

109TH CONGRESS
1ST SESSION

H. R. 4272

To amend the Controlled Substances Act to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2005

Mr. FARR (for himself, Mr. ROHRBACHER, Ms. WOOLSEY, Mr. FRANK of Massachusetts, Mr. CONYERS, Mr. HINCHEY, Ms. BALDWIN, Mr. McDERMOTT, Mr. CASE, and Mr. KUCINICH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Steve McWilliams
5 Truth in Trials Act”.

1 **SEC. 2. PROVIDING AN AFFIRMATIVE DEFENSE FOR THE**
2 **MEDICAL USE OF MARIJUANA; SEIZURE OF**
3 **PROPERTY.**

4 The Controlled Substances Act (21 U.S.C. 801 et
5 seq.) is amended by inserting after section 423 the fol-
6 lowing:

7 “AFFIRMATIVE DEFENSE FOR CONDUCT REGARDING THE
8 MEDICAL USE OF MARIJUANA

9 “SEC. 424. (a) Any person facing prosecution or a
10 proceeding for any marijuana-related offense under this
11 title shall have the right to introduce evidence dem-
12 onstrating that the marijuana-related activities for which
13 the person stands accused were performed in compliance
14 with State law regarding the medical use of marijuana,
15 or that the property which is subject to a proceeding was
16 possessed in compliance with State law regarding the med-
17 ical use of marijuana.

18 “(b)(1) It is an affirmative defense, to a prosecution
19 or proceeding under this title for marijuana-related activi-
20 ties, if the proponent establishes by a preponderance of
21 the evidence, that such activities comply with State law
22 regarding the medical use of marijuana.

23 “(2) In a prosecution or a proceeding under this title,
24 should a finder of fact determine, based on State law re-
25 garding the medical use of marijuana, that a defendant’s
26 marijuana-related activity was performed primarily, but

1 not exclusively, for medical purposes, the defendant may
2 be found guilty of a lesser offense under this title cor-
3 responding to the amount of marijuana determined to be
4 for nonmedical purposes.

5 “(c) Any property seized in connection with a pros-
6 ecution or proceeding under this title, with respect to
7 which a person successfully makes a defense under this
8 section, shall be returned to the owner promptly, minus
9 such material necessarily destroyed for testing purposes.”.

10 **SEC. 3. SEIZURE AND CUSTODY OF MARIJUANA IN CASES**
11 **INVOLVING POSSIBLE MEDICAL USE.**

12 (a) LIMITATION ON AUTHORITY FOR SEIZURE.—Sec-
13 tion 511(g)(2) of the Controlled Substances Act (21
14 U.S.C. 881(g)(2)) is amended by inserting “or either a
15 recommendation by a physician or an order of a State or
16 municipal agency in accordance with State law regarding
17 the medical use of marijuana” after “appropriate registra-
18 tion,”.

19 (b) RETENTION OF CERTAIN SEIZED PLANTS.—Sec-
20 tion 511(g)(3) of the Controlled Substances Act (21
21 U.S.C. 881(g)(3)) is amended by adding at the end the
22 following: “Any marijuana seized shall be retained and not
23 destroyed pending resolution of the forfeiture claim, if not
24 later than 30 days after seizure the owner of the property
25 notifies the Attorney General, or his duly authorized

1 agent, that a person with an ownership interest in the
2 property is asserting an affirmative defense for the med-
3 ical use of marijuana. If the possession of such marijuana
4 is found to have been in compliance with State law pursu-
5 ant to section 424, it shall be returned not later than 10
6 days after such finding.”.

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