.

88 Section 3. Section **58-38a-203** is amended to read:

89 **58-38a-203. Duties of the committee.**

90 (1) The committee serves as a consultative and advisory body to the Legislature
91 regarding:

92 (a) the movement of a controlled substance from one schedule or list to another;

93 (b) the removal of a controlled substance from any schedule or list; ~~[and]~~

94 (c) the designation of a substance as a controlled substance and the placement of the

95 substance in a designated schedule or list[-]; and

96 (d) the designation of a medical condition as a qualified illness for treatment using
97 cannabis-based medicine as described in Subsection 58-38a-203.1(1).

98 (2) On or before September 30 of each year, the committee shall submit to the Health
99 and Human Services Interim Committee a written report:

100 (a) describing any substances recommended by the committee for scheduling,
101 rescheduling, listing, or deletion from the schedules or list by the Legislature; ~~and~~

102 (b) containing the report described in Subsection 58-38a-203.1(1); and

103 ~~[(b)]~~ (c) stating the reasons for the recommendation.

104 (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a
105 substance, the committee shall consider:

106 (a) the actual or probable abuse of the substance, including:

107 (i) the history and current pattern of abuse both in Utah and in other states;

108 (ii) the scope, duration, and significance of abuse;

109 (iii) the degree of actual or probable detriment to public health which may result from
110 abuse of the substance; and

111 (iv) the probable physical and social impact of widespread abuse of the substance;

112 (b) the biomedical hazard of the substance, including:

113 (i) its pharmacology, including the effects and modifiers of the effects of the substance;

114 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,

115 whether controlled or not, and the degree to which it may cause psychological or physiological
116 dependence; and

117 (iii) the risk to public health and the particular susceptibility of segments of the
118 population;

119 (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of
120 a substance that is currently a controlled substance;

121 (d) the current state of scientific knowledge regarding the substance, including whether
122 there is any acceptable means to safely use the substance under medical supervision;

123 (e) the relationship between the use of the substance and criminal activity, including
124 whether:

125 (i) persons engaged in illicit trafficking of the substance are also engaged in other

126 criminal activity;

127 (ii) the nature and relative profitability of manufacturing or delivering the substance
128 encourages illicit trafficking in the substance;

129 (iii) the commission of other crimes is one of the recognized effects of abuse of the
130 substance; and

131 (iv) addiction to the substance relates to the commission of crimes to facilitate the
132 continued use of the substance;

133 (f) whether the substance has been scheduled by other states; and

134 (g) whether the substance has any accepted medical use in treatment in the United
135 States.

136 (4) The committee's duties under this chapter do not include tobacco products as
137 defined in Section 59-14-102 or alcoholic beverages as defined in Section 32B-1-102.

138 Section 4. Section **58-38a-203.1** is enacted to read:

139 **58-38a-203.1. Qualifying illness for treatment using medical cannabis-based**
140 **medicine -- Committee duties -- Recommendation to Legislature.**

141 (1) Any of the following conditions is considered a qualifying illness eligible for
142 treatment with cannabis-based medicine in accordance with state law:

143 (a) epilepsy or a similar condition that causes debilitating seizures;

144 (b) Crohn's disease or a similar gastrointestinal disorder;

145 (c) HIV, acquired immune deficiency syndrome, or an autoimmune disorder;

146 (d) multiple sclerosis or a similar condition that causes persistent and debilitating
147 muscle spasms;

148 (e) nausea and vomiting during chemotherapy;

149 (f) muscle spasticity or a movement disorder;

150 (g) pain conditions as follows:

151 (i) complex regional pain syndrome;

152 (ii) peripheral neuropathy;

153 (iii) post herpetic neuralgia;

154 (iv) pain related to HIV;

155 (v) pain related to cancer;

156 (vi) pain occurring after and related to a stroke; and

157 (vii) phantom limb pain; and
158 (h) post-traumatic stress disorder related to military service.
159 (2) On or before September 30 of each year, the committee shall:
160 (a) review the list of conditions described in Subsection (1) to determine if, based on
161 available medically relevant information, it is medically appropriate to add or remove a
162 condition from the list; and
163 (b) present the committee's recommendation to the Health and Human Services Interim
164 Committee.