

1 HB104
2 155893-3
3 By Representatives Ball, Todd and Farley
4 RFD: Judiciary
5 First Read: 14-JAN-14
6 PFD: 01/03/2014

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, it is a Class A
9 misdemeanor to possess marijuana for personal use.

10 This bill would provide a defense of
11 necessity in a prosecution for the unlawful
12 possession of marijuana in the second degree when
13 the defendant has been diagnosed by a physician
14 with having a debilitating medical condition and
15 possesses cannabidiol (CBD) that is likely to
16 provide therapeutic or palliative relief to the
17 medical condition.

18 This bill would also provide a defense of
19 necessity in a prosecution for the unlawful
20 possession of marijuana in the second degree when a
21 parent or legal guardian possesses cannabidiol
22 (CBD) on behalf of a minor who has a debilitating
23 medical condition that has been diagnosed by a
24 physician with whom the minor has a bona fide
25 physician-patient relationship and was prescribed
26 cannabidiol for the therapeutic or palliative
27 relief from the debilitating medical condition.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to the crime of possession of marijuana in
27 the second degree; to provide a defense of necessity in a

1 prosecution when the defendant has been diagnosed by a
2 physician with having a debilitating medical condition and
3 possesses cannabidiol (CBD) that is likely to provide
4 therapeutic or palliative relief to the medical condition; to
5 provide a defense of necessity in a prosecution for the
6 unlawful possession of marijuana in the second degree when a
7 parent or legal guardian of a minor who was prescribed
8 cannabidiol for therapeutic or palliative relief from a
9 debilitating medical condition by a physician with whom the
10 minor has a bona fide physician-patient relationship; and in
11 connection therewith would have as its purpose or effect the
12 requirement of a new or increased expenditure of local funds
13 within the meaning of Amendment 621 of the Constitution of
14 Alabama of 1901, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This act shall be known and may be cited
19 as "Carly's Law."

20 Section 2. (a) As used in this section, the
21 following words shall have the following meanings:

22 (1) BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP. A
23 relationship in which a physician has ongoing responsibility
24 for the assessment, care, and treatment of a patient's medical
25 condition.

26 (2) DEBILITATING MEDICAL CONDITION. A chronic or
27 debilitating disease or medical condition or the treatment of

1 a chronic or debilitating disease or medical condition that
2 produces one or more of the following, as documented by a
3 physician with whom the patient has a bona fide
4 physician-patient relationship:

5 a. Cachexia or wasting syndrome.

6 b. Severe or chronic pain.

7 c. Severe nausea.

8 d. Seizures.

9 e. Severe and persistent muscle spasms.

10 f. Any other condition that is severe and resistant
11 to conventional medicine.

12 (3) CANNABIDIOL (CBD). [13956-29-1]. A

13 (nonpsychoactive) cannabinoid found in the plant Cannabis
14 sativa L. or any preparation thereof that is essentially free
15 from plant material. Also known as (synonyms):

16 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-p
17 entyl-1,3-benzenediol;

18 trans-(-)-2-p-mentha-1,8-dien-3-yl-5-pentylresorcinol;

19 (-)-Cannabidiol; (-)-trans-Cannabidiol; Cannabidiol (7CI);

20 D1(2)-trans-Cannabidiol.

21 (b) In a prosecution for the unlawful possession of
22 marijuana in the second degree under Section 13A-12-214, Code
23 of Alabama 1975, it is an affirmative defense that the
24 defendant used or possessed cannabidiol (CBD) because the
25 defendant has a debilitating medical condition that has been
26 diagnosed by a physician with whom the defendant has a bona
27 fide physician-patient relationship and the cannabidiol is

1 likely to provide the defendant with therapeutic or palliative
2 relief from the debilitating medical condition.

3 (c) In a prosecution for the unlawful possession of
4 marijuana in the second degree under Section 13A-12-214, Code
5 of Alabama 1975, it is an affirmative defense that the
6 defendant possessed cannabidiol (CBD) because he or she is the
7 parent or legal guardian of a minor who was prescribed
8 cannabidiol for therapeutic or palliative relief from a
9 debilitating medical condition by a physician with whom the
10 minor has a bona fide physician-patient relationship.

11 Section 3. Although this bill would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds, the bill is excluded from further
14 requirements and application under Amendment 621, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended, because the
17 bill defines a new crime or amends the definition of an
18 existing crime.

19 Section 4. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.