



SPONSOR: Rep. Bennett & Rep. K. Williams & Rep. Spiegelman &
Sen. Townsend & Sen. Paradee & Sen. Pettyjohn
Reps. Baumbach, Morrison, Osienski, Ramone,
Michael Smith; Sens. Sokola, Walsh, Hocker

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 276

AN ACT TO AMEND TITLE 11 AND TITLE 16 OF THE DELAWARE CODE RELATING TO THE ELIGIBILITY OF REGISTERED QUALIFYING PATIENTS UNDER THE DELAWARE MEDICAL MARIJUANA ACT TO PURCHASE OR POSSESS FIREARMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1448, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1448. Possession and purchase of deadly weapons by persons prohibited; penalties.

4 (h)(1) A person who is otherwise not a person prohibited under this section is not a person prohibited from
5 owning, possessing, or controlling a deadly weapon or ammunition for a firearm within this State based solely on the
6 person's status as a registered qualifying patient under Chapter 49A of Title 16.

7 (2) A registered qualifying patient who is otherwise not a person prohibited under § 1448 of Title 11 is not a
8 person prohibited for purposes of a firearm transaction between unlicensed persons under § 1448B of this title if the
9 transaction is exempt under § 1448B(c) of this title.

10 Section 2. Amend § 4903A, Title 16 of the Delaware Code by making deletions as shown by strike through and
11 insertions as shown by underline as follows:

12 § 4903A. Protections for the medical use of marijuana.

13 (a) A registered qualifying patient ~~shall not be~~ is not subject to arrest, prosecution, or denial of any right or
14 privilege, including ~~but not limited to~~ civil penalty or disciplinary action by a court or occupational or professional
15 licensing board or bureau, for the medical use of marijuana ~~pursuant to~~ under this chapter, if the registered qualifying
16 patient does not possess more than 6 ounces of usable marijuana.

17 ~~(c)[Repealed.]~~ (1) A registered qualifying patient who is otherwise not a person prohibited under § 1448 of Title 11
18 is not prohibited from owning, possessing, or controlling a deadly weapon or ammunition for a firearm within this State
19 under § 1448 of Title 11 based solely on the person's status as a registered qualifying patient.

20 (2) A registered qualifying patient who is otherwise not a person prohibited under § 1448 of Title 11 is not a
21 person prohibited for purposes of a firearm transaction between unlicensed persons under § 1448B of Title 11 if the
22 transaction is exempt under § 1448B(c) of Title 11.

23 (q) ~~Where~~If a state-funded or locally funded law-enforcement agency encounters an individual who, during the
24 course of the investigation, credibly asserts that ~~he or she~~ the individual is a registered cardholder, or encounters an entity
25 whose personnel credibly assert that it is a registered compassion center, the law-enforcement agency ~~shall~~may not provide
26 any information from any marijuana-related investigation of the person to any law-enforcement authority that does not
27 recognize the protection of this ~~chapter~~chapter, including the National Instant Criminal Background Check System
28 (“NICS”), 28 C.F.R. §§ 25.1 to 25.11, and any prosecution of the ~~individual, individuals, individual~~ or entity for a violation
29 of this chapter ~~shall~~must be conducted ~~pursuant to~~ under the laws of this State.

SYNOPSIS

At least 36 states allow for the medical use of marijuana. However, federal firearm laws have not kept pace and currently prohibit an individual who is “an unlawful user of or addicted to any controlled substance” from possessing or purchasing a firearm. It is still unlawful under federal law to use or possess marijuana.

This Act makes clear that an individual is not disqualified under Delaware law from possessing a firearm because the individual is a registered qualifying patient under the Delaware Medical Marijuana Act, if the registered qualifying patient is not a person prohibited under § 1448 of Title 11 of the Delaware Code.

This Act makes also clear that a registered qualifying patient may engage in a firearm transaction between unlicensed persons under § 1448B of Title 11 if the transaction is exempt under § 1448B(c) of Title 11 and the registered qualifying patient is not otherwise a person prohibited under § 1448 of Title 11.

A registered qualifying patient’s purchase of a firearm through a federal firearms licensee (“FFL”) is still prohibited under federal law.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.