

FIFTY-FOURTH LEGISLATURE
FIRST SESSION, 2019

SB 406/a

March 2, 2019

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

**SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 406**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 11, after the semicolon, insert "ENACTING A SECTION OF THE PUBLIC SCHOOL CODE TO ALLOW THE POSSESSION, STORAGE AND ADMINISTRATION OF MEDICAL CANNABIS IN CERTAIN SCHOOL SETTINGS;".

2. On page 1, between lines 22 and 23, insert the following new section:

"SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] MEDICAL CANNABIS--POSSESSION--STORAGE--ADMINISTRATION--RESTRICTION--EXEMPTIONS.--

A. Except as provided pursuant to Subsection C of this section, local school boards and the governing bodies of charter schools shall authorize by rule the possession, storage and administration of medical cannabis by parents and legal guardians, or by designated school personnel, to qualified students for use in school settings; provided that:

(1) a student shall not possess, store or self-administer medical cannabis in a school setting;

(2) a parent, legal guardian or designated school personnel shall not administer medical cannabis in a manner that creates disruption to the educational environment or causes other students to be exposed to medical cannabis;

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(3) a written treatment plan for the administration of the medical cannabis is agreed to and signed by the principal or the principal's designee of the qualified student's school and the qualified student's parent or legal guardian; and

(4) before the first administration of medical cannabis in a school setting, the qualified student's parent or legal guardian completes and submits documentation as required by local school board or charter school rules that includes a:

(a) copy of the qualified student's written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

(b) written statement from the qualified student's parent or legal guardian releasing the school and school personnel from liability, except in cases of willful or wanton misconduct or disregard of the qualified student's treatment plan.

B. A local school board or the governing body of a charter school may adopt policies that:

(1) restrict the types of designated school personnel who may administer medical cannabis to qualified students;

(2) establish reasonable parameters regarding the administration and use of medical cannabis and the school settings in which administration and use are authorized; and

(3) ban student possession, use, distribution, sale or being under the influence of a cannabis product in a manner that is inconsistent with the provisions of this subsection.

C. The provisions of Subsection A of this section shall not apply to a charter school or school district if:

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(1) the charter school or school district reasonably determines that it would lose, or has lost, federal funding as a result of implementing the provisions of Subsection A of this section; and

(2) the determination is appealable by any parent to the secretary, based on rules established by the department.

D. A public school, charter school or school district shall not:

(1) discipline a student who is a qualified student on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school;

(2) deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or a school-sponsored activity; or

(3) discipline a school employee who refuses to administer medical cannabis.

E. As used in this section:

(1) "certifying practitioner" means a health care practitioner who issues a written certification to a qualified student;

(2) "designated school personnel" means a school employee whom a public school, charter school or school district authorizes to possess, store and administer medical cannabis to a qualified student in accordance with the provisions of this section;

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(3) "medical cannabis" means cannabis that is:

(a) authorized for use by qualified patients in accordance with the provisions of the Lynn and Erin Compassionate Use Act; and

(b) is in a form that is not an aerosol and cannot be smoked or inhaled in particulate form as a vapor or by burning;

(4) "qualified student" means a student who demonstrates evidence to the school district that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis in accordance with the provisions of that act;

(5) "school" means a public school or a charter school;

(6) "school setting" means any of the following locations during a school day:

(a) a school building;

(b) a school bus used within the state during, in transit to or in transit from a school-sponsored activity;

(c) a public vehicle used within the state during, in transit to or in transit from a school-sponsored activity in the state; or

(d) a public site in the state where a school-sponsored activity takes place; and

(7) "written certification" means a statement in a qualified student's medical records or a statement signed by a qualified student's certifying practitioner that, in the certifying practitioner's professional opinion, the qualified student has a

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debilitating medical condition and the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student. A written certification is not valid for more than one year from the date of issuance.'".

3. Renumber the succeeding sections accordingly.

4. On page 3, line 8, strike "producer's" and after "premises", insert "approved by the department".

5. On page 4, line 14, before "wholesale", insert "and sell".

6. On page 11, line 21, strike "not more than six mature", strike lines 22 and 23 and strike line 24 up to the semicolon and insert in lieu thereof "cannabis plants or cannabis products as allowed by department rule".

7. On page 15, strike lines 13 and 14.

8. Reletter the succeeding subparagraphs accordingly.

9. On page 32, between lines 24 and 25, insert the following new section:

"SECTION 15. TEMPORARY PROVISION--LICENSED PRODUCERS.--A licensed producer, as defined in the Lynn and Erin Compassionate Use Act prior to the enactment of this 2019 act, that is licensed as of the effective date of this 2019 act shall be considered to be a cannabis producer, as defined by this 2019 act."

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Respectfully submitted,

Richard C. Martinez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Cervantes, Payne, Stewart

Absent: None

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