

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# SENATE BILL

No. **464**

Session of  
1983

INTRODUCED BY STREET, MARCH 16, 1983

REFERRED TO FINANCE, MARCH 16, 1983

## AN ACT

1 Authorizing marihuana use; imposing duties upon the Department  
2 of Agriculture; providing licensure for distribution and  
3 cultivation; regulating sales and purchases; imposing  
4 penalties for violations; and making repeals.

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14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Marihuana  
18 Cultivation Control Act.

19 Section 2. Declaration of purpose.

20 It is the policy of the General Assembly and the purpose of  
21 this act to establish a comprehensive program to regulate the  
22 commerce of marihuana in the Commonwealth whereby:

23 (1) The abuse of marihuana is diminished.

24 (2) The use of marihuana by children is curtailed.

25 (3) The public health is protected by regulating the  
26 purity of marihuana in commerce.

27 (4) Illegal trafficking in marihuana is eliminated.

28 (5) The commerce in marihuana is taxed sufficiently to  
29 generate revenue commensurate to its place in the State  
30 economy.

1 (6) State resources shall no longer be diverted to  
2 ineffective law enforcement of marihuana.

3 (7) Medical research of marihuana is encouraged and  
4 barriers to the emergence of a domestic hemp industry are  
5 removed.

6 Section 3. Definitions.

7 The following words and phrases when used in this act shall  
8 have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Cultivation." The propagation, nurture and harvest of  
11 cannabis.

12 "Department." The Department of Agriculture.

13 "Marihuana." Consists of all forms, species and varieties of  
14 the genus Cannabis sativa L., whether growing or not, the seeds  
15 thereof, the resin extracted from any part of such plant and  
16 every compound, manufacture, salt, derivative, mixture or  
17 preparation of such plant, its seeds or resin, but shall not  
18 include tetrahydrocannabinols, the mature stalks of such plant,  
19 fiber produced from such stalks, oil or cake made from the seeds  
20 of such plant, any other compound, manufacture, salt,  
21 derivative, mixture or preparation of such mature stalks (except  
22 the resin extracted therefrom), fiber, oil, cake or the  
23 sterilized seed of such plant which is incapable of germination.

24 Section 4. Department of Agriculture; enforcement.

25 (a) Rules and regulations.--The department:

26 (1) Shall adopt rules and regulations as may be  
27 necessary to carry out the provisions of this act.

28 (2) May require in such manner and form as shall be  
29 prescribed such reports as are necessary to carry out the  
30 powers or duties given to them under this act.

1 (b) Annual report.--Not later than March 1 of each year, the  
2 department shall submit to the Speaker of the House of  
3 Representatives and the President pro tempore of the Senate a  
4 comprehensive and detailed written report with respect to the  
5 cultivation, processing, storage, handling and distribution of  
6 marihuana subject to the provisions of this act, the inspection  
7 of establishments operated in connection therewith and  
8 recommendations for legislation to improve the regulation of  
9 marihuana.

10 (c) Containers.--The department shall prescribe by rule the  
11 types or kinds of containers which may be used to contain,  
12 store, transfer, convey, remove or withdraw marihuana prior to  
13 packing for sale at retail.

14 Section 5. Proper use.

15 (a) Unlawful acts.--Except pursuant to a license issued  
16 under this act by the department and in compliance with rules  
17 adopted under the authority of this act, it shall be unlawful to  
18 do any of the following:

19 (1) Cultivate marihuana for other than personal use.

20 (2) Process marihuana for other than personal use.

21 (3) Distribute marihuana for consideration to any  
22 person.

23 (4) Possess, cultivate or process marihuana with intent  
24 to distribute for consideration to any person.

25 (5) Otherwise be engaged in commerce of marihuana for  
26 consideration.

27 (b) Use; possession.--For purposes of this section "personal  
28 use" means the consumption of marihuana by an adult or members  
29 of the immediate household of the adult and donees. The  
30 possession of more than five cannabis plants or more than 2.2

1 pounds of crude marihuana shall raise a rebuttable presumption  
2 that possession is not for personal use.

3 Section 6. Licensure; inspections.

4 (a) Application.--Before commencing in business as a  
5 cultivator or distributor of marihuana and at such other time as  
6 the department shall prescribe, a person shall make application  
7 for and obtain the appropriate license required by this act. The  
8 application shall be in such form as the department shall  
9 prescribe and shall set forth truthfully and accurately the  
10 information called for on the form. An application shall only be  
11 denied after notice and hearing at which the department or a  
12 designee thereof finds by a preponderance of the evidence that  
13 the applicant has failed to disclose material information  
14 required or made a material false statement in the application.  
15 No license under this act shall be issued to any applicant who  
16 has not reached 21 years of age.

17 (1) There shall be no fee required for an application to  
18 obtain a license.

19 (2) Conviction of any marihuana-related offense under  
20 State or Federal law prior to the effective date of this act  
21 shall not disqualify any applicant from licensure.

22 (3) Marihuana licenses issued pursuant to this act  
23 expire upon the second anniversary of the issuance thereof,  
24 unless renewed.

25 (4) The surviving spouse or legal representative of a  
26 deceased noncorporate licensee may continue to exercise  
27 rights under the license for 30 days following the death of  
28 the licensee. Thereafter the rights may be exercised only  
29 with the written consent of the department. The consent shall  
30 expire, if not sooner revoked, 15 months from the date of

1 death of the licensee. Consent shall be withheld unless the  
2 surviving spouse or legal representative meets the  
3 qualifications prescribed by this act for the type of license  
4 sought to be retained.

5 (b) Inspections.--The department and its agents and  
6 employees, during regular business hours and without notice  
7 thereof, may conduct such inspections of the licensed premises,  
8 including a review of the books, records and accounts of the  
9 licensee as shall be considered appropriate for the enforcement  
10 of this act.

11 (c) Vending machine sales.--Sale or distribution of  
12 marihuana by vending machine or similar automation is  
13 prohibited.

14 (d) Report.--The department shall report to the General  
15 Assembly upon any matters which shall require immediate change  
16 in order to prevent abuse and evasion of this act. For the five  
17 years next following the effective date of this act and every  
18 fifth year thereafter, the department shall carry on a  
19 continuous study and investigation of marihuana commerce in  
20 order to:

21 (1) Ascertain any defects in this act or in the  
22 administration thereof.

23 (2) Formulate recommendations for changes in the law and  
24 the rules adopted thereunder.

25 (3) Ascertain whether the use of law and rules adopted  
26 thereunder have functioned as a cover for the carrying on of  
27 criminal activities.

28 (e) Transferability.--No license issued under this act shall  
29 be transferable to any other person except in accordance with  
30 subsection (a) (4) relating to the death of a licensee.

1 Section 7. Cultivation.

2 (a) Cultivation license.--The department shall issue a  
3 cultivation license to any person who meets the requirements  
4 prescribed in section 6. The holding of a commercial cultivation  
5 license shall be conditioned upon conforming with this act and  
6 the rules adopted thereunder.

7 (b) Distribution.--It shall be unlawful for the holder of a  
8 cultivation license to distribute or deliver marihuana  
9 commercially to any person not authorized to receive or purchase  
10 marihuana under the provisions of this act and the rules adopted  
11 thereunder. A copy of a license bearing the seal of the  
12 Department of Agriculture shall constitute prima facie evidence  
13 of the license. Except in cases of conspiracy or accomplice  
14 liability, holders of a commercial cultivation license shall not  
15 be liable for the actions of transferees in violation of this  
16 act. For purposes of this subsection, transfer is accomplished  
17 when the cultivator completes performance of physical delivery  
18 of the marihuana.

19 (c) Limit.--Licensed cultivators shall be permitted to grow  
20 no more than 10,000 cannabis plants in any one-year period.

21 Section 8. Departmental processors.

22 (a) Employment.--The department shall hire qualified persons  
23 who shall be responsible for cleaning raw cannabis, testing for  
24 impurities, testing for potency, packaging and labeling dried  
25 marihuana for retail sale. Processors shall be paid a salary  
26 determined by the General Assembly.

27 (b) Bond.--Before any processor is hired, the department may  
28 require a bond in such form and amount as the department may  
29 prescribe to insure compliance with the terms of the license and  
30 the provisions of this act.

1 (c) Unlawful acts.--

2 (1) It shall be unlawful for any processor to distribute  
3 or deliver marihuana to any person not holding a trader's  
4 license issued by authority of this act.

5 (2) It shall be unlawful for any processor to distribute  
6 or possess for more than 24 hours any package containing  
7 marihuana which fails to bear a State seal or other such  
8 documentation as the department may prescribe as evidence  
9 that the revenue imposed by this act has been paid.

10 Section 9. Notices to consumer; protective labeling.

11 (a) Labeling.--The processor shall prepare marihuana in a  
12 package which bears a permanent label, in a form that the  
13 department may prescribe, containing the following information:

14 (1) The identity of the contents by species and variety.

15 (2) The name and place of business of the cultivator.

16 (3) A notice prominently placed on the label that  
17 smoking any substance irritates the mouth, throat, breathing  
18 passages and lungs and may be harmful to other organs;  
19 inexperience or overdose may cause confusion or  
20 disorientation; do not use around or when operating hazardous  
21 equipment; do not use during pregnancy; and the operation of  
22 a motor vehicle under the influence of marihuana, alcohol or  
23 any other intoxicant is a serious crime and may result in the  
24 loss of license to drive.

25 (4) The net quantity of contents in terms of dry weight  
26 by grams.

27 (5) Potency as expressed as the percentage of THC by dry  
28 weight.

29 (6) Such marketing or branding as shall prevent  
30 deception of the consumer with respect to the contents or the

1 quality thereof.

2 (b) Consumer deception.--The department shall adopt rules  
3 and regulations concerning the labeling of marihuana to:

4 (1) Prohibit deception of the consumer with respect to  
5 marihuana or the quantity thereof and to prohibit,  
6 irrespective of falsity, statements relating to age,  
7 cultivation methods, guarantees and scientific or irrelevant  
8 matters as the department finds likely to mislead the  
9 consumer.

10 (2) Prohibit statements on the label that are  
11 disparaging to the product of a competitor or which are  
12 false, misleading, obscene or indecent.

13 (3) Prevent deception of the consumer by use of a trade  
14 or brand name that is the name of any living individual of  
15 public prominence or existing private or public organization  
16 or is a name that is in simulation or is an abbreviation  
17 thereof, and to prevent the use of a graphic, pictorial or  
18 emblematic representation of any such individual or  
19 organization, if the use of such name or representation is  
20 likely to lead the consumer to believe that the product has  
21 been endorsed, made or used by or produced for, or under the  
22 supervision of, or in accordance with the specifications of  
23 such individuals or organizations. This shall not apply to  
24 the name or location of the cultivator or the generic name of  
25 the marihuana contained therein.

26 (c) Improper labeling by processor.--No processor shall  
27 affix labels or other documentation prescribed pursuant to  
28 subsections (a) and (b) to any package containing marihuana  
29 which contains a dilutant, retardant or accelerator,  
30 preservative or any additive of any kind, the effect whereof is

1 to reduce its purity to less than 100%.

2 (d) Defacing labels.--It shall be unlawful for any person to  
3 alter, mutilate, destroy, obliterate or remove any label upon  
4 marihuana held for sale authorized by this act except pursuant  
5 to rules adopted by the department in compliance with the  
6 requirements of this section.

7 Section 10. Trade licenses.

8 (a) Sale at retail.--The department shall issue trade  
9 licenses to any person meeting the qualifications of section 6  
10 for the sale of marihuana at retail.

11 (b) Unlawful acts.--It shall be unlawful for the holder of a  
12 trade license to sell, offer for sale or otherwise transfer with  
13 consideration, marihuana to any person who has not reached 21  
14 years of age or who is intoxicated.

15 (c) Bond.--Before any license required by this section is  
16 granted to a trader, the department may require a bond in a form  
17 and amount as prescribed by the department to insure compliance  
18 with the terms of the license and the provisions of this act.

19 Section 11. Place of sale.

20 Marihuana shall be sold at the retail level only in State  
21 licensed retail liquor outlets.

22 Section 12. Research licenses.

23 The department shall issue research licenses for the conduct  
24 of bona fide medical, social, behavioral or other research upon  
25 which terms and conditions shall be prescribed consistent with  
26 the purposes as set forth in section 3.

27 Section 13. Trade.

28 (a) Department of Agriculture as purchaser.--The department  
29 shall be the sole purchaser of the cannabis plant or any part  
30 thereof from any licensed cultivator. Sale or purchase made by

1 an unlicensed party shall be considered unlawful trade on the  
2 part of both the seller and the buyer. The department shall  
3 purchase only those cannabis plants which are taller than one  
4 meter at the time of harvest. All cannabis plants which do not  
5 reach the height of one meter at the time of harvest shall be  
6 destroyed. The department and authorized agents shall purchase  
7 only those plants which have flowered and are free of disease,  
8 mold or insect infestation. Immature plants shall be destroyed  
9 at the time of harvest.

10 (b) Purchase price.--The department shall purchase cannabis  
11 plants from licensed cultivators at the following prices:

12 (1) Male or unsexed cannabis plants, \$25 per plant.

13 (2) Hermaphroditic and fertilized female cannabis  
14 plants, \$50 per plant.

15 (3) Unfertilized female cannabis plants, \$100 per plant.

16 (c) Sale prices.--The department, through licensed traders,  
17 shall sell processed marihuana at the following prices:

18 (1) For marihuana containing more than 8% THC and a  
19 proportionate price for all fractional parts of an ounce of  
20 such cannabis, \$70 per ounce.

21 (2) For marihuana containing more than 4% but not more  
22 than 8% THC and a proportionate price for all fractional  
23 parts an ounce of such cannabis, \$50 per ounce.

24 (3) For marihuana containing more than 2% but not more  
25 than 4% THC and a proportionate price for all fractional  
26 parts of an ounce of such cannabis, \$30 per ounce.

27 (d) Adjustments to price.--The General Assembly may adjust  
28 the prices for cannabis and marihuana set forth in this section  
29 every two years from the effective date of this act. Such  
30 adjustments shall be tied to the Consumer Price Index for

1 Pennsylvania published annually by the United States Department  
2 of Labor Statistics. The index number in the column titled "all  
3 items" for the month of December next following the effective  
4 date of this act shall be the base index number and the  
5 corresponding index number for the month of December prior to  
6 the meeting of the General Assembly at which price adjustments  
7 are made shall be the "current index number." The current index  
8 number shall be divided by the base index number. From the  
9 quotient thereof, there shall be subtracted the integer one and  
10 resulting positive number shall be deemed to be the percentage  
11 of increase in the cost of living. The percentage of increase  
12 multiplied by the prices prescribed therein shall be the maximum  
13 increase to be imposed on the purchase or sale of cannabis and  
14 marihuana in the Commonwealth under this act.

15 Section 14. Cannabis fund.

16 (a) Use of funds.--All moneys from the sale of marihuana  
17 shall be forwarded to the department, who shall establish an  
18 interest-bearing cannabis fund within the department. This fund  
19 shall be used by the department to purchase raw cannabis from  
20 the cultivator, to pay the salaries of processors and other  
21 authorized agents needed to carry out the provisions of this act  
22 and to provide any equipment or personnel necessary for the  
23 processing and distribution of marihuana pursuant to the  
24 provision of this act.

25 (b) Profits.--At the end of each fiscal year all moneys in  
26 the cannabis fund considered by the department to be profit  
27 shall be distributed to the General Fund.

28 Section 15. Advertising.

29 (a) Prohibition.--No person, directly or indirectly,  
30 personally or through any agent or employee, whether for

1 consideration or gratuitously, shall cause to be published in a  
2 newspaper or magazine distributed anywhere in this Commonwealth  
3 or to be broadcast or cablecast to a radio or television  
4 receiver in this Commonwealth, or to appear in any display signs  
5 or personal solicitation, or any manner of advertising, any  
6 advertisement or notice to promote or encourage the consumption  
7 or use in any way of marihuana.

8 (b) Exceptions.--The prohibition in subsection (a) does not  
9 apply to any of the following:

10 (1) Cannabis packages, crates, cartons and boxes of  
11 cannabis products, however, such items shall not be used in  
12 display or ornament or as a fixture on any licensed premises.

13 (2) Logos contained in private correspondence or trade  
14 publications not intended for public distribution.

15 (3) A single notice reading "Authorized Marihuana  
16 Outlet" in a style prescribed by the department.

17 (c) Persons dealing in marihuana.--It shall be unlawful for  
18 any person engaged as a cultivator, processor or trader of  
19 cannabis or marihuana to publish or disseminate or cause to be  
20 published or disseminated by radio or television broadcast or  
21 cablecast, or in any newspaper, periodical or printed on graphic  
22 matter, any advertisement of marihuana, if such advertisement is  
23 calculated to induce sales in or use of marihuana, unless such  
24 advertisement is in conformity with rules adopted by the  
25 department to:

26 (1) prevent deception of the consumer with respect to  
27 the products advertised and prohibit, irrespective of  
28 falsity, such statements relating to age, origin, cultivation  
29 methods, guarantees and scientific or irrelevant matters as  
30 the department deems likely to mislead the consumer; or

1           (2) prevent statements inconsistent with any statement  
2 on the labelling of the products advertised.

3           (d) Publishers, broadcasters.--The prohibitions contained in  
4 subsection (c) and rules adopted under subsection (c) do not  
5 apply to the publisher of any newspaper, periodical or other  
6 publication or radio or television broadcast or cablecaster,  
7 unless such publisher or radio or television or cable  
8 broadcaster is engaged in business as a cultivator, processor or  
9 trader of cannabis or marihuana.

10 Section 16. Inspections.

11 All premises and activities conducted under license issued  
12 pursuant to this act shall be subject to inspection without  
13 notice during reasonable hours. Cultivating, processing and  
14 storage of cannabis or marihuana in violation of this act shall  
15 be subject to search and seizure pursuant to law.

16 Section 17. Violations.

17           (a) Offenses.--A person commits an offense and shall be  
18 fined not more than \$100,000, or imprisonment not more than 20  
19 years, or both if he:

20           (1) Engages in business as a cultivator, processor,  
21 distributor, researcher, importer or retailer of marihuana  
22 without having a current license issued in accordance with  
23 this act.

24           (2) With intent to defraud the Commonwealth, purchases,  
25 receives, possesses, offers for sale or sells or otherwise  
26 disposes of, after removal, any marihuana upon which the tax  
27 has not been determined in the manner and at the time  
28 prescribed by this act or rule adopted thereunder.

29           (3) With intent to defraud the Commonwealth, shall  
30 purchase, receive, possess, offer for sale or sell or

1 otherwise dispose of, after removal, any marihuana which is  
2 not put up in packages not bearing the marks, labels and  
3 notices, as required under this section.

4 (b) Personal use.--Any person who possesses a quantity of  
5 marihuana in excess of the quantity allowed for personal use,  
6 under section 5(b) shall be fined not more than \$1,000.

7 (c) Defacing labels.--Any person who, with intent to defraud  
8 this Commonwealth, destroys, obliterates or defaces any mark,  
9 label or notice prescribed or authorized by this act or rules  
10 adopted thereunder, to appear on, be affixed to, any package of  
11 marihuana before the package is emptied, shall be fined not more  
12 than \$1,000.

13 (d) Sale to a minor.--A person commits a felony of the first  
14 degree if he sells or gives any quantity of marihuana to an  
15 unrelated minor and is an adult.

16 Section 18. Detention of products.

17 The department and its authorized agents may detain any  
18 package or other container or supposed to contain marihuana when  
19 there is reason to believe that such marihuana has not been  
20 purchased or sold in accordance with the requirements of this  
21 act and rules adopted thereunder. Such containers shall be held  
22 in a safe place until it shall be determined whether the  
23 property so detained is liable by law to be proceeded against  
24 for forfeiture. Such summary detention shall not continue in any  
25 case longer than 72 hours without process of law or intervention  
26 of the officer to whom such detention is reported.

27 Section 19. Disposal.

28 (a) Delivery.--All marihuana forfeited, summarily or by  
29 order of court, under any law of the Commonwealth, shall be  
30 delivered to the department or its authorized agents to be

1 disposed of as provided in this section.

2 (b) Disposition by department.--The department shall dispose  
3 of all marihuana which has been delivered to it:

4 (1) by delivery to such government agencies as have a  
5 need for such marihuana for medical or scientific purposes,  
6 or for any other official purpose for which appropriated  
7 funds may be spent by a government agency;

8 (2) by gifts to such eleemosynary institutions as, in  
9 the opinion of the department, have a need for the marihuana  
10 for medicinal or other lawful purposes; or

11 (3) by destruction.

12 (c) Exclusive method.--Except as otherwise provided by law,  
13 no marihuana which has been seized under any law of the  
14 Commonwealth may be disposed of in any manner whatsoever except  
15 after forfeiture and as provided in this section.

16 (d) Rules.--The department may adopt rules necessary to  
17 carry out the provisions of this section.

18 Section 20. Marks, brands, stamps.

19 (a) Forfeiture.--All marihuana found in any container or  
20 package required by this act or any rule adopted thereunder to  
21 bear a mark, brand or identification, not marked or identified  
22 in compliance with this act and such rules shall be forfeited to  
23 the Commonwealth.

24 (b) Stamps.--All marihuana found in any container required  
25 by this act or any rules adopted thereunder to bear a stamp or  
26 label, not stamped or labelled in compliance with this act or  
27 such rules, shall be forfeited to the Commonwealth.

28 Section 21. Seizure.

29 Whenever seizure is made of any marihuana found elsewhere  
30 than on the premises of a cannabis processing plant or marihuana

1 dealer, or than in transit from any of these places, or if any  
2 marihuana found in any one of the places, or in transit  
3 therefrom, which has not been received into or sent out  
4 therefrom in conformity to law, or in regard to which any of the  
5 entries required by law or rules, to be in respect of such  
6 marihuana, have not been made at the time or in the manner  
7 required, or respect to which any owner or person having  
8 possession, control or charge of marihuana has omitted to do any  
9 act required to be done, or has done or committed any act  
10 prohibited in regard to marihuana, the burden of proof shall be  
11 upon the claimant of the marihuana to show that no fraud has  
12 been committed and that all the requirements of the law have  
13 been complied with.

14 Section 22. Use of marihuana in vehicle.

15 (a) Offense.--No person shall consume or otherwise use  
16 marihuana in a motor vehicle when the vehicle is upon a highway.

17 (b) Penalty.--A person who violates this section commits a  
18 misdemeanor of the third degree.

19 Section 23. Receptacle of marihuana in vehicle.

20 (a) Possession in a vehicle.--No person shall have in his  
21 personal possession and upon his person, while in a motor  
22 vehicle upon a highway, any receptacle containing marihuana  
23 which has been opened, or on which a seal has been broken, or  
24 the contents of which have been partially removed.

25 (b) Penalty.--A person who violates this section commits a  
26 misdemeanor of the third degree.

27 Section 24. Storage of marihuana in vehicle.

28 (a) Violation.--It is unlawful for the registered owner of  
29 any motor vehicle, or the driver if the registered owner is not  
30 then present in the vehicle, to keep in a motor vehicle when the

1 vehicle is upon any highway, any receptacle containing marihuana  
2 which has been opened, or on which a seal has been broken, or  
3 the contents of which have been partially removed, unless the  
4 receptacle is kept in the trunk of the vehicle, or kept in some  
5 other area of the vehicle not normally occupied by the driver or  
6 passengers if the vehicle is not equipped with a trunk.

7 (b) Motor homes.--For the purposes of this section, a  
8 utility compartment or glove compartment is considered within  
9 the area occupied by the driver and passengers. This section  
10 shall not apply to the living quarters of a camper or a motor  
11 home.

12 (c) Penalty.--A person who violates this section commits a  
13 misdemeanor of the third degree.

14 Section 25. Repeals.

15 Sections 4(1)(iv), 13(a)(31) and (g) of the act of April 14,  
16 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,  
17 Device and Cosmetic Act, are repealed.

18 Section 26. Effective date.

19 This act shall take effect January 1, 1984.