

Short Ballot Title

AN INITIATIVE PROVIDING THAT QUALIFIED PATIENTS USING MEDICAL MARIJUANA SHALL NOT BE SUBJECT TO CRIMINAL PROSECUTION

Long Ballot Title

AN INITIATIVE RELATING TO MEDICAL MARIJUANA; AMENDING TITLE 39, IDAHO CODE, BY ADDITION OF A NEW CHAPTER 47, TO BE KNOWN AS THE "IDAHO MEDICAL CHOICE ACT" TO PROVIDE PROTECTION FROM ARREST, PROSECUTION, PROPERTY FORFEITURE AND CRIMINAL AND OTHER PENALTIES, THOSE PATIENTS WHO USE MEDICAL MARIJUANA TO ALLEVIATE SUFFERING FROM DEBILITATING MEDICAL CONDITIONS, AS WELL AS THEIR PRIMARY CAREGIVERS AND THOSE WHO ARE AUTHORIZED TO PRODUCE MARIJUANA FOR MEDICAL PURPOSES. TO ESTABLISH A REGISTRY OF QUALIFYING PATIENTS AND THEIR PRIMARY CAREGIVERS WHOM SHALL BE ISSUED A REGISTRY IDENTIFICATION CARD WHICH SHALL BE VALID FOR ONE YEAR. TO ESTABLISH A MARIJUANA GROW SITE REGISTRATION SYSTEM TO AUTHORIZE PRODUCTION OF MARIJUANA. TO ESTABLISH THAT THE MAXIMUM AMOUNT OF MARIJUANA A QUALIFYING PATIENT MAY POSSESS IS TWO (2) OUNCES OR LESS OF USABLE MARIJUANA AND NINE (9) OR FEWER MARIJUANA PLANTS, OF WHICH NOT MORE THAN FIVE (5) MAY BE MATURE. TO ESTABLISH CRIMINAL PENALTIES FOR KNOWINGLY SELLING A DOCUMENT THAT FALSELY PURPORTS TO BE A REGISTRATION CARD OR A REGISTRATION CARD ISSUED THAT HAS BEEN ALTERED, OR FOR ANY CARDHOLDER WHO SELLS OR DISTRIBUTES MARIJUANA TO A PERSON WHO IS NOT ALLOWED TO USE MARIJUANA FOR MEDICAL PURPOSES.

Text

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 47, Title 39, Idaho Code, and to read as follows:

CHAPTER 47 IDAHO MEDICAL CHOICE ACT

39-4701. SHORT TITLE. This act shall be known and may be cited as the "Idaho Medical Choice Act."

39-4702. FINDINGS. The people of Idaho find as follows:

WHEREAS numerous organizations have endorsed medical access to marijuana, including the American Medical Association, American College

of Physicians, AIDS Action Council, American Nurses Association, American Academy of HIV Medicine, American Bar Association, American Medical Student Association, American Preventive Medical Association, American Public Health Association, Lymphoma Foundation of America, National Association for Public Health Policy, National Association of Attorneys General, National Association of People with AIDS, and the National Women's Health Network

WHEREAS Since 1978 the Food and Drug Administration has allowed fifteen patients to use National Institute on Drug Abuse-provided medical marijuana grown at the University of Mississippi under the Compassionate Investigational New Drug Study program, of which four patients remain alive as of December 2010.

WHEREAS Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.

WHEREAS seriously ill people should not be punished or fined for acting in accordance with the opinion of their physicians in a bona fide attempt to relieve suffering;

WHEREAS compassion dictates that a distinction be made between medical and non-medical uses of marijuana.

THEREFORE the purpose of this chapter is to protect from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use marijuana to alleviate suffering from debilitating medical conditions, as well as their physicians, primary caregivers and those who are authorized to produce marijuana for medical purposes.

39-4703. DEFINITIONS. As used in this chapter:

- (1) "Certification" means a document signed by a physician licensed and in good standing to practice in the state, stating that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
- (2) "Debilitating medical condition" means:
 - (a) One (1) of the following conditions: A seizure disorder, including epilepsy, intractable skeletal muscular spasticity, or glaucoma;

- (b) One (1) or more of the following: Severe debilitating pain, severe nausea or vomiting, cachexia or wasting syndrome, seizures or severe and persistent muscle spasms;
 - (c) Amyotrophic lateral sclerosis, multiple sclerosis, muscular dystrophy, or inflammatory bowel disease, including Crohn's disease;
 - (d) Terminal illness, if the physician has determined a prognosis of less than twelve (12) months of life; or
 - (e) Any other medical condition or its treatment that is approved by the department by rule;
- (3) "Department" means the Idaho Department of Health and Welfare;
 - (4) "Director" means the director of the Idaho Department of Health and Welfare;
 - (5) "Marijuana" means the buds, seeds, leaves, stalks and any preparation thereof of the plant genus cannabis. It also has the term meaning given in section 37-2701, Idaho Code;
 - (6) "Medical marijuana alternative treatment center" or "alternative treatment center" means an organization approved by the department to perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of this chapter;
 - (7) "Medical use of marijuana" means the acquisition, possession, cultivation, transport or use of marijuana or paraphernalia by a registered qualifying patient as authorized by this chapter, or the acquisition, possession, cultivation, or transport of marijuana or paraphernalia by a designated caregiver on behalf of a registered qualifying patient as authorized by this chapter;
 - (8) "Minor" means a person who is under eighteen (18) years of age and who has not been married or previously declared by a court to be emancipated;
 - (9) "Paraphernalia" has the same meaning as the term "drug paraphernalia" given in section 37-2701 Idaho Code;
 - (10) "Bona fide physician-patient relationship" means a physician has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination;
 - (11) "Physician" means a person licensed to practice medicine in the state of Idaho with whom the patient has a bona fide physician-patient relationship and who is the primary care physician, hospice physician responsible for the ongoing treatment of a patient's medical condition. Provided however, that such ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose;
 - (12) "Primary caregiver" or "caregiver" means a resident of the state who:
 - (a) Is at least eighteen (18) years old;
 - (b) Has agreed to assist with a registered qualifying patient's

- medical use of marijuana, and is not the qualifying patient's physician;
- (c) Is not currently on felony probation or parole under the Idaho Department of Corrections or on misdemeanor probation under any county in Idaho.
 - (d) Has not been convicted of a felony drug offense
 - (e) Has been designated as primary caregiver on the qualifying patients application or renewal for a registry identification card or in other written notification to the department;
- (13) "Qualifying patient" or "patient" means a resident of the state who has been provided with a certification by a physician pursuant to a bona fide physician-patient relationship;
 - (14) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or primary caregiver;
 - (15) "Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture thereof, and does not include the seeds, stems, stalks or roots of the plant.
 - (16) "Cardholder" means a qualifying patient, a primary caregiver or an alternative treatment center agent who has been issued a valid registry identification card.
 - (17) "Enclosed, locked, facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.
 - (18) "Felony drug offense" means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, but does not include:
 - (a) Only one (1) offense for which the sentence, including any term of probation, incarceration or supervised release, was completed five (5) or more years earlier.
 - (19) "Alternative treatment center agent" means an officer, board member, employee of an alternative treatment center who is at least twenty-one (21) years of age and has not been convicted of a felony drug offense
 - (20) "Marijuana grow site" means a location where marijuana is cultivated or produced for use by a registry identification cardholder and that is registered under the provisions of 39-4704(3).

39-4704. REGISTRATION.

- (1) The department shall establish a registry of qualifying patients and their primary caregivers and shall issue a registry identification card, which shall be valid for one (1) year, to a qualifying patient and primary caregiver, if applicable, who submits the following, in accordance with regulations adopted by the department:
 - (a) A certification that meets the requirements of section 39-4703(1), Idaho code;

- (b) An application fee of one hundred dollars (\$100.00) or renewal fee or fifty dollars (\$50.00), which may be based on a sliding scale as determined by the director;
- (c) An application, including:
 - (i) The name, mailing address, residence address and date of birth of the qualifying patient;
 - (ii) The name, address and date of birth of the qualifying patient's primary caregiver, if applicable;
 - (iii) The name, address and telephone number of the patient's physician;
 - (iv) A statement signed by the qualifying patient agreeing not to sell or distribute marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter;
 - (v) A statement signed by the primary caregiver, if any, agreeing to be the qualifying patient's primary caregiver and agreeing not to sell or distribute marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter;
 - (vi) Any other information the department considers necessary.
- (2) Before issuing a registry identification card, the department shall verify the information contained in the application or renewal form submitted pursuant to this section. In the case of a primary caregiver, the department shall provisionally approve an application pending the results of a criminal background check, if the caregiver otherwise meets the requirements of this chapter. The department shall approve or deny an application or renewal within fourteen (14) days of receipt of the completed application or renewal, and shall issue a registry identification card within five (5) days of approving the application renewal. The department may deny an application if it meets any of the provisions listed in 39-4710(1) or 394701(2).
- (3) The department shall establish by rule a marijuana grow site registration system to authorize production of marijuana by a registry identification cardholder or a designated primary caregiver who cultivates or produces marijuana for the cardholder. The marijuana grow site registration system adopted must require a registry identification cardholder to submit an application to the department that includes:
 - (a) The name of the person responsible for the marijuana grow site;
 - (b) The physical address of the marijuana grow site;
 - (c) The registry identification card number of the registry cardholder for whom the marijuana is being cultivated;
 - (d) Any other information the department considers necessary.
- (4) The department shall issue a marijuana grow site registration card to a registry identification cardholder who has met the requirements of subsection (3) of this section.
- (5) A person who has been issued a marijuana grow site registration card under this section must display the registration card at the marijuana

- grow site at all times when marijuana is being cultivated or produced.
- (6) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being cultivated or produced at a marijuana grow site.
 - (7) A qualifying patient or a primary caregiver who cultivates or produces marijuana must contain all marijuana plants in an enclosed, locked facility except if:
 - (a) The physical address of the marijuana grow site is not within city limits of any town or city in the state;
 - (b) The plants are being transported because the qualifying patient is moving.
 - (8) A registry identification card shall contain the following information:
 - (a) The name, date of birth of the patient and primary caregiver, if applicable;
 - (b) The expiration date of the registry identification card;
 - (c) A random ten (10) digit alphanumeric identification number, containing at least four (4) numbers and at least four (4) letters, which is unique to the cardholder;
 - (d) If the cardholder is a primary caregiver, the random identification number of the registered qualifying patient the primary caregiver is assisting;
 - (e) Such other information that the department may specify by regulation.
 - (9)
 - (a) A patient who has been issued a registry identification card shall notify the department of any change in the patient's name, address, or physician or change in status of the patient's debilitating medical condition, within ten (10) days of such change, or the registry identification card shall be deemed null and void.
 - (b) A primary caregiver who has been issued a registry identification card shall notify the department of any change in the caregiver's name or address within ten (10) days of such change, or the registry identification card shall be deemed null and void.
 - (10) The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual names and other identifying information on the list, and information contained in any application form or accompanying or supporting document, shall be confidential and shall not be considered a public record under chapter 3, title 9, Idaho Code, and shall not be disclosed except to:
 - (a) Authorized employees of the department as necessary to perform official duties of the department; and
 - (b) Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person who is engaged in the suspected or alleged medical use of marijuana is lawful in possession of a registry identification card.

- (11) A person, including an employee or official of the department or another state agency or local unit of government, who discloses information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than six (6) months, or a fine of not more than one thousand dollars (\$1,000.00), or both. Notwithstanding this provision, department may notify law enforcement about falsified or fraudulent information submitted to the department.
- (12) Applying for or receiving a registry card does not constitute a waiver of the qualifying patient's patient-physician privilege.
- (13) A registered qualifying patient may be registered at only one (1) alternative treatment center at a time. A registered qualifying patient shall notify the department of which alternative treatment center the patient designates and the department shall update the registered qualifying patient's record and the patient's primary caregiver's record, if any to reflect the designation.
- (14) A primary caregiver can assist no more than four (4) qualifying patients in their medical use of marijuana at any given time, given that the qualifying patient has designated them as their primary caregiver.
- (15) A qualifying patient can designated no more than one (1) person as their primary caregiver.
- (16) The Department shall issue a registry identification card, which shall be valid for one (1) years to a minor who meets the following requirements:
 - (a) The minor' physician has explained the potential risks and benefits of the medical use of marijuana to the minor and his or her parent or legal guardian;
 - (b) The minor's parent or legal guardian submits a certification that meets the requirements of section 39-4703(1), Idaho code;
 - (c) The minor's parent or legal guardian consents in writing to:
 - (i) Allow the qualifying patient's medical use of marijuana;
 - (ii) Serve as the qualifying patient's primary caregiver; and
 - (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.
- (17) A registered qualifying patient may change his alternative treatment center. A fee of fifteen dollars (\$15.00) shall be paid to the department. The department shall, within five (5) business days of receiving the notification, update the registered qualifying patient's record and the patient's primary caregiver's record, if any, to reflect the change in designation, and notify the patient that the change has been processed. The department may limit the frequency a designation can be changed to once every thirty (30) days.
18. Within one hundred twenty (120) days of the effective date of this chapter, the department shall establish a verification system. The verification system must allow law enforcement personnel and alternative treatment centers to enter a registry identification number to determine whether or not the number corresponds with a current, valid registry identification card. The system shall disclose only whether the

identification card is valid, whether the cardholder is a registered qualifying patient or a registered primary caregiver, the physical address of the marijuana grow site, if any, and the registry identification number of the alternative treatment center which serves the registered qualifying patient who holds the card or the registry identification number of the patient who is assisted by the registered primary caregiver who holds the card.

39-4705. NOTIFICATION TO DEPARTMENT.

If the registered qualifying patient's certifying physician notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card shall become null and void upon notification of the patient from the department. However, the registered qualifying patient shall have fifteen (15) days to dispose of his or her marijuana.

39-4706. PROTECTIONS.

- (1) A qualifying patient possessing two (2) ounces or less of usable marijuana and nine (9) or fewer marijuana plants, of which not more than five (5) may be mature, a primary caregiver possessing two (2) ounces or less of usable marijuana and nine (9) or fewer marijuana plants, which not more than five (5) may be mature per each qualifying patient in which they assist in their medical use of marijuana, an alternative treatment center, an alternative treatment center agent, a physician, or any other person active in accordance with the provisions of his chapter shall not be subject to arrest, prosecution or any civil or administrative penalty, or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana as authorized under this chapter. For the purposes of carrying out this chapter, the amount of marijuana in any preparation thereof, not the total weight of the preparation, is considered to be the total amount of marijuana in any preparation thereof
- (2) Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or applying for the registry identification card, or otherwise subject the person or his property to inspection by any governmental agency.
- (3) No person shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for simply being in the presence of vicinity of the medical use of marijuana as authorized under this chapter.
- (4) No custodial parent, guardian, or person who has legal custody of a

qualifying patient who is a minor shall be subject to arrest or prosecution for constructive possession, conspiracy or any other offense for assisting the minor the medical use of marijuana as authorized under this chapter.

- (5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana may not be forfeited under any provision of state law providing that the property is used in accordance with the provisions of this chapter.
- (6) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marijuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marijuana, shall have the same force and effect as a registry identification card issued by the department.
- (7) No school, landlord or employer may be penalized or denied any benefit under state law for enrolling, leasing, or employing a registered qualifying patient or a registered primary caregiver.
- (8) There shall exist a rebuttable presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana if he or she possesses a registry identification card and no more than nine (9) marijuana plants and two (2) ounces of dried marijuana, or in the case of a primary caregiver nine (9) marijuana plants and two (2) ounces of dried marijuana for each qualifying patient the primary caregiver is assisting. The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the symptoms or effects of a patient's debilitating medical condition.

39-4707 DISCRIMINATION PROHIBITED

- (1) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for their status as a cardholder, unless failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations
- (2) Unless a failure to do so would cause an employer to lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:
 - (a) The person's status as a cardholder;
 - (b) A registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient is impaired on the premises of the place of employment or while working at their employment.
- (3) For the purposes of medical care, including organ transplants, a

registered qualifying patient's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

- (4) A parent or legal guardian shall not be denied custody or visitation rights of a minor for acting in accordance with the provisions of this chapter, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.
- (5) A cardholder shall not be denied county or state related benefits or assistance for acting in accordance with the provisions of this chapter.

39-4708. ALTERNATIVE TREATMENT CENTERS.

- (1) The department shall accept applications from entities for permits to operate as alternative treatment centers, and may charge a fee of one thousand dollars (\$1000.00) every two (2) years for the issuance of a permit under this section. Every alternative treatment center issued a permit in the Panhandle, North Central, Central, Eastern, Southwest, South Central, and Southeast health districts shall be nonprofit entities.

An alternative treatment center shall be authorized to acquire a reasonable initial and ongoing inventory, as determined by the department, of marijuana seeds or seedlings and paraphernalia, possess, cultivate, plant, grow, harvest, process, display, manufacture, deliver, transfer, transport, distribute, supply, sell or dispense marijuana, or related supplies to qualifying patients or their primary caregivers who are registered with the department pursuant to section 39-4704, Idaho Code.

Applicants for authorization as nonprofit alternative treatment centers shall be subject to all applicable state laws governing nonprofit entities, but need not be recognized as a 501(c) (3) organization by the Federal Internal Revenue Service.

- (2) The department shall require that an applicant provide such information as the department determines to be necessary pursuant to rules adopted pursuant to this chapter.
- (3) An alternative treatment center cannot be located within seven-hundred (700) feet from any school or daycare center existing before the date an application for an alternative treatment center has been submitted.
- (4) An alternative treatment center shall not permit any person to consume marijuana on the property of the alternative treatment center.
- (5) The department shall issue a permit to a person to operate as an alternative treatment center if the department finds that issuing such a permit would be consistent with the purposes of this chapter, the

requirements of this section are met and the department has verified the information contained in the application. The department shall approve or deny an application within sixty (60) days after receipt of a completed application. An application shall be denied if the person applying for a permit meets any of the provisions listed in 39-4710(3). The department may conduct a criminal records check in order to carry out this section. The department may suspend or revoke a permit to operate as an alternative treatment center for cause, which shall be subject to review pursuant to the provisions of chapter 52, title 67 Idaho Code.

- (6) A person who has been issued a permit pursuant to this section shall display the permit at the premises of the alternative treatment center at all times when marijuana is being produced or dispensed to a registered qualifying or the patient's primary caregiver. The department shall include on each permit a random ten (10) digit registry identification number that shall be unique to the alternative treatment center.
- (7) An alternative treatment center shall report any change in information to the department no later than ten (10) days after such change, or the permit shall be deemed null and void.
- (8) An alternative treatment center may charge a registered qualifying patient or primary caregiver for the reasonable costs associated with the production and distribution of marijuana for the cardholder.
- (9) The director shall adopt rules to:
 - (a) Require such written documentation of each delivery of marijuana to, and pickup of marijuana for, a registered qualifying patient, including the date and amount dispensed, to be maintained in the records of the alternative treatment center as the director determines necessary to ensure effective documentation of the operations of each alternative treatment center;
 - (b) Monitor, oversee and investigate all activities performed by an alternative treatment center; and
 - (c) Ensure adequate security of all facilities twenty-four (24) hours per day, including production and retail locations, and security of all delivery methods to registered qualifying patients.

39-4709 REGISTRATION OF ALTERNATIVE TREATMENT CENTER AGENTS, NOTICES; CIVIL PENALTY; CLASSIFICATION

- (1) An alternative treatment center agent shall be registered with the department before working at a medical marijuana alternative treatment center
- (2) An alternative treatment center may apply to the department for a registry identification card for a alternative treatment center agent by submitting:
 - (a) The name, address, and date of birth of the prospective alternative treatment center agent.
 - (b) An alternative treatment center agent application

- (c) A statement signed by the prospective alternative treatment agent agreeing not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter
- (d) An application fee of one hundred dollars (\$100.00)
- (3) A registered alternative treatment center shall notify the department within ten (10) days after an alternative treatment center agent ceases to be employed by the alternative treatment center.
- (4) No person who has been convicted of a felony drug offense may be an alternative treatment center agent.
- (5) The department may conduct a criminal records check in order to carry out this section.

39-4710 DENIAL OF REGISTRY IDENTIFICATION CARD

- (1) The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:
 - (a) Does not meet the requirements of 39-4703(2);
 - (b) Does not provide the information required;
 - (c) Previously had a registry identification card revoked for violating this chapter;
 - (d) Provides false information.
- (2) The department may deny an application or renewal of a primary caregiver's registry identification card if the applicant:
 - (a) Has been convicted of a felony drug offense;
 - (b) Does not provide the information required;
 - (c) Previously had a registry identification card revoked for violating this chapter
 - (d) Provides false information.
- (3) The department may deny a registry identification card to an alternative treatment center agent if:
 - (a) The agent applicant has been convicted of a felony drug offense.
 - (b) The applicant or alternative treatment center did not provide the required information;
 - (c) Previously had a registry identification card revoked for violating this chapter;
 - (d) The agent applicant or alternative treatment center provides false information.
- (4) The department shall give written notice to the alternative treatment center of the reason for denying a registry identification card to an alternative treatment center agent.
- (5) The department shall give written notice to the qualifying patient of the reason for denying a registry identification card to the qualifying patient's primary caregiver.
- (6) If an application was denied because it contained false information or because the applicant previously had a registry identification card revoked, then it shall be a final agency decision, subject to review

pursuant to the provisions of chapter 52, title 67, Idaho code.

39-4711 FACILITY RESTRICTIONS

- (1) Any nursing care institution, hospice, assisted living center, assisted living facility, assisted living home, residential care institution, adult day health care facility or adult foster care home licensed in this state may adopt reasonable restrictions on the use of marijuana by their residents or persons receiving inpatient services, including:
 - (a) That the facility will not store or maintain the patient's supply of marijuana;
 - (b) That the facility, caregivers or hospice agencies serving the facility's residents are not responsible for providing the marijuana for qualifying patients;
 - (c) That marijuana be consumed only in a place specified by the facility.
- (2) Nothing in this section requires a facility listed in 39-4711(1) to adopt restrictions on the medical use of marijuana.
- (3) A facility listed in subsection (1) of this section may not unreasonably limit a registered qualifying patient's access to or use of marijuana authorized under this chapter unless failing to do so would cause facility to lose a monetary or licensing-related benefit under federal law or regulations.

39-4712. ACTIVITY NOT PERMITTED. The provisions of this chapter shall not be construed to permit a person to:

- (1) Operate, navigate or be in actual physical control of an vehicle, aircraft, railroad train, stationary heavy equipment or vessel while under the influence of marijuana; or
- (2) Smoke marijuana in a school bus or other form of public transportation, in a private vehicle unless the vehicle is not in operation, on any school grounds, in any correctional facility, at any public park or beach, at any recreation center, or in any place where smoking is otherwise prohibited.
- (3) A person who commits an act as provided in this section shall be subject to such penalties as are provided by law.

39-4713. CRIMINAL CONDUCT.

- (1) A person who knowingly sells, offers, or exposes for sale or otherwise transfers, or possesses with the intent to sell, offer or expose for sale or transfer, a document that falsely purports to be a registration card issued pursuant to this chapter, or a registration card issued pursuant to this chapter that has been altered, is guilty of a misdemeanor. A person who knowingly presents to a law enforcement officer a document that falsely purports to be a registration card issued pursuant to this chapter, or a registration card that has been issued pursuant to this chapter that has been altered, is guilty of a misdemeanor.

- (2) Any cardholder who sells or distributes marijuana to a person who is not allowed to use marijuana for medical purposes under this act shall have his or her registry identification card revoked and is guilty of a felony. The provisions of this section are intended to supplement current law and shall not limit prosecution or conviction for any other offense.

39-4714. DISPENSATION OF MARIJUANA.

- (1) Before marijuana may be dispensed to a registered qualifying patient or the patient's primary caregiver, the alternative treatment center shall verify that the person holds a valid registry identification card and that the alternative treatment center is the designated alternative treatment center for the registered qualifying patient who is obtaining the marijuana directly or via his primary caregiver.
- (2) An alternative treatment center shall not dispense more than two (2) ounces of marijuana to a registered qualifying patient, directly or via a primary caregiver, in any fourteen (14) day period. Alternative treatment centers shall ensure compliance with this limitation by maintaining internal confidential records that include records specifying how much marijuana was dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to his primary caregiver. Each entry shall include the date and time the marijuana was dispensed. All dispensing records created by an alternative treatment center shall identify qualifying patients and primary caregivers by their registry identification numbers and may not contain names or other personally identifying information.

39-4715. EXEMPTION—BURDEN OF PROOF.

- (1) If conduct is authorized by the provisions of this chapter, that authorization shall, be subject to the provisions of this section, constitute an exemption from criminal liability, and the absence of such authorization shall not be construed to be an element of any offense. It is an affirmative defense to any criminal action arising under this chapter or any other provision of Idaho law that the defendant is the authorized holder of an appropriate registration, permit or order form or is otherwise exempted or excepted from criminal liability by virtue of any provision of this chapter. The affirmative defense established herein shall be proven by the defendant by a preponderance of evidence. It shall not be necessary for the state to negate any exemption set forth in this chapter in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under this chapter.

39-4716. RECEIPT OF FUNDS—FEES.

- (1) The director may accept from any governmental department or agency,

public or private body, or any other source, grants, or contributions to be used in carrying out the purposes of this chapter.

- (2) All fees collected pursuant to this chapter, including those from qualifying patients and alternative treatment centers' initial, modification and renewal applications, shall be used to offset the cost of the department's administration of the provisions of this chapter.

39-4717. REPORTS.

- (1) The director shall report to the governor and to the legislature:
 - (a) No later than one (1) year after the effective date of this act, on the actions taken to implement the provisions of this chapter; and
 - (b) Annually thereafter on the number of applications for registry identification cards, the number of qualifying patients registered, the number of primary caregivers registered, the nature of the debilitating medical conditions of the patients, the number of registry identification cards revoked, and the number of physicians providing certifications for patients.
- (2) The reports shall not contain any identifying information of patients, caregivers or physicians.
- (3) Within two (2) years after the effective date of this act and every two (2) years thereafter, the director shall: evaluate whether there are sufficient numbers of alternative treatment centers to meet the needs of registered qualifying patients throughout the state; evaluate whether the maximum amount of medical marijuana allowed pursuant to this chapter is sufficient to meet the medical needs of qualifying patients; and determine whether any alternative treatment center has charged excessive prices for marijuana that the center dispensed. The director shall report his findings no later than two (2) years after the effective date of this act, and every two (2) years thereafter, to the governor and to the legislature.

39-4718. ACTIONS NOT REQUIRED.

- (1) Nothing in this chapter shall be construed to require:
 - (a) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana
 - (b) An employer to accommodate the medical use of marijuana in any workplace or any employee to work while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
- (2) Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while

under the influence of marijuana.

39-4719. STATE NOT LIABLE.

In addition to any immunity or defense provided by law, the state and any employee or agent of the state shall not be held liable for any actions taken in accordance with this chapter or for any deleterious outcomes from the medical use of marijuana by any registered qualifying patient.

39-4720. SEVERABILITY.

If any section or part of this chapter is declared invalid, then all the remaining sections remain in effect.

39-4721. RULES.

The director shall, within ninety (90) days of the effective date of this act, promulgate such rules as he deems necessary to implement the provisions of this chapter unless otherwise specified pursuant to the provisions of this chapter.