

1 therein pursuant to a legitimate medical marijuana prescription or recommendation,
2 shall not be subject to prosecution for possession, ~~or distribution, purchase,~~
3 ~~preparation, or transportation~~ of marijuana, **marijuana preparations, and**
4 **marijuana paraphernalia** under this Section for possessing medical marijuana or
5 ~~dispensing medical marijuana to his minor child who is a patient of the~~
6 ~~state-sponsored medical marijuana program. This defense must be raised in~~
7 ~~accordance with R.S. 40:991, and the defendant bears the burden of proof of~~
8 ~~establishing that the possession or distribution of the marijuana was in accordance~~
9 ~~with the state-sponsored medical marijuana program. This Paragraph shall not~~
10 ~~prevent the imposition of penalties for diversion of marijuana or other conduct~~
11 ~~outside the scope of the state-sponsored medical marijuana program.~~

12 (2) **Any pharmacy licensed to dispense marijuana pursuant to R.S.**
13 **40:1046, and any employee, board member, director, or agent of a pharmacy**
14 **licensed to dispense marijuana pursuant to R.S. 40:1046, shall not be subject to**
15 **arrest or prosecution for possession, distribution, preparation, or**
16 **transportation of marijuana, marijuana preparations, and marijuana**
17 **paraphernalia under this Section. This defense shall be a complete bar to arrest**
18 **and prosecution. This Paragraph shall not prevent the imposition of penalties**
19 **for diversion of marijuana or other conduct outside the scope of the**
20 **state-sponsored medical marijuana program or for violations of Board of**
21 **Pharmacy rules and regulations.**

22 (3) **Any licensee or its subordinate contractor licensed by the Department**
23 **of Agriculture and Forestry to produce marijuana pursuant to R.S. 40:1046,**
24 **and any employee, board member, director, or agent of a marijuana licensee or**
25 **its subordinate contractor licensed pursuant to R.S. 40:1046, shall not be**
26 **subject to arrest or prosecution for possession, manufacture, preparation,**
27 **distribution, purchase, preparation, or transportation of marijuana, marijuana**
28 **preparations, and marijuana paraphernalia under this Section. This defense**
29 **shall be a complete bar to arrest and prosecution. This Paragraph shall not**

1 prevent the imposition of penalties for diversion of marijuana or other conduct
2 outside the scope of the state-sponsored medical marijuana program or for
3 violations of Department of Agriculture and Forestry rules and regulations.

4 (4) Any laboratory that tests marijuana or marijuana preparations
5 produced and distributed under the state-sponsored medical marijuana
6 program, and any employee, board member, director, or agent of a testing
7 laboratory pursuant to R.S. 40:1046, shall not be subject to arrest or
8 prosecution for possession or transportation of marijuana and marijuana
9 paraphernalia under this Section. This defense shall be a complete bar to arrest
10 and prosecution. This Paragraph shall not prevent the imposition of penalties
11 for diversion of marijuana or other conduct outside the scope of the
12 state-sponsored medical marijuana program or for violations of Board of
13 Pharmacy rules and regulations.

14 (5) Any person conducting research as the licensee pursuant to R.S.
15 40:1046 and any employee, board member, director, agent, or any person
16 conducting research in partnership with the licensee shall not be subject to
17 arrest or prosecution for possession, manufacture, preparation, distribution,
18 purchase, preparation, or transportation of marijuana, marijuana preparations,
19 and marijuana paraphernalia under this Section. This defense shall be a
20 complete bar to arrest and prosecution. This Paragraph shall not prevent the
21 imposition of penalties for diversion of marijuana or other conduct outside the
22 scope of the state-sponsored medical marijuana program or for violations of
23 Department of Agriculture and Forestry rules and regulations.

24 Section 2. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 35 Engrossed

2017 Regular Session

Colomb

Present law provides that any person who is a patient of the state-sponsored medical marijuana program in Louisiana, and possesses medical marijuana in a form permissible under present law for a condition enumerated therein, a caregiver as defined in present law, or any person who is a domiciliary parent of a minor child who possesses medical marijuana on behalf of his minor child in a form permissible under present law for a condition enumerated therein pursuant to a legitimate medical marijuana prescription or recommendation, is not subject to prosecution for possession or distribution of marijuana under present law (Uniform Controlled Dangerous Substances Law).

Proposed law retains present law and adds that a person immune from prosecution under present law is also immune from arrest, and extends this immunity to the purchase, preparation, or transportation of marijuana, marijuana preparations, and marijuana paraphernalia.

Present law provides that (1) the defense of immunity from prosecution under present law must be raised in accordance with present law requiring the defendant to produce sufficient proof of a valid prescription to the appropriate prosecuting office and (2) the defendant bears the burden of proof of establishing that the possession or distribution of the marijuana was in accordance with the state-sponsored medical marijuana program.

Proposed law deletes present law.

Proposed law provides that proposed law does not prevent the imposition of penalties for diversion of marijuana or other conduct outside the scope of the state-sponsored medical marijuana program.

Proposed law provides that any pharmacy licensed to dispense marijuana pursuant to present law, and any employee, board member, director, or agent of a pharmacy licensed to dispense marijuana pursuant to present law, are not subject to arrest or prosecution for possession, distribution, preparation, or transportation of marijuana, marijuana preparations, and marijuana paraphernalia under proposed law. Proposed law further provides that this defense is a complete bar to arrest and prosecution. Proposed law does not prevent the imposition of penalties for diversion of marijuana or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of Board of Pharmacy rules and regulations.

Proposed law provides that any licensee or its subordinate contractor licensed by the Dept. of Agriculture and Forestry to produce marijuana pursuant to present law and any employee, board member, director, or agent of a marijuana licensee or its subordinate contractor licensed pursuant to present law is not subject to arrest or prosecution for possession, manufacture, preparation, distribution, purchase, preparation, or transportation of marijuana, marijuana preparations, and marijuana paraphernalia under present law. Proposed law further provides that this defense is a complete bar to arrest and prosecution. Proposed law further provides that proposed law does prevent the imposition of penalties for diversion of marijuana or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of Dept. of Agriculture and Forestry rules and regulations.

Proposed law provides that any laboratory that tests marijuana or marijuana preparations produced and distributed under the state-sponsored medical marijuana program, and any employee, board member, director, or agent of a testing laboratory pursuant to present law, are not subject to arrest or prosecution for possession or transportation of marijuana and

marijuana paraphernalia under proposed law. Proposed law further provides that this defense is a complete bar to arrest and prosecution. Proposed law does not prevent the imposition of penalties for diversion of marijuana or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of Board of Pharmacy rules and regulations.

Proposed law provides that any person conducting research as the licensee pursuant to present law and any employee, board member, director, agent, or any person conducting research in partnership with the licensee is not subject to arrest or prosecution for possession, manufacture, preparation, distribution, purchase, preparation, or transportation of marijuana, marijuana preparations, and marijuana paraphernalia under present law. Proposed law provides that this defense is a complete bar to arrest and prosecution. Proposed law provides that proposed law does not prevent the imposition of penalties for diversion of marijuana or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of Dept. of Agriculture and Forestry rules and regulations.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:966(I))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Provide immunity relative to subordinate contractors licensed by the Dept. of Agriculture and Forestry.
2. Provide immunity relative to persons conducting research pursuant to present law.