

After a third revision, lawmakers say no more changes expected to medical marijuana bill ahead of special session

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By Bethany Rodgers

State lawmakers have released a third — and possibly final — draft of the Utah Medical Cannabis Act before meeting in a special session to overwrite Proposition 2.

The newest edition discards renter protections for medical marijuana patients and increases the initial number of available licenses for “cannabis pharmacies.”

The original version of the bill, which was unveiled in early October, was presented as a compromise that supporters and opponents of the cannabis ballot initiative could rally around. Top state officials also endorsed the legislation and vowed to hold a special session to pass the bill.

The legislation would replace Prop 2, the ballot measure that voters approved earlier this month.

Since October, advocates and lawmakers have continued meeting to shape the legislation and released the second version on the eve of Election Day.

The bill's architects have no plans to revise it again before the Dec. 3 special session on cannabis, said Connor Boyack, a medical marijuana advocate who's been deeply involved in writing the legislation.

“The intent is that this bill is the final product. However, if there’s any glaring problems or omissions, there’s obviously time to address them,” said Boyack, president of the Libertas Institute, a libertarian think tank.

House Speaker Greg Hughes also said he’s happy with how the medical cannabis act has come together.

“The bill is ready for prime time,” the Draper Republican said. “It’s ready to go through the committee process and go to the floor.”

However, some Prop 2 supporters contend that lawmakers are overriding the state’s voters by replacing the initiative with an alternative framework for dispensing medical marijuana.

Doug Rice, a community liaison with the medical marijuana advocacy group TRUCE, said he agreed that Prop 2 was imperfect. But by swapping a 28-page initiative with a 287-page bill, lawmakers are overcomplicating and over-regulating, he said.

Rice is also concerned about what he believes is a rush to pass the legislation.

“Nothing that’s done in a time crunch such as this is going to come out as well as something that has been thought out and that has been thoughtfully crafted over an extended period of time,” he said.

Former Salt Lake City Mayor Rocky Anderson, an attorney representing TRUCE and others, even called the plan to overwrite Prop 2 “anti-democratic and contemptuous” of the ballot initiative process.

But Hughes said not everyone who voted in favor of Prop 2 agreed with the initiative’s specifics and many probably prefer the bill put forward by lawmakers; the vote outcome is more an indication of general support for a medical cannabis program than for the initiative’s particular approach, he argued.

“The argument that it [overwriting Prop 2] is a vote against the people is not consistent with the facts,” he said.

Senate President Wayne Niederhauser, R-Sandy, has also been a vocal supporter of the negotiated bill and the importance of approving the legislation to supplant the initiative. He recently emailed senators warning them that if they are absent from the special session, he would be willing to dispatch sergeants-at-arms to compel their attendance.

Among other things, the legislation released Wednesday deletes a section on rental protections for cannabis patients. The last version barred landlords from refusing to rent to people who use the substance medicinally.

Already, medical cannabis opponents have zeroed in on this type of language as grounds for launching a legal challenge.

Prop 2 critics this summer sued, seeking to block the initiative from the ballot. The pleading — backed by wealthy developer and attorney Walter J. Plumb III — argued that requiring landlords to rent to medical marijuana users could force members of The Church of Jesus Christ of Latter-day Saints to violate their conscience and infringe on landlords’ property rights.

Boyack said scrapping this housing provision altogether could avoid some legal wrangling.

A landlord would know about a tenant’s cannabis regimen only if the person smoked or vaped the substance, and those activities weren’t covered by the housing protection anyway, he noted. Other forms of cannabis can be used covertly, he added.

“The provision is largely irrelevant because no landlord is going to have any idea if you’re consuming a few drops of oil or rubbing lotion on your knee,” Boyack said. “Coupled with the fact that Walter Plumb is trying to overturn the entire Utah Medical Cannabis Act based on that provision, it wasn’t worth it to keep.”

The basic structure for the program to dispense medical cannabis has stayed largely intact in the past couple of months of negotiations. A state-centralized pharmacy would send cannabis shipments to local health departments for patients to pick up. The substance would also be available at privately owned “cannabis pharmacies,” where licensed pharmacists would be on hand to advise patients on dosing and product type.

The updated draft does increase the number of private pharmacies from five to seven, with up to 10 allowed if the state central fill failed to get off the ground.

The list of medical conditions that could qualify a person for cannabis treatment has also remained largely unchanged, despite the revisions to the bill.

Utah Rep. Brad Daw, who heads the Health and Human Services Interim Committee, said the legislation appears to be in good shape as the special session nears, and he doesn’t anticipate it will have any trouble passing.

“There’s too much at stake for it to go down,” the Orem Republican said. “There’s been too much work by too many people.”

Daw said he particularly appreciated new provisions designed to prevent an oversupply of marijuana and additional safeguards when authorizing cannabis treatments for juveniles.

Other changes in the draft released Wednesday:

- The number of grower licenses was reduced from 15 to 10, although the Utah Department of Agriculture and Food can authorize another five. The cannabis cultivators are capped at 100,000 square feet of indoor capacity or four acres outdoors but can apply for increases.
- Patients under age 21 whose doctors recommend medical marijuana treatments must also seek approval from the compassionate use board, a group of medical providers who review special cases.
- The compassionate use board was enlarged from five members to seven, two of whom must be pediatricians.
- The updated bill stipulates that a cannabis grower or processor can be located in industrial or agricultural zones. Pharmacies can be situated in nonresidential zones.
- People who incur a misdemeanor drug-distribution charge after the effective date of the bill are disqualified from producing or dispensing cannabis.

The Legislature’s Health and Human Services Interim Committee will hold a public hearing on the bill Monday at 3 p.m. in the Senate Building at the state Capitol.