

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 19

BY TRAIL

AN ACT

1 RELATING TO MEDICAL MARIJUANA; AMENDING TITLE 39, IDAHO CODE, BY THE AD-  
2 DITION OF A NEW CHAPTER 47, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT  
3 TITLE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO PROVIDE FOR  
4 REGISTRATION, TO PROVIDE FOR CERTIFICATION, TO PROVIDE FOR PROTECTION  
5 AGAINST CERTAIN PENALTIES AND DISCIPLINE, DENIAL OF RIGHTS AND PRIVI-  
6 LEGES, SEARCHES, ARRESTS AND PROSECUTIONS, TO PROVIDE FOR ALTERNATIVE  
7 TREATMENT CENTERS, TO PROVIDE THAT CERTAIN ACTIVITIES ARE PROHIBITED,  
8 TO PROVIDE THAT CERTAIN ACTIVITIES SHALL CONSTITUTE MISDEMEANORS, TO  
9 PROVIDE FOR OTHER OFFENSES, TO PROVIDE FOR THE DISPENSATION OF MAR-  
10 IJUANA, TO PROVIDE FOR AN EXEMPTION FROM CRIMINAL LIABILITY AND TO  
11 PROVIDE A BURDEN OF PROOF, TO PROVIDE FOR THE RECEIPT OF FUNDS AND FEES,  
12 TO PROVIDE FOR REPORTS BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND  
13 WELFARE TO THE GOVERNOR AND THE LEGISLATURE, TO PROVIDE THAT CERTAIN AC-  
14 TIONS SHALL NOT BE REQUIRED, TO PROVIDE FOR STATE IMMUNITY FROM LIABIL-  
15 ITY, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR AN ADVISORY COMMITTEE.  
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended  
19 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
20 ter 47, Title 39, Idaho Code, and to read as follows:

21 CHAPTER 47

22 IDAHO COMPASSIONATE USE MEDICAL MARIJUANA ACT

23 39-4701. SHORT TITLE. This act shall be known and may be cited as the  
24 "Idaho Compassionate Use Medical Marijuana Act."

25 39-4702. LEGISLATIVE FINDINGS. (1) Modern medical research has dis-  
26 covered a beneficial use for marijuana in treating or alleviating the pain  
27 or other symptoms associated with certain debilitating medical conditions,  
28 as found by the national academy of sciences' institute of medicine in March,  
29 1999;

30 (2) According to the U.S. sentencing commission and the federal bureau  
31 of investigation, ninety-nine (99) out of every one hundred (100) marijuana  
32 arrests in the country are made under state law, rather than under federal  
33 law. Consequently, changing state law will have the practical effect of pro-  
34 tecting from arrest the vast majority of seriously ill people who have a med-  
35 ical need to use marijuana.

36 (3) Although federal law currently prohibits the use of marijuana, the  
37 laws of Alaska, California, Colorado, Hawaii, Maine, Michigan, Montana,  
38 Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and Washington  
39 permit the use of marijuana for medical purposes, and in Arizona doctors are

1 permitted to prescribe marijuana. Idaho joins this effort for the health and  
2 welfare of its citizens.

3 (4) States are not required to enforce federal law or prosecute people  
4 for engaging in activities prohibited by federal law; therefore, compliance  
5 with the provisions of this chapter does not put the state of Idaho in viola-  
6 tion of federal law.

7 (5) Many patients with severe chronic medical conditions are pre-  
8 scribed costly addictive drugs such as morphine and oxycodone, which can  
9 result in additional negative impacts to the health of the patient. The use  
10 of medical marijuana can provide significant pain relief to the patient and  
11 at the same time be a major cost savings to the patient, their families and  
12 the state.

13 (6) Compassion dictates that a distinction be made between medical and  
14 nonmedical uses of marijuana. Hence, the purpose of this chapter is to pro-  
15 tect from arrest, prosecution, property forfeiture, and criminal and other  
16 penalties, those patients who use marijuana to alleviate suffering from de-  
17 bilitating medical conditions, as well as their physicians, primary care-  
18 givers and those who are authorized to produce marijuana for medical pur-  
19 poses.

20 39-4703. DEFINITIONS. As used in this chapter:

21 (1) "Bona fide physician-patient relationship" means a relationship in  
22 which the physician has ongoing responsibility for the assessment, care and  
23 treatment of a patient's debilitating medical condition;

24 (2) "Certification" means a document signed by a physician licensed and  
25 in good standing to practice in the state, stating that in the physician's  
26 professional opinion the patient is likely to receive therapeutic or pal-  
27 liative benefit from the medical use of marijuana to treat or alleviate the  
28 patient's debilitating medical condition or symptoms associated with the  
29 debilitating medical condition. A certification shall be made only in the  
30 course of a bona fide physician-patient relationship;

31 (3) "Debilitating medical condition" means:

32 (a) One (1) of the following conditions: A seizure disorder, including  
33 epilepsy, intractable skeletal muscular spasticity or glaucoma;

34 (b) One (1) or more of the following conditions: A chronic or debil-  
35 itating disease or medical condition, or its treatment, that produces  
36 one (1) or more of the following: severe debilitating pain, severe nau-  
37 sea or vomiting, cachexia or wasting syndrome, seizures or severe and  
38 persistent muscle spasms;

39 (c) Amyotrophic lateral sclerosis, multiple sclerosis, terminal can-  
40 cer, muscular dystrophy, or inflammatory bowel disease, including  
41 Crohn's disease;

42 (d) Terminal illness, if the physician has determined a prognosis of  
43 less than twelve (12) months of life; or

44 (e) Any other medical condition or its treatment that is approved by the  
45 department by rule;

46 (4) "Department" means the Idaho department of health and welfare;

47 (5) "Director" means the director of the Idaho department of health and  
48 welfare;

49 (6) "Marijuana" has the meaning given in section 37-2701, Idaho Code;

1 (7) "Medical marijuana alternative treatment center" or "alternative  
2 treatment center" means an organization approved by the department to per-  
3 form activities necessary to provide registered qualifying patients with  
4 usable marijuana and related paraphernalia in accordance with the provi-  
5 sions of this chapter. This term shall include the organization's officers,  
6 directors, board members and employees;

7 (8) "Medical use of marijuana" means the acquisition, possession,  
8 transport or use of marijuana or paraphernalia by a registered qualifying  
9 patient as authorized by this chapter, or the acquisition, possession or  
10 transport of marijuana or paraphernalia by a designated caregiver on behalf  
11 of a registered qualifying patient as authorized by this chapter;

12 (9) "Minor" means a person who is under eighteen (18) years of age and  
13 who has not been married or previously declared by a court to be emancipated;

14 (10) "Paraphernalia" has the same meaning as the term "drug parapherna-  
15 lia" given in section 37-2701, Idaho Code;

16 (11) "Physician" means a person licensed to practice medicine in the  
17 state of Idaho with whom the patient has a bona fide physician-patient  
18 relationship and who is the primary care physician, hospice physician or  
19 physician responsible for the ongoing treatment of a patient's debilitating  
20 medical condition. Provided however, that such ongoing treatment shall not  
21 be limited to the provision of authorization for a patient to use medical  
22 marijuana or consultation solely for that purpose;

23 (12) "Primary caregiver" or "caregiver" means a resident of the state  
24 who:

25 (a) Is at least eighteen (18) years old;

26 (b) Has agreed to assist with a registered qualifying patient's medical  
27 use of marijuana, is not currently serving as a primary caregiver for  
28 another qualifying patient, and is not the qualifying patient's physi-  
29 cian;

30 (c) Has never been convicted of possession or sale of a controlled  
31 substance, unless such conviction occurred after the effective date of  
32 this act and was for a violation of federal law related to possession or  
33 sale of marijuana that is authorized under this chapter;

34 (d) Has registered with the department pursuant to section 39-4704,  
35 Idaho Code, and has satisfied the criminal history record background  
36 check requirement of section 39-4704, Idaho Code; and

37 (e) Has been designated as a primary caregiver on the qualifying pa-  
38 tient's application or renewal for a registry identification card or in  
39 other written notification to the department;

40 (13) "Qualifying patient" or "patient" means a resident of the state who  
41 has been provided with a certification by a physician pursuant to a bona fide  
42 physician-patient relationship;

43 (14) "Registry identification card" means a document issued by the de-  
44 partment that identifies a person as a registered qualifying patient or pri-  
45 mary caregiver;

46 (15) "Usable marijuana" means the dried leaves and flowers of mari-  
47 juana, and any mixture or preparation thereof, and does not include the  
48 seeds, stems, stalks or roots of the plant.

1           39-4704. REGISTRATION. (1) The department shall establish a registry  
2 of qualifying patients and their primary caregivers and shall issue a reg-  
3 istry identification card, that shall be valid for two (2) years, to a quali-  
4 fying patient and primary caregiver, if applicable, who submits the follow-  
5 ing, in accordance with regulations adopted by the department:

6           (a) A certification that meets the requirements of section 39-4705,  
7 Idaho Code;

8           (b) An application or renewal fee, which may be based on a sliding scale  
9 as determined by the director;

10          (c) The name, address and date of birth of the patient and caregiver, as  
11 applicable; and

12          (d) The name, address and telephone number of the patient's physician.

13          (2) Before issuing a registry identification card, the department  
14 shall verify the information contained in the application or renewal form  
15 submitted pursuant to this section. In the case of a primary caregiver, the  
16 department shall provisionally approve an application pending the results  
17 of a criminal history record background check, if the caregiver otherwise  
18 meets the requirements of this chapter. The department shall approve or deny  
19 an application or renewal within thirty (30) days of receipt of the completed  
20 application or renewal, and shall issue a registry identification card  
21 within five (5) days of approving the application or renewal. The department  
22 may deny an application or renewal only if the applicant fails to provide  
23 the information required pursuant to this section, or if the department  
24 determines that the information was incorrect or falsified or does not meet  
25 the requirements of this chapter. Denial of an application shall be a final  
26 agency decision, subject to review pursuant to the provisions of chapter 52,  
27 title 67, Idaho Code.

28          (3) (a) The director shall require each applicant seeking to serve as  
29 a primary caregiver to undergo a criminal history record background  
30 check. The director is authorized to exchange fingerprint data with  
31 and receive criminal history record background information from the  
32 Idaho state police and the federal bureau of investigation consistent  
33 with the provisions of applicable federal and state laws, rules and  
34 regulations. The Idaho state police shall forward criminal history  
35 record background information to the director in a timely manner when  
36 requested pursuant to the provisions of this section.

37 An applicant seeking to serve as a primary caregiver shall submit to be-  
38 ing fingerprinted in accordance with applicable state and federal laws,  
39 rules and regulations. No check of criminal history record background  
40 information shall be performed pursuant to this section unless the ap-  
41 plicant has furnished his written consent to that check. An applicant  
42 who refuses to consent to, or cooperate in, the securing of a check of  
43 criminal history record background information shall not be considered  
44 for inclusion in the registry as a primary caregiver or issuance of an  
45 identification card. An applicant shall bear the cost for the criminal  
46 history record background check, including all costs of administering  
47 and processing the check.

48          (b) The director shall not approve an applicant seeking to serve as a  
49 primary caregiver if the criminal history record background informa-  
50 tion of the applicant reveals a disqualifying conviction. For the pur-

1 poses of this section, a disqualifying conviction shall mean a conviction  
2 of a crime involving any controlled substance as set forth in the  
3 provisions of Idaho law.

4 (c) Upon receipt of the criminal history record background information  
5 from the Idaho state police and the federal bureau of investigation,  
6 the director shall provide written notification to the applicant of his  
7 qualification or disqualification for serving as a primary caregiver.

8 If the applicant is disqualified because of a disqualifying conviction  
9 pursuant to the provisions of this section, the conviction that constitutes  
10 the basis for the disqualification shall be identified in the  
11 written notice.

12 (d) The Idaho state police shall promptly notify the director in the  
13 event that an individual who was the subject of a criminal history  
14 record background check conducted pursuant to this section is convicted  
15 of a crime or offense in this state after the date the background check  
16 was performed. Upon receipt of that notification, the director shall  
17 make a determination regarding the continued eligibility of the applicant  
18 to serve as a primary caregiver.

19 (e) Notwithstanding the provisions of subsection (2) of this section  
20 to the contrary, no applicant shall be disqualified from serving as a  
21 registered primary caregiver on the basis of any conviction disclosed  
22 by a criminal history record background check conducted pursuant to  
23 this section if the individual has affirmatively demonstrated to the  
24 director clear and convincing evidence of rehabilitation. In determining  
25 whether clear and convincing evidence of rehabilitation has been  
26 demonstrated, the following factors shall be considered:

27 (i) The nature and responsibility of the position that the convicted  
28 individual would hold, has held or currently holds;

29 (ii) The nature and seriousness of the crime or offense;

30 (iii) The circumstances under which the crime or offense occurred;

31 (iv) The date of the crime or offense;

32 (v) The age of the individual when the crime or offense was committed;

33 (vi) Whether the crime or offense was an isolated or repeated incident;

34 (vii) Any social conditions that may have contributed to the commission  
35 of the crime or offense; and

36 (viii) Any evidence of rehabilitation, including good conduct  
37 in prison or in the community, counseling or psychiatric treatment  
38 received, acquisition of additional academic or vocational  
39 schooling, successful participation in correctional work release  
40 programs, or the recommendation of those who have had the individual  
41 under their supervision.

42 (4) A registry identification card shall contain the following information:  
43

44 (a) The name, address and date of birth of the patient and primary caregiver,  
45 if applicable;

46 (b) The expiration date of the registry identification card;

47 (c) Photo identification of the cardholder;  
48  
49

1 (d) A random ten (10) digit alphanumeric identification number, con-  
2 taining at least four (4) numbers and at least four (4) letters, which is  
3 unique to the cardholder;

4 (e) If the cardholder is a primary caregiver, the random identifica-  
5 tion number of the registered qualifying patient the primary caregiver  
6 is assisting; and

7 (f) Such other information that the department may specify by regula-  
8 tion.

9 (5) (a) A patient who has been issued a registry identification card  
10 shall notify the department of any change in the patient's name, ad-  
11 dress, or physician or change in status of the patient's debilitating  
12 medical condition, within thirty (30) days of such change, or the reg-  
13 istry identification card shall be deemed null and void.

14 (b) A primary caregiver who has been issued a registry identification  
15 card shall notify the department of any change in the caregiver's name  
16 or address within thirty (30) days of such change, or the registry iden-  
17 tification card shall be deemed null and void.

18 (6) The department shall maintain a confidential list of the persons  
19 to whom it has issued registry identification cards. Individual names and  
20 other identifying information on the list, and information contained in any  
21 application form or accompanying or supporting document, shall be confiden-  
22 tial and shall not be considered a public record under chapter 3, title 9,  
23 Idaho Code, and shall not be disclosed except to:

24 (a) Authorized employees of the department as necessary to perform of-  
25 ficial duties of the department; and

26 (b) Authorized employees of state or local law enforcement agencies,  
27 only as necessary to verify that a person who is engaged in the suspected  
28 or alleged medical use of marijuana is lawfully in possession of a reg-  
29 istry identification card.

30 (7) Applying for or receiving a registry card does not constitute a  
31 waiver of the qualifying patient's patient-physician privilege.

32 (8) A registered qualifying patient may be registered at only one (1)  
33 alternative treatment center at a time. A registered qualifying patient  
34 shall notify the department of which alternative treatment center the pa-  
35 tient designates and the department shall update the registered qualifying  
36 patient's record and the patient's primary caregiver's record, if any, to  
37 reflect the designation.

38 (9) A registered qualifying patient may change his alternative treat-  
39 ment center. A fee of fifteen dollars (\$15.00) shall be paid to the depart-  
40 ment. The department shall, within five (5) business days of receiving the  
41 notification, update the registered qualifying patient's record and the pa-  
42 tient's primary caregiver's record, if any, to reflect the change in desig-  
43 nation, and notify the patient that the change has been processed. The de-  
44 partment may limit the frequency a designation can be changed to once every  
45 thirty (30) days.

46 (10) Within one hundred twenty (120) days of the effective date of  
47 this chapter, the department shall establish a verification system. The  
48 verification system must allow law enforcement personnel and alternative  
49 treatment centers to enter a registry identification number to determine  
50 whether or not the number corresponds with a current, valid registry iden-

1 tification card. The system shall disclose only whether the identification  
2 card is valid, whether the cardholder is a registered qualifying patient or a  
3 registered primary caregiver, and the registry identification number of the  
4 alternative treatment center that serves the registered qualifying patient  
5 who holds the card or the registry identification number of the patient who  
6 is assisted by the registered primary caregiver who holds the card.

7 39-4705. CERTIFICATION. If the registered qualifying patient's cer-  
8 tifying physician notifies the department in writing that either the reg-  
9 istered qualifying patient has ceased to suffer from a debilitating medical  
10 condition or that the practitioner no longer believes the patient would re-  
11 ceive therapeutic or palliative benefit from the medical use of marijuana,  
12 the card shall become null and void upon notification of the patient from the  
13 department. However, the registered qualifying patient shall have fifteen  
14 (15) days to dispose of his or her marijuana.

15 39-4706. PROTECTIONS. (1) A qualifying patient or primary care-  
16 giver possessing a valid registry identification card and possessing two  
17 (2) ounces or less of usable marijuana, an alternative treatment center,  
18 a physician, or any other person acting in accordance with the provisions  
19 of this chapter shall not be subject to arrest, prosecution or any civil or  
20 administrative penalty, or denied any right or privilege including, but not  
21 limited to, civil penalty or disciplinary action by a professional licens-  
22 ing board, related to the medical use of marijuana as authorized under this  
23 chapter.

24 (2) Possession of, or application for, a registry identification card  
25 shall not alone constitute probable cause to search the person or the prop-  
26 erty of the person possessing or applying for the registry identification  
27 card, or otherwise subject the person or his property to inspection by any  
28 governmental agency.

29 (3) No person shall be subject to arrest or prosecution for construc-  
30 tive possession, conspiracy or any other offense for simply being in the  
31 presence or vicinity of the medical use of marijuana as authorized under this  
32 chapter.

33 (4) No custodial parent, guardian, or person who has legal custody of a  
34 qualifying patient who is a minor shall be subject to arrest or prosecution  
35 for constructive possession, conspiracy or any other offense for assisting  
36 the minor in the medical use of marijuana as authorized under this chapter.

37 (5) A qualifying patient shall not be denied employment in the public or  
38 private sector on the basis of a positive test for marijuana.

39 39-4707. ALTERNATIVE TREATMENT CENTERS. (1) The department shall ac-  
40 cept applications from entities for permits to operate as alternative treat-  
41 ment centers, and may charge a reasonable fee for the issuance of a permit  
42 under this section. The department shall seek to ensure the availability of  
43 a sufficient number of alternative treatment centers throughout the state,  
44 pursuant to need, including at least two (2) each in the northern, central  
45 and southern regions of the state. The first two (2) centers issued a permit  
46 in each region shall be nonprofit entities, and centers subsequently issued  
47 permits may be nonprofit or for-profit entities.

1 An alternative treatment center shall be authorized to acquire a rea-  
2 sonable initial and ongoing inventory, as determined by the department, of  
3 marijuana seeds or seedlings and paraphernalia, possess, cultivate, plant,  
4 grow, harvest, process, display, manufacture, deliver, transfer, trans-  
5 port, distribute, supply, sell or dispense marijuana, or related supplies to  
6 qualifying patients or their primary caregivers who are registered with the  
7 department pursuant to section 39-4704, Idaho Code.

8 Applicants for authorization as nonprofit alternative treatment cen-  
9 ters shall be subject to all applicable state laws governing nonprofit en-  
10 tities, but need not be recognized as a 501(c) (3) organization by the federal  
11 internal revenue service.

12 (2) The department shall require that an applicant provide such in-  
13 formation as the department determines to be necessary pursuant to rules  
14 adopted pursuant to this chapter.

15 (3) A person who has been convicted of a crime involving any controlled  
16 substance as set forth in title 37, Idaho Code, or any similar law of the  
17 United States or any other state, shall not be issued a permit to operate  
18 as an alternative treatment center or be a director, officer or employee of  
19 an alternative treatment center, unless such conviction occurred after the  
20 effective date of this act and was for a violation of federal law relating  
21 to possession or sale of marijuana for conduct that is authorized under this  
22 chapter.

23 (4) (a) The director shall require each applicant seeking a permit to  
24 operate as an alternative treatment center to undergo a criminal his-  
25 tory record background check. For purposes of this section, the term  
26 "applicant" shall include any owner, director, officer or employee  
27 of an alternative treatment center. The director is authorized to  
28 exchange fingerprint data with and receive criminal history record  
29 background information from the Idaho state police and the federal  
30 bureau of investigation consistent with the provisions of applicable  
31 federal and state laws, rules and regulations. The Idaho state police  
32 shall forward criminal history record background information to the  
33 director in a timely manner when requested pursuant to the provisions of  
34 this section.

35 An applicant shall submit to being fingerprinted in accordance with  
36 applicable state and federal laws, rules and regulations. No check  
37 of criminal history record background information shall be performed  
38 pursuant to this section unless the applicant has furnished his written  
39 consent to that check. An applicant who refuses to consent to, or coop-  
40 erate in, the securing of a check of criminal history record background  
41 information shall not be considered for a permit to operate, or autho-  
42 rization to be employed at, an alternative treatment center. An ap-  
43 plicant shall bear the cost for the criminal history record background  
44 check, including all costs of administering and processing the check.

45 (b) The director shall not approve an applicant for a permit to operate,  
46 or authorization to be employed at, an alternative treatment center if  
47 the criminal history record background information of the applicant re-  
48 veals a disqualifying conviction as set forth in paragraph (c) of this  
49 subsection.



1 (c) Upon receipt of the criminal history record background information  
2 from the Idaho state police and the federal bureau of investigation,  
3 the director shall provide written notification to the applicant of his  
4 qualification for or disqualification for a permit to operate or be a  
5 director, officer or employee of an alternative treatment center. If  
6 the applicant is disqualified because of a disqualifying conviction  
7 pursuant to the provisions of this section, the conviction that con-  
8 stitutes the basis for the disqualification shall be identified in the  
9 written notice.

10 (d) The Idaho state police shall promptly notify the director in the  
11 event that an individual who was the subject of a criminal history  
12 record background check conducted pursuant to this section is convicted  
13 of a crime or offense in this state after the date the background check  
14 was performed. Upon receipt of that notification, the director shall  
15 make a determination regarding the continued eligibility to operate or  
16 be a director, officer or employee of an alternative treatment center.

17 (e) Notwithstanding any other provisions of this section to the con-  
18 trary, the director may offer provisional authority for an applicant to  
19 be an employee of an alternative treatment center for a period not to ex-  
20 ceed three (3) months if the applicant submits to the director a sworn  
21 statement attesting that the person has not been convicted of any dis-  
22 qualifying conviction pursuant to this section.

23 (f) Notwithstanding any other provisions of this section to the  
24 contrary, no employee of an alternative treatment center shall be  
25 disqualified on the basis of any conviction disclosed by a criminal  
26 history record background check conducted pursuant to this section if  
27 the individual has affirmatively demonstrated to the director clear and  
28 convincing evidence of rehabilitation. In determining whether clear  
29 and convincing evidence of rehabilitation has been demonstrated, the  
30 following factors shall be considered:

- 31 (i) The nature and responsibility of the position that the con-  
32 victed individual would hold, has held or currently holds;  
33 (ii) The nature or seriousness of the crime or offense;  
34 (iii) The circumstances under which the crime or offense occurred;  
35 (iv) The date of the crime or offense;  
36 (v) The age of the individual when the crime or offense was com-  
37 mitted;  
38 (vi) Whether the crime or offense was an isolated or repeated in-  
39 cident;  
40 (vii) Any social conditions that may have contributed to the com-  
41 mission of the crime or offense; and  
42 (viii) Any evidence of rehabilitation, including good conduct  
43 in prison or in the community, counseling or psychiatric treat-  
44 ment received, acquisition of additional academic or vocational  
45 schooling, successful participation in correctional work release  
46 programs, or the recommendation of those who have had the individ-  
47 ual under their supervision.

48 (5) The department shall issue a permit to a person to operate as an  
49 alternative treatment center if the department finds that issuing such a  
50 permit would be consistent with the purposes of this chapter, the require-

1 ments of this section are met and the department has verified the information  
2 contained in the application. The department shall approve or deny an ap-  
3 plication within sixty (60) days after receipt of a completed application.  
4 The denial of an application shall be considered a final agency decision,  
5 subject to review pursuant to the provisions of chapter 52, title 67, Idaho  
6 Code. The department may suspend or revoke a permit to operate as an alterna-  
7 tive treatment center for cause, which shall be subject to review pursuant to  
8 the provisions of chapter 52, title 67, Idaho Code.

9 (6) A person who has been issued a permit pursuant to this section shall  
10 display the permit at the premises of the alternative treatment center at all  
11 times when marijuana is being produced or dispensed to a registered quali-  
12 fying patient or the patient's primary caregiver. The department shall in-  
13 clude on each permit a random ten (10) digit registry identification number  
14 that shall be unique to the alternative treatment center.

15 (7) An alternative treatment center shall report any change in informa-  
16 tion to the department not later than ten (10) days after such change, or the  
17 permit shall be deemed null and void.

18 (8) An alternative treatment center may charge a registered qualifying  
19 patient or primary caregiver for the reasonable costs associated with the  
20 production and distribution of marijuana for the cardholder.

21 (9) The director shall adopt rules to:

22 (a) Require such written documentation of each delivery of marijuana  
23 to, and pickup of marijuana for, a registered qualifying patient, in-  
24 cluding the date and amount dispensed, to be maintained in the records  
25 of the alternative treatment center as the director determines neces-  
26 sary to ensure effective documentation of the operations of each alter-  
27 native treatment center;

28 (b) Monitor, oversee and investigate all activities performed by an al-  
29 ternative treatment center; and

30 (c) Ensure adequate security of all facilities twenty-four (24) hours  
31 per day, including production and retail locations, and security of all  
32 delivery methods to registered qualifying patients.

33 (10) Alternative treatment centers shall be located only in those areas  
34 that do not violate zoning laws.

35 39-4708. ACTIVITY NOT PERMITTED. The provisions of this chapter shall  
36 not be construed to permit a person to:

37 (1) Operate, navigate or be in actual physical control of any vehicle,  
38 aircraft, railroad train, stationary heavy equipment or vessel while under  
39 the influence of marijuana; or

40 (2) Smoke marijuana in a school bus or other form of public transporta-  
41 tion, in a private vehicle unless the vehicle is not in operation, on any  
42 school grounds, in any correctional facility, at any public park or beach,  
43 at any recreation center, or in any place where smoking is otherwise prohib-  
44 ited.

45 A person who commits an act as provided in this section shall be subject to  
46 such penalties as are provided by law.

47 39-4709. CRIMINAL CONDUCT. A person who knowingly sells, offers, or  
48 exposes for sale, or otherwise transfers, or possesses with the intent to

1 sell, offer or expose for sale or transfer, a document that falsely purports  
2 to be a registration card issued pursuant to this chapter, or a registration  
3 card issued pursuant to this chapter that has been altered, is guilty of a  
4 misdemeanor. A person who knowingly presents to a law enforcement officer a  
5 document that falsely purports to be a registration card issued pursuant to  
6 this chapter, or a registration card that has been issued pursuant to this  
7 chapter that has been altered, is guilty of a misdemeanor. The provisions of  
8 this section are intended to supplement current law and shall not limit pros-  
9 ecution or conviction for any other offense.

10 39-4710. DISPENSATION OF MARIJUANA. (1) Before marijuana may be  
11 dispensed to a registered qualifying patient or the patient's primary care-  
12 giver, the alternative treatment center shall verify that the person holds  
13 a valid registry identification card and that the alternative treatment  
14 center is the designated alternative treatment center for the registered  
15 qualifying patient who is obtaining the marijuana directly or via his pri-  
16 mary caregiver.

17 (2) An alternative treatment center shall not dispense more than two  
18 (2) ounces of marijuana to a registered qualifying patient, directly or via a  
19 primary caregiver, in any twenty-eight (28) day period. Alternative treat-  
20 ment centers shall ensure compliance with this limitation by maintaining in-  
21 ternal confidential records that include records specifying how much mari-  
22 juana was dispensed to the registered qualifying patient and whether it was  
23 dispensed directly to the registered qualifying patient or to his primary  
24 caregiver. Each entry shall include the date and time the marijuana was dis-  
25 pensed. All dispensing records created by an alternative treatment center  
26 shall identify qualifying patients and primary caregivers by their registry  
27 identification numbers and may not contain names or other personally identi-  
28 fying information.

29 39-4711. EXEMPTION -- BURDEN OF PROOF. (1) If conduct is authorized  
30 by the provisions of this chapter, that authorization shall, subject to the  
31 provisions of this section, constitute an exemption from criminal liabil-  
32 ity, and the absence of such authorization shall not be construed to be an  
33 element of any offense. It is an affirmative defense to any criminal ac-  
34 tion arising under this chapter or any other provision of Idaho law that the  
35 defendant is the authorized holder of an appropriate registration, permit  
36 or order form or is otherwise exempted or excepted from criminal liability  
37 by virtue of any provision of this chapter. The affirmative defense estab-  
38 lished herein shall be proven by the defendant by a preponderance of the  
39 evidence. It shall not be necessary for the state to negate any exemption  
40 set forth in this chapter in any complaint, information, indictment or other  
41 pleading or in any trial, hearing or other proceeding under this chapter.

42 (2) No liability shall be imposed by virtue of this chapter upon any  
43 duly authorized state officer engaged in the enforcement of any law or munic-  
44 ipal ordinance relating to controlled substances.

45 39-4712. RECEIPT OF FUNDS -- FEES. (1) The director may accept from  
46 any governmental department or agency, public or private body, or any other

1 source, grants or contributions to be used in carrying out the purposes of  
2 this chapter.

3 (2) All fees collected pursuant to this chapter, including those from  
4 qualifying patients and alternative treatment centers' initial, modifica-  
5 tion and renewal applications, shall be used to offset the cost of the de-  
6 partment's administration of the provisions of this chapter.

7 39-4713. REPORTS. (1) The director shall report to the governor and to  
8 the legislature:

9 (a) No later than one (1) year after the effective date of this act, on  
10 the actions taken to implement the provisions of this chapter; and

11 (b) Annually thereafter on the number of applications for registry  
12 identification cards, the number of qualifying patients registered,  
13 the number of primary caregivers registered, the nature of the debil-  
14 itating medical conditions of the patients, the number of registry  
15 identification cards revoked, the number of alternative treatment cen-  
16 ter permits issued and revoked, and the number of physicians providing  
17 certifications for patients.

18 (2) The reports shall not contain any identifying information of pa-  
19 tients, caregivers or physicians.

20 (3) Within two (2) years after the effective date of this act and ev-  
21 ery two (2) years thereafter, the director shall: evaluate whether there  
22 are sufficient numbers of alternative treatment centers to meet the needs  
23 of registered qualifying patients throughout the state; evaluate whether  
24 the maximum amount of medical marijuana allowed pursuant to this chapter is  
25 sufficient to meet the medical needs of qualifying patients; and determine  
26 whether any alternative treatment center has charged excessive prices for  
27 marijuana that the center dispensed.

28 The director shall report his findings no later than two (2) years after the  
29 effective date of this act, and every two (2) years thereafter, to the gover-  
30 nor and to the legislature.

31 39-4714. ACTIONS NOT REQUIRED. Nothing in this chapter shall be con-  
32 strued to require a government medical assistance program or private health  
33 insurer to reimburse a person for costs associated with the medical use of  
34 marijuana, or an employer to accommodate the medical use of marijuana in any  
35 workplace.

36 39-4715. STATE NOT LIABLE. In addition to any immunity or defense  
37 provided by law, the state and any employee or agent of the state shall not  
38 be held liable for any actions taken in accordance with this chapter or for  
39 any deleterious outcomes from the medical use of marijuana by any registered  
40 qualifying patient.

41 39-4716. RULES -- ADVISORY COMMITTEE. The director shall, within  
42 ninety (90) days of the effective date of this act, promulgate such rules  
43 as he deems necessary to implement the provisions of this chapter unless  
44 otherwise specified pursuant to the provisions of this chapter. Rules shall  
45 include, but not be limited to, rules for the selection and function of an  
46 advisory committee which shall be established on the effective date of this

1 act for the purpose of advising the director on the administrative aspects  
2 of the Idaho compassionate use medical marijuana act, reviewing current and  
3 proposed administrative rules of the program and providing annual input on  
4 the fee structure of the program. Members of the committee shall include  
5 representatives of the medical community, law enforcement, patient advocate  
6 groups and the legislature and any other fields as determined by the direc-  
7 tor. The committee shall meet at least three (3) times per year, at times and  
8 places specified by the director and shall serve without compensation. The  
9 department shall provide staff support to the committee. To the extent per-  
10 mitted by laws relating to confidentiality, state agencies shall furnish any  
11 information that the members of the committee consider necessary to perform  
12 their duties.