

HOUSE No. 2385

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:	DATE ADDED:
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/20/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	

HOUSE No. 2385

By Mr. Smizik of Brookline, a petition (accompanied by bill, House, No. 2385) of Frank I. Smizik and others relative to providing affordable access to medical marijuana to qualifying patients. Marijuana Policy.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2065 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 Chapter 369 of the Session Laws of the 2014 Acts is hereby amended by striking out
3 section 4 and inserting in place thereof the following section:

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

6 As the use of medical marijuana must be considered the equivalent of the use of any other
7 medication, any person meeting the requirements under this law shall not be penalized under

8 Massachusetts law in any manner for such actions, or denied any right or privilege, including but
9 not limited to:

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

12 (b) Refusal to rent housing or grant a lease by a landlord solely for being a registered
13 patient or personal caregiver.

14 (c) Refusal of enrollment or discrimination in any way or form by a school or university
15 solely for being a registered patient or personal caregiver.

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

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

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

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

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

29 Section 2

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

32 Section 11. Hardship Cultivation Registrations

33 With the goal of providing affordable access to marijuana to all qualifying patients, the
34 department shall issue a cultivation registration to a qualifying patient whose access to a medical
35 treatment center is limited by verified financial hardship, a physical incapacity to access
36 reasonable transportation, or the lack of a treatment center within a reasonable distance of the
37 patient's residence. The Department may deny a registration based on the provision of false
38 information by the applicant. Cultivation registration shall allow the patient or the patient's
39 personal caregiver to cultivate a reasonable number of plants, sufficient to maintain a 60-day
40 supply of usable marijuana, and shall require cultivation and storage only in an enclosed, locked
41 facility.

42 (a) Regardless of and in addition to any definition or standard of verified financial
43 hardship promulgated by the department, (1) any qualifying patient who shows that a strain or
44 preparation of marijuana they have benefited from or would likely benefit from using is not
45 readily available from the nearest two medical marijuana treatment centers or in their county of
46 residence; or (2) who shows that costs to cultivate their requirements for marijuana, excluding
47 hardware, would be 20 per cent less than the equivalent purchased from a medical marijuana
48 treatment center at prices offered to that patient; or (3) who shows that their typical round-trip
49 travel time to the nearest medical marijuana treatment center exceeds one hour; (4) who shows

50 that the nearest medical marijuana treatment center cannot or will not provide enough medical
51 marijuana to meet the patient's needs shall be issued a hardship cultivation registration

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

53 (c) A personal caregiver may cultivate for no more than five registered, qualifying
54 patients.

55 (d) A personal caregiver or patient must submit notification upon ending a
56 caregiver/patient relationship within 72 hours, or three working days.

57 (e) No more than two registered caregivers may be registered at any one residence.

58 (f) A personal caregiver may not receive payment or other compensation for services
59 rendered as a personal caregiver other than reimbursement for reasonable expenses incurred in
60 the provision of services as a caregiver including reasonable compensation for the personal
61 caregiver's time.

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

64 (h) Patients or caregivers with valid cultivation registrations may purchase seeds,
65 seedlings or rooted or un-rooted cuttings from a medical marijuana treatment center and may
66 share or barter seeds, seedlings or rooted or un-rooted cuttings with those patients or caregivers.