

## RÉSUMÉ DIGEST

ACT 319 (SB 35)

2017 Regular Session

Colomb

Prior law provided 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 prior law for a condition enumerated therein, a caregiver as defined in prior 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 prior 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 prior law (Uniform Controlled Dangerous Substances Law).

New law retains prior law but adds that such prescription or recommendations must be issued by a physician licensed by and in good standing with the La. State Board of Medical Examiners.

Prior law provided that (1) the defense of immunity from prosecution under prior law must be raised in accordance with prior 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.

New law deletes prior law.

New law provides that new law does not prevent the arrest or prosecution of any person for diversion of marijuana or any of its derivatives or other conduct outside the scope of the state-sponsored medical marijuana program.

New law provides that any pharmacy licensed to dispense marijuana pursuant to prior law, and any employee, board member, director, or agent of a pharmacy licensed to dispense marijuana pursuant to prior law, be exempt from provisions of prior law for possession of marijuana at a location designated by the La. Board of Pharmacy (board) rules and regulations, or distribution of marijuana in a form approved by the board to a patient with a valid recommendation or prescription, in the state-sponsored medical marijuana program. Further provides that new law does not prevent the arrest or prosecution for diversion of marijuana or any of its derivatives or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of Louisiana board rules and regulations.

New law provides that any licensee or its subordinate contractor licensed by the Dept. of Agriculture and Forestry (department) to produce marijuana pursuant to prior law and any employee, board member, director, or agent of a marijuana licensee or its subordinate contractor licensed pursuant to prior law is exempt from prosecution under prior law for possession, production, or manufacture of marijuana at the production facility designated by the department or for the transportation of marijuana or any of its derivatives in accordance with the department's rules and regulations. Further provides that new law does not prevent the arrest or prosecution of any person for diversion of marijuana from the production facility designated by the department or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of department rules and regulations.

New 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 prior law, are exempt from prosecution under prior law for possession of marijuana or any of its derivatives at a research laboratory designated by the board or for transportation of marijuana or any of its derivatives in accordance with the board rules and regulations. Further provides that new law does not prevent the arrest or prosecution of any person for diversion of marijuana from a research laboratory designated by the board or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of board rules and regulations.

New law provides that any person conducting research as the licensee pursuant to prior law and any employee, board member, director, agent, or any person conducting research in partnership with the licensee is exempt from prosecution under new law for the possession, production, or manufacture of marijuana or any of its derivatives at the production facility

designated by the department or for the transportation of marijuana or any of its derivatives in accordance with the department's rules and regulations. Further provides that new law does not prevent the arrest or prosecution of any person for diversion of marijuana or any of its derivatives from the production facility designated by the department or other conduct outside the scope of the state-sponsored medical marijuana program or for violations of department rules and regulations.

New law provides that the defenses raised in prior law must be raised by reproducing a patient's medical records that have been created by his attending physician, that contain the recommendation to possess marijuana for therapeutic use in a form permissible under prior law.

New law provides that notwithstanding any other provision of prior law, except when the person to be arrested has committed a felony, although not in the presence of the officer, no peace officer may arrest an employee, board member, director, or agent during the course and scope of his employment with a pharmacy licensed to dispense marijuana for therapeutic use, a licensee of marijuana for therapeutic use or its subordinate licensed contractor, a testing laboratory of marijuana for therapeutic use, or a licensed researcher of marijuana for therapeutic use.

New law provides that the defendant bears the burden of proving that the possession, manufacture, production, transportation, or distribution was in accordance with the state-sponsored medical marijuana program, the board rules and regulations, or the department rules and regulations, as applicable.

Effective upon signature of the governor (June 22, 2017).

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