

BY: Health and Government Operations Committee

AMENDMENTS TO SENATE BILL 308
(Third Reading File Bill)

AMENDMENT NO. 1

On page 3, strike beginning with the second “the” in line 6 down through “testimony” in line 19 and substitute “or the use or possession with intent to use drug paraphernalia related to marijuana, it is an affirmative defense that the defendant used or possessed marijuana or drug paraphernalia related to marijuana because the defendant has a certain debilitating medical condition, the debilitating medical condition is severe and resistant to conventional medicine, and marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition; providing that a certain affirmative defense may not be used under certain circumstances”; and in line 34, after “Act.” insert “defining certain terms.”.

AMENDMENT NO. 2

On pages 26 and 27, strike beginning with “In” in line 10 on page 26 down through “MARIJUANA.” in line 2 on page 27 and substitute:

“1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.”

2. “BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP” MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT’S MEDICAL CONDITION.”

3. “DEBILITATING MEDICAL CONDITION” MEANS A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES ONE OR MORE OF THE FOLLOWING, AS DOCUMENTED BY A”

(Over)

PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT
RELATIONSHIP:

- A. CACHEXIA OR WASTING SYNDROME;
- B. SEVERE OR CHRONIC PAIN;
- C. SEVERE NAUSEA;
- D. SEIZURES;
- E. SEVERE AND PERSISTENT MUSCLE SPASMS; OR
- F. ANY OTHER CONDITION THAT IS SEVERE AND
RESISTANT TO CONVENTIONAL MEDICINE.

(II) 1. In a prosecution for the use or possession of
marijuana, the defendant may introduce and the court shall consider as a mitigating
factor any evidence of medical necessity.

[(ii)] 2. Notwithstanding paragraph (2) of this subsection, if the
court finds that the person used or possessed marijuana because of medical necessity,
on conviction of a violation of this section, the maximum penalty that the court may
impose on the person is a fine not exceeding \$100.

(III) 1. IN A PROSECUTION FOR THE USE OR POSSESSION
OF MARIJUANA UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT
THE DEFENDANT USED OR POSSESSED MARIJUANA BECAUSE:

A. THE DEFENDANT HAS A DEBILITATING MEDICAL CONDITION THAT HAS BEEN DIAGNOSED BY A PHYSICIAN WITH WHOM THE DEFENDANT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP;

B. THE DEBILITATING MEDICAL CONDITION IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE; AND

C. MARIJUANA IS LIKELY TO PROVIDE THE DEFENDANT WITH THERAPEUTIC OR PALLIATIVE RELIEF FROM THE DEBILITATING MEDICAL CONDITION.

2. THE AFFIRMATIVE DEFENSE MAY NOT BE USED IF THE DEFENDANT WAS:

A. USING MARIJUANA IN A PUBLIC PLACE; OR

B. IN POSSESSION OF MORE THAN 1 OUNCE OF MARIJUANA.”.

AMENDMENT NO. 3

On pages 28 and 29, strike in their entirety the lines beginning with line 19 on page 28 through line 12 on page 29, inclusive, and substitute:

“(4) (i) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2. “BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP” MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT’S MEDICAL CONDITION.

3. “DEBILITATING MEDICAL CONDITION” MEANS A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES ONE OR MORE OF THE FOLLOWING, AS DOCUMENTED BY A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP:

A. CACHEXIA OR WASTING SYNDROME;

B. SEVERE OR CHRONIC PAIN;

C. SEVERE NAUSEA;

D. SEIZURES;

E. SEVERE AND PERSISTENT MUSCLE SPASMS; OR

F. ANY OTHER CONDITION THAT IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE.

(ii) 1. In a prosecution under this subsection involving drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

[(ii)] 2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction of a violation of this subsection, the maximum penalty that the court may impose on the person is a fine not exceeding \$100.

(iii) 1. IN A PROSECUTION UNDER THIS SUBSECTION INVOLVING DRUG PARAPHERNALIA RELATED TO MARIJUANA, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT USED OR POSSESSED DRUG PARAPHERNALIA RELATED TO MARIJUANA BECAUSE:

A. THE DEFENDANT HAS A DEBILITATING MEDICAL CONDITION THAT HAS BEEN DIAGNOSED BY A PHYSICIAN WITH WHOM THE DEFENDANT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP;

B. THE DEBILITATING MEDICAL CONDITION IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE; AND

C. MARIJUANA IS LIKELY TO PROVIDE THE DEFENDANT WITH THERAPEUTIC OR PALLIATIVE RELIEF FROM THE DEBILITATING MEDICAL CONDITION.

2. THE AFFIRMATIVE DEFENSE MAY NOT BE USED IF THE DEFENDANT WAS:

A. USING MARIJUANA IN A PUBLIC PLACE; OR

B. IN POSSESSION OF MORE THAN 1 OUNCE OF MARIJUANA.”.

AMENDMENT NO. 4

On page 31, in line 4, after the second “the” insert “Maryland Chapter of the”; and in line 5, strike “Coalition on Alcohol and Other Drug Dependencies” and substitute “Council on Alcoholism and Drug Dependence”.