

**HOUSE . . . . . No. 2065**

**The Commonwealth of Massachusetts**

PRESENTED BY:

***Frank I. Smizik***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect patients approved by physicians and certified by the Department of Public Health to access medical marijuana.

PETITION OF:

| NAME:                     | DISTRICT/ADDRESS:                                  |
|---------------------------|--|
| <i>Frank I. Smizik</i>    | <i>15th Norfolk</i>                                |
| <i>Paul Tucker</i>        | <i>7th Essex</i>                                   |
| <i>Ruth B. Balsler</i>    | <i>12th Middlesex</i>                              |
| <i>Louis L. Kafka</i>     | <i>8th Norfolk</i>                                 |
| <i>Mary S. Keefe</i>      | <i>15th Worcester</i>                              |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i>                            |
| <i>Brian R. Mannal</i>    | <i>2nd Barnstable</i>                              |
| <i>Tom Sannicandro</i>    | <i>7th Middlesex</i>                               |
| <i>Anne M. Gobi</i>       | <i>Worcester, Hampden, Hampshire and Middlesex</i> |
| <i>David M. Rogers</i>    | <i>24th Middlesex</i>                              |
| <i>James J. Dwyer</i>     | <i>30th Middlesex</i>                              |
| <i>Jonathan Hecht</i>     | <i>29th Middlesex</i>                              |
| <i>James B. Eldridge</i>  | <i>Middlesex and Worcester</i>                     |
| <i>Chris Walsh</i>        | <i>6th Middlesex</i>                               |
| <i>Mathew Muratore</i>    | <i>1st Plymouth</i>                                |
| <i>Ellen Story</i>        | <i>3rd Hampshire</i>                               |

**HOUSE . . . . . No. 2065**

By Mr. Smizik of Brookline, a petition (accompanied by bill, House, No. 2065) of Frank I. Smizik and others for legislation to protect caregivers and patients approved by physicians and certified by the Department of Public Health to access medical marijuana. Public Health.

**The Commonwealth of Massachusetts**

**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**

An Act to protect patients approved by physicians and certified by the Department of Public Health to access medical marijuana.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1

2 Section 4 of Chapter 369 of the Session Laws of the 2012 Acts is hereby amended by  
3 adding the following section:

4 (A) An employee of a hospice provider, nursing, or medical facility or a visiting  
5 nurse, personal care attendant, or home health aide providing care to a qualifying patient, or a  
6 qualifying patient's immediate family member who is at least 21 years of age may serve as a  
7 personal caregiver without obtaining a Registration card or being subject to any limit on number  
8 of qualifying patients served except that such caregivers may be required to obtain a Registration  
9 card to obtain marijuana from a medical marijuana treatment center or to cultivate marijuana for  
10 a patient but such personal caregivers may assist in cultivation for a patient with a cultivation  
11 registration.

12 SECTION 2

13 Section 2, subsection (M) of Chapter 369 of the Session Laws is hereby amended by  
14 striking out the subsection and inserting in place thereof the following subsection:

15 "Sixty-day supply" means that amount of usable marijuana or an equivalent amount of  
16 usable marijuana in any mixture or preparation thereof, including infused product(s), or a  
17 combination thereof that a qualifying patient would reasonably be expected to need over a period  
18 of 60 days for their personal medical use or a greater amount as recommended by a licensed  
19 physician, and any other marijuana reasonably needed for, ancillary to, or expected in the  
20 cultivation, processing and/or production of such usable marijuana, mixtures or preparations.

21 SECTION 3

22 Section 2 of Chapter 369 of the Session Laws is hereby amended by adding the following  
23 paragraph:

24 "Visiting qualifying patient" means a qualified patient from another State or jurisdiction  
25 who possesses a valid written certification or a registration card or its equivalent to permit the  
26 medical use of marijuana by the qualifying patient or a personal caregiver and who possess  
27 government issued photographic identification

28 SECTION 4

29 Chapter 369 of the Session Laws is hereby amended by striking out section 4 and  
30 inserting in place thereof the following section:

31 Section 4. Protection From State Prosecution and Penalties for Qualifying Patients and  
32 Personal Caregivers

33           As the use of medical marijuana must be considered the equivalent of the use of any other  
34 medication, any person meeting the requirements under this law shall not be penalized under  
35 Massachusetts law in any manner for such actions, or denied any right or privilege, including but  
36 not limited to:

37           (a) Denial of license or other certification, or civil or other penalty or disciplinary action  
38 by a professional licensing board or any agency or division of the Commonwealth

39           (b) Disqualification for organ transplant or other medical procedure or treatment or denial  
40 of medical marijuana treatment in a hospital or other medical facility if his or her physician has  
41 given written approval for such treatment.

42           (c) Refusal to rent housing or grant a lease by a landlord solely for being a registered  
43 patient or personal caregiver.

44           (d) Refusal of enrollment or discrimination in any way or form by a school or university  
45 solely for being a registered patient or personal caregiver.

46           (e) Discrimination against a person in hiring, termination or imposing any term or  
47 condition of employment solely for being a registered patient or personal caregiver.

48           (f) Any action or proceeding by a child welfare agency or in a juvenile or family court  
49 against a custodial or non-custodial parent, grandparent, pregnant woman, legal guardian, or  
50 other person charged with the well-being of a child, taken solely or primarily in consideration of  
51 a person's patient or registered caregiver status or the presence of cannabinoid components or  
52 metabolites in a person's bodily fluids.

53 A qualifying patient or a personal caregiver shall not be arrested, prosecuted provided he  
54 or she:

55 (a) Possesses no more marijuana than is necessary for the patient's personal, medical use,  
56 not exceeding the amount necessary for a sixty-day supply; and

57 (b) Presents his or her registration card to any law enforcement official who questions the  
58 patient or caregiver regarding use of marijuana.

## 59 SECTION 5

60 Section 9 of Chapter 369 of the Session Laws is hereby amended by adding the following  
61 subsection (E)

62 A medical marijuana treatment center shall at its reasonable costs offer seeds, seedlings  
63 or rooted cuttings as reasonable to its production methods to any certifying patient or personal  
64 caregiver with a valid cultivation registration.

## 65 SECTION 6

66 Chapter 369 of the Session Laws is hereby amended by striking out section 11 and  
67 inserting in place thereof:

### 68 Section 11. Hardship Cultivation Registrations

69 With the goal of providing affordable access to marijuana to all qualifying patients, the  
70 department shall issue a cultivation registration to a qualifying patient whose access to a medical  
71 treatment center is limited by verified financial hardship, a physical incapacity to access  
72 reasonable transportation, or the lack of a treatment center within a reasonable distance of the

73 patient's residence. The Department may deny a registration based on the provision of false  
74 information by the applicant. Cultivation registration shall allow the patient or the patient's  
75 personal caregiver to cultivate a limited number of plants, sufficient to maintain a 60-day supply  
76 of usable marijuana, and shall require cultivation and storage only in an enclosed, locked facility.

77 (a) Regardless of and in addition to any definition or standard of verified financial  
78 hardship promulgated by the department, (1) any qualifying patient who shows that a strain or  
79 preparation of marijuana they have benefited from or would likely benefit from using is not  
80 readily available from the nearest two medical marijuana treatment centers or in their county of  
81 residence; or (2) who shows that costs to cultivate their requirements for marijuana, excluding  
82 hardware, would be 20 per cent less than the equivalent purchased from a medical marijuana  
83 treatment center at prices offered to that patient; or (3) who shows that their typical round-trip  
84 travel time to the nearest medical marijuana treatment center exceeds one hour; (4) who shows  
85 that the nearest medical marijuana treatment center can not or will not provide enough medical  
86 marijuana to meet the patient's needs shall be issued a hardship cultivation registration

87 (b) A qualifying patient may name no more than two registered personal caregivers.

88 (c) A personal caregiver may cultivate for no more than ten qualifying patients.

89 (d) Two or more qualifying patients who have cultivation registrations and who are  
90 members of the same household may share one enclosed, locked facility for cultivation.

91 (e) A personal caregiver may not receive payment or other compensation for services  
92 rendered as a personal caregiver other than reimbursement for reasonable expenses incurred in  
93 the provision of services as a caregiver including reasonable compensation for the personal  
94 caregiver's time.

95 (f) The department may choose to inspect any cultivation location registered under this  
96 section with notice and at a time mutually agreed-upon with the registration card holder.

97 (g) Patients or caregivers with valid cultivation registrations may purchase seeds,  
98 seedlings or rooted or un-rooted cuttings from a medical marijuana treatment center and may  
99 share or barter seeds, seedlings or rooted or un-rooted cuttings with those patients or caregivers.

100 SECTION 7

101 Chapter 369 of the Session Laws is hereby amended by adding the following section:

102 Section 18. Authorized Conduct by a Visiting Qualifying Patient:

103 A visiting qualifying patient shall be given the same rights and benefits under this law as  
104 a resident holder of a registration card.

105 SECTION 8

106 Chapter 369 of the Session Laws is hereby amended by inserting after section 12 the  
107 following section:

108 Section 12(A) Medical Marijuana Cards for Qualifying Minor Patients

109 A qualifying patient who is a minor under 18 years of age and has been diagnosed with a  
110 debilitating medical condition by two (2) licensed physicians, at least one (1) of whom is a  
111 board-certified pediatrician or a board-certified pediatric subspecialist may receive a written  
112 certification from either physician, provided that at least one of those physicians meets any  
113 registration, educational, or other requirements or regulations made by the Department or other  
114 agency, licensing board or other authority.

115 SECTION 9

116 The first paragraph of Section 13 of Chapter 369 of the Session Laws is hereby amended  
117 by striking out the first sentence, and inserting after the last sentence the following sentence:

118 The Commonwealth or its divisions may not impose or collect any sales, excise or other  
119 tax on medical marijuana produced or sold under this law.