S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 16, 2016

Introduced by M. of A. GOTTFRIED, LUPARDO, DINOWITZ, PAULIN, HEVESI, BLAKE, BRINDISI, ORTIZ, SEPULVEDA, SIMON, SKOUFIS, ZEBROWSKI -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to regulations governing the medical use of marihuana

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and intent. The legislature finds that thousands of New Yorkers have serious medical conditions that can be improved by medically-approved use of marihuana. The law should not stand between them and treatment necessary for life and health. This legislation follows the well-established public policy that a controlled substance can have a legitimate medical use. Many controlled substances that are legal for medical use (such as morphine and steroids) are illegal for any other use. The purposes of article 33 of the public health law include allowing legitimate medical use of controlled substances in health care, including palliative care.

Title 5-A of article 33 of the public health law, and the amendments to it in this act, establish a medical model of care which regulates medical marihuana as a recommended medicine in keeping with recognized medical public health and safety standards. This policy and this legislation do not in any way diminish New York state's strong public policy and laws against illegal drug use, nor should it be deemed in any manner to advocate, authorize, promote, or legally or socially accept the use of marihuana for children or adults, for any non-medical use. This legislation is an appropriate exercise of the state's legislative power to protect the health of its people under article 17 of the state constitution and the tenth amendment of the United States constitution.

Furthermore, the legislature finds that New York state has a significant and ongoing economic and non-regulatory interest in the financial viability of organizations that sell marihuana for medical use. The legislature finds that the financial viability of such organizations would be greatly diminished and threatened by labor-management conflict, such as a strike at a facility that cultivates marihuana, especially

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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because of the need for enhanced security concerning the products. Replacements during a strike would be difficult to arrange and cause delay far more significant than a strike elsewhere. Accordingly, the legislature finds that the state has a substantial and compelling proprietary interest in this matter, and finds that labor peace is essential for any organization to conduct business relating to the sale of medical marihuana.

It is the legislative intent that this act be implemented consistently with these findings and principles, through a reasonable and workable system with appropriate oversight; strong "seed to sale" regulation to prevent diversion, abuse, and other illegal conduct; reasonable access to and appropriate use of medical marihuana by certified patients; evaluation; and continuing research.

S 2. Section 3369-a of the public health law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

S 3369-a. Regulations. 1. The commissioner shall make regulations to implement this title. REGULATIONS UNDER THIS TITLE SHALL BE REASONABLE AND CONSISTENT WITH THIS TITLE, THE LEGISLATIVE INTENT, AND VERIFIABLE CLINICAL, LEGAL OR PUBLIC SAFETY CONSIDERATIONS.

2. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT AN ADVISORY COMMITTEE ON MEDICAL USE OF MARIHUANA (THE "ADVISORY COMMITTEE") TO ADVISE THE COMMISSIONER ON MAKING REGULATIONS UNDER THIS TITLE AND ON ANY MATTERS RELATING TO THE IMPLEMENTATION OF THIS TITLE AS THE COMMISSIONER SHALL DETERMINE. THE ADVISORY COMMITTEE SHALL CONSIST OF FIFTEEN MEMBERS. THE MEMBERS OF THE ADVISORY COMMITTEE SHALL BE APPOINTED AS FOLLOWS: EIGHT TO BE APPOINTED BY THE GOVERNOR, TWO TO BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE TO BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE SENATE, TWO TO BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, ONE TO BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE MINORITY LEADER OF THE ASSEMBLY, AND ONE TO BE APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK. THE ADVISORY COMMITTEE SHALL INCLUDE BUT NOT BE LIMITED TO: HEALTH CARE PRACTITIONERS, PATIENTS OR REPRESENTATIVES OF PATIENTS WITH SERIOUS CONDITIONS, EXPERTS IN THE REGULATION OF CONTROLLED SUBSTANCES FOR MEDICAL USE, MEDICAL MARIHUANA INDUSTRY PROFESSIONALS AND LAW ENFORCEMENT. THE ADVISORY COMMITTEE SHALL BE RESPONSIBLE FOR REVIEWING THE APPEAL OF ANY PATIENT OR CAREGIVER WHOSE REGISTRY APPLICATION HAS BEEN DENIED BY THE DEPARTMENT. THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS REGARDING ANY SUCH APPEAL TO THE COMMISSIONER, WHO SHALL MAKE THE FINAL DETERMINATION. THE COMMISSIONER MAY ALSO FORM SUBCOMMITTEES OF THE ADVISORY COMMITTEE. THE COMMISSIONER SHALL FORM A SUBCOMMITTEE TO ASSIST AND ADVISE THE COMMISSIONER AND THE ADVISORY COMMITTEE ON CLINICAL MATTERS RELATING TO MEDICAL MARIHUANA, INCLUDING BUT NOT LIMITED TO EXPANDING OR RETRACTING THE CATEGORIES OF DISEASES TO BE CONSIDERED SERIOUS CONDITIONS FOR PURPOSES OF THIS TITLE, THE MEMBERS OF WHICH SHALL PREDOMINANTLY BE CLINICAL PROFESSIONALS IN APPROPRIATE AREAS OF EXPERTISE AND SHALL ALSO INCLUDE REPRESENTATIVES OF PATIENTS AND THE GENERAL PUBLIC. MEMBERS OF A SUBCOMMITTEE NEED NOT BE MEMBERS OF THE ADVISORY COMMITTEE. MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE FOR A TERM OF FOUR YEARS. MEMBERS OF A SUBCOMMITTEE SHALL SERVE AT THE PLEASURE OF THE COMMISSIONER. MEMBERS OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE MAY RECEIVE REIMBURSEMENT BY THE DEPARTMENT FOR THEIR REASONABLE AND NECESSARY EXPENSES INCURRED AS MEMBERS OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE. A PUBLIC EMPLOYEE MAY BE A MEMBER OF THE ADVISORY COMMITTEE OR A SUBCOMMITTEE.

S 3. Section 3369 of the public health law is amended by adding a new subdivision 5 to read as follows:

5. A REGISTRY IDENTIFICATION CARD, OR ITS EQUIVALENT, THAT IS ISSUED UNDER THE LAWS OF ANOTHER STATE, DISTRICT, TERRITORY, COMMONWEALTH, OR POSSESSION OF THE UNITED STATES THAT ALLOWS THE MEDICAL USE OF MARIHUANA HAS THE SAME FORCE AND EFFECT AS A REGISTRY IDENTIFICATION CARD ISSUED BY THE DEPARTMENT, SO LONG AS THE VISITING PATIENT'S CONDITION IS A SERIOUS CONDITION, AS ATTESTED TO IN WRITING BY A PRACTITIONER. WHERE A REGISTERED ORGANIZATION DISPENSES MEDICAL MARIHUANA TO A PATIENT UNDER THIS SUBDIVISION, A COPY OF THE ATTESTATION SHALL BE PROVIDED TO THE REGISTERED ORGANIZATION.

S 4. This act shall take effect immediately; provided that the amendments to title 5-A of article 33 of the public health law made by this act shall not affect the expiration and repeal of such title and shall expire and be deemed repealed therewith.