

SB 423 Monitoring: Montana Marijuana Act Developments Through June 2012

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June 2012

Background

Senate Bill 423 repealed Montana's Medical Marijuana Act on July 1, 2011, and replaced it with new requirements for the cultivation, manufacture, and possession of marijuana for use by people with debilitating medical conditions.

SB 423 also required the Children, Families, Health, and Human Services Interim Committee to monitor the new law and to draft legislation if members decide changes to the law are needed.

This briefing paper summarizes developments related to SB 423's implementation since May 2012, as well as other items that have had or may have an effect on the use of marijuana for medical conditions.

Legal Challenge: Montana Cannabis Industry Association v. State of Montana

The Montana Supreme Court is reviewing appeals related to SB 423 after hearing oral arguments on May 30. The court will determine:

- whether two portions of the law that were blocked by a District Court order should be allowed to go into effect;
- if two additional elements of the law should be put on hold; or
- whether the whole law should be enjoined until a trial is held on the merits of the case.

The Montana Cannabis Industry Association filed suit in May 2011 challenging the law on constitutional grounds. The association also asked that the law be prevented from going into effect while the case is pending. Last June, District Judge Jim Reynolds prevented five provisions from going into effect while the case proceeded. The Attorney General's Office then appealed the portions of his decision that blocked:

- the law's ban on compensation for marijuana; and
- the limit on the number of patients for whom a provider may grow or manufacture marijuana or marijuana-infused products.

The plaintiffs filed a cross-appeal last fall. They said Judge Reynolds should have enjoined the entire law. They also said that he erred when he allowed two provisions of the law to go into effect: the prohibition on issuing cards to probationers or parolees and the standard of care that doctors must follow when certifying medical conditions.

After the Supreme Court rules on the appeals, the case will go back to District Court for further action under the guidelines established by the ruling.

Registry Statistics

The number of people registered to use marijuana for a debilitating medical condition declined to 8,734 at the end of May 2012 — about one-fourth the number of patients at the same time a year ago. The registry listed 31,522 patients at the end of May 2011, the final month before the new registration requirements of SB 423 went into effect.

The May 2012 statistics also show:

- the number of minors with cards dropped from 54 in May 2011 to 6 in May 2012;
- cardholders who are 21 to 30 years of age represented 16.21% of the cardholders in May 2012, compared with 25% in May 2011; and
- the average age of cardholders was 46 in May 2012, compared with 41 in May 2011.

Ballot Measures

Opponents to SB 423 last year gathered enough signatures to place a measure challenging the law on the November 2012 ballot. Initiative Referendum 124 gives voters a chance to reject or retain the changes made by SB 423.

Another marijuana-related ballot measure is in the signature-gathering stage. Constitutional Initiative 110 would legalize marijuana use by adults by amending Article II, Section 14, of the Montana Constitution. This section currently states that individuals who are 18 years of age or older are adults for all purposes except buying, consuming, or possessing alcoholic beverages.

CI-110 would add marijuana use to that exception. It would further spell out that adults:

- may responsibly buy, consume, produce, and possess marijuana subject to reasonable limitations, regulations, and taxation; and
- may not be prosecuted or penalized for their marijuana-related activities unless their actions endangered minors or the public safety.

Supporters must gather 48,674 signatures by June 22 in order to put CI-110 on the ballot. The signatures must represent 10 percent of the voters in 40 House districts.