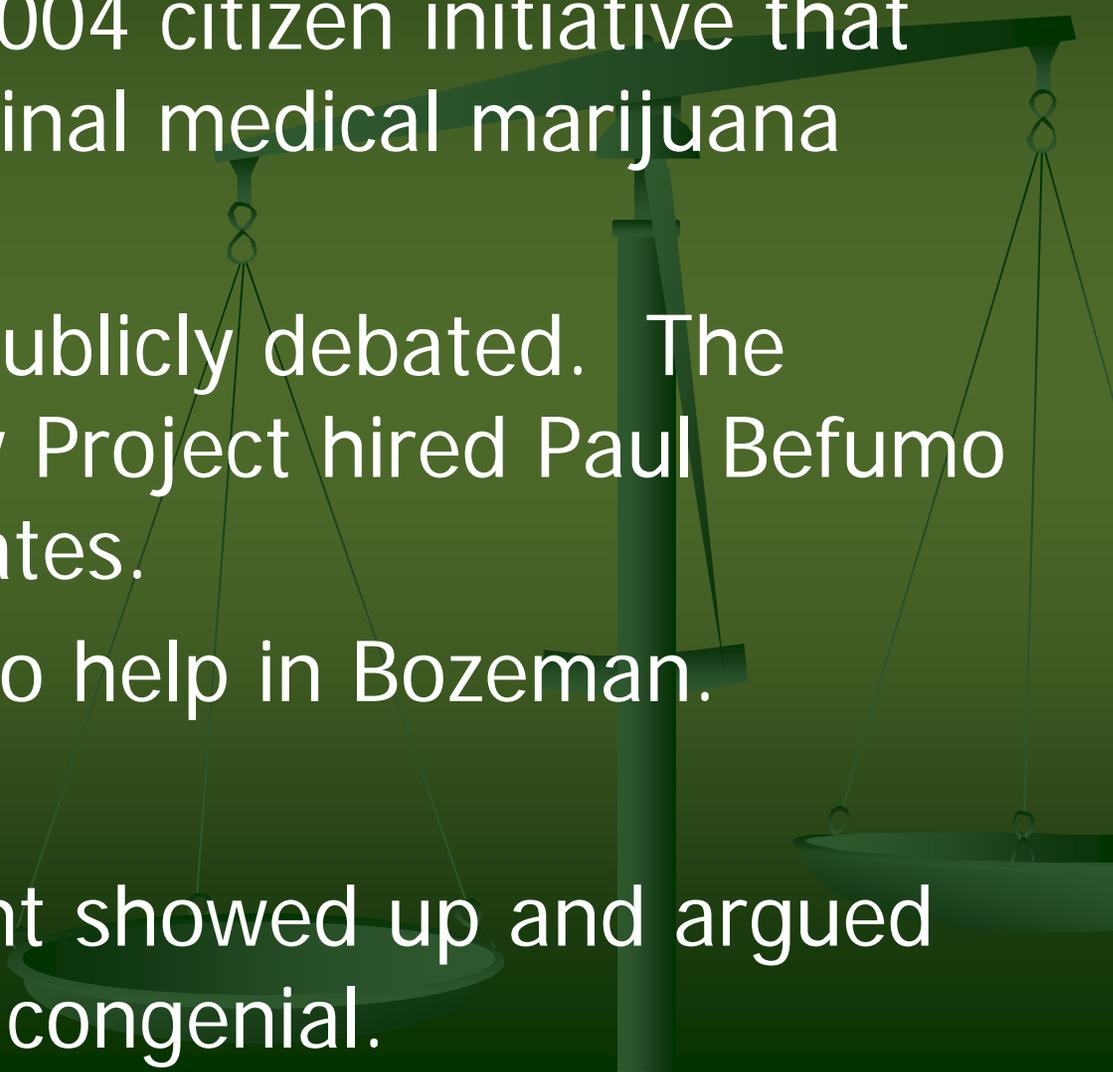


Montana Medical Marijuana Act

- Where we were
- Where we are
- How we got here

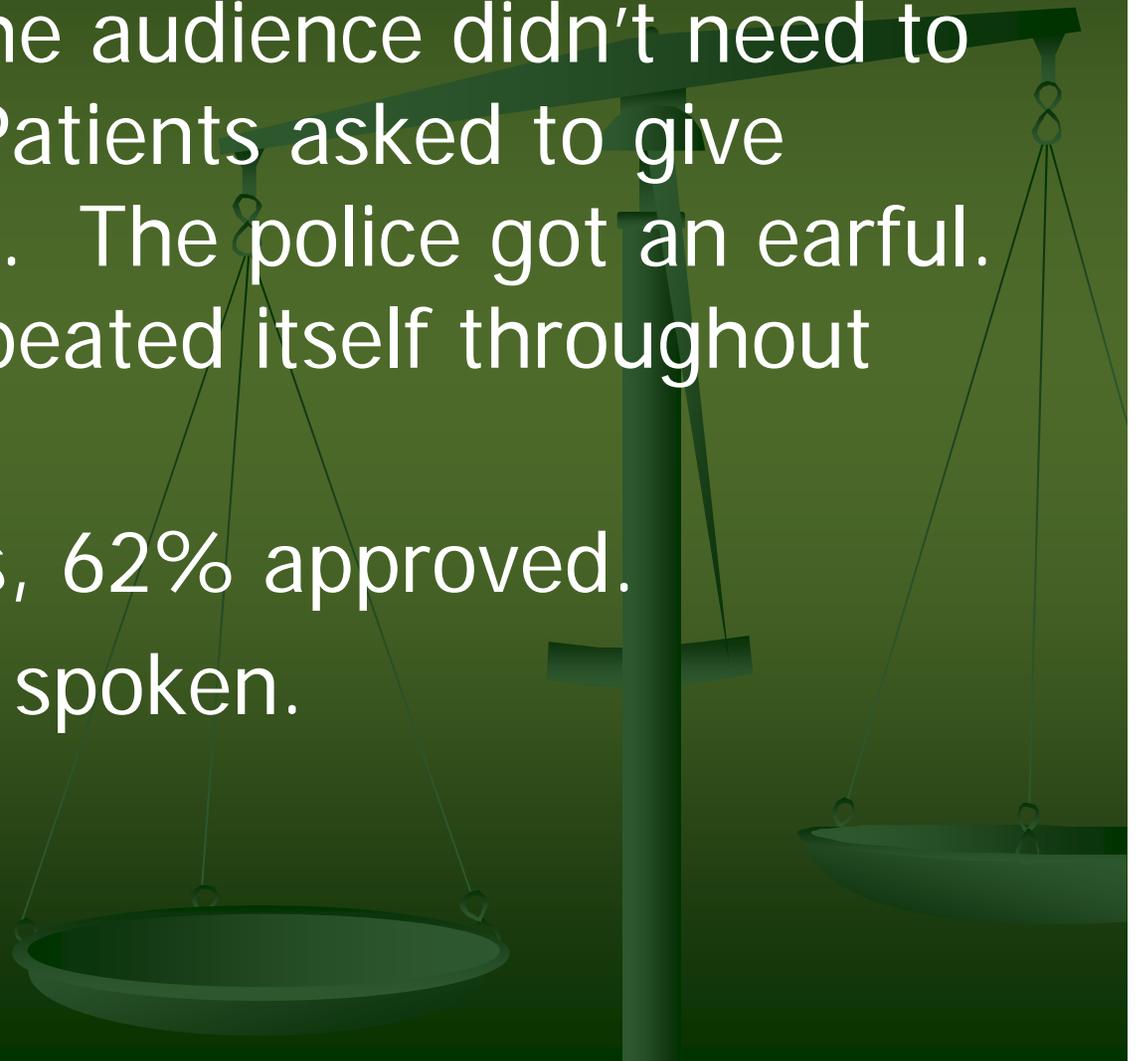


It all started with

- I-148
 - I-148 was the 2004 citizen initiative that created our original medical marijuana law.
 - The issue was publicly debated. The Marijuana Policy Project hired Paul Befumo to lead the debates.
 - Paul asked me to help in Bozeman.
 - So I did.
 - Law enforcement showed up and argued against. It was congenial.
- 

The audience had already decided

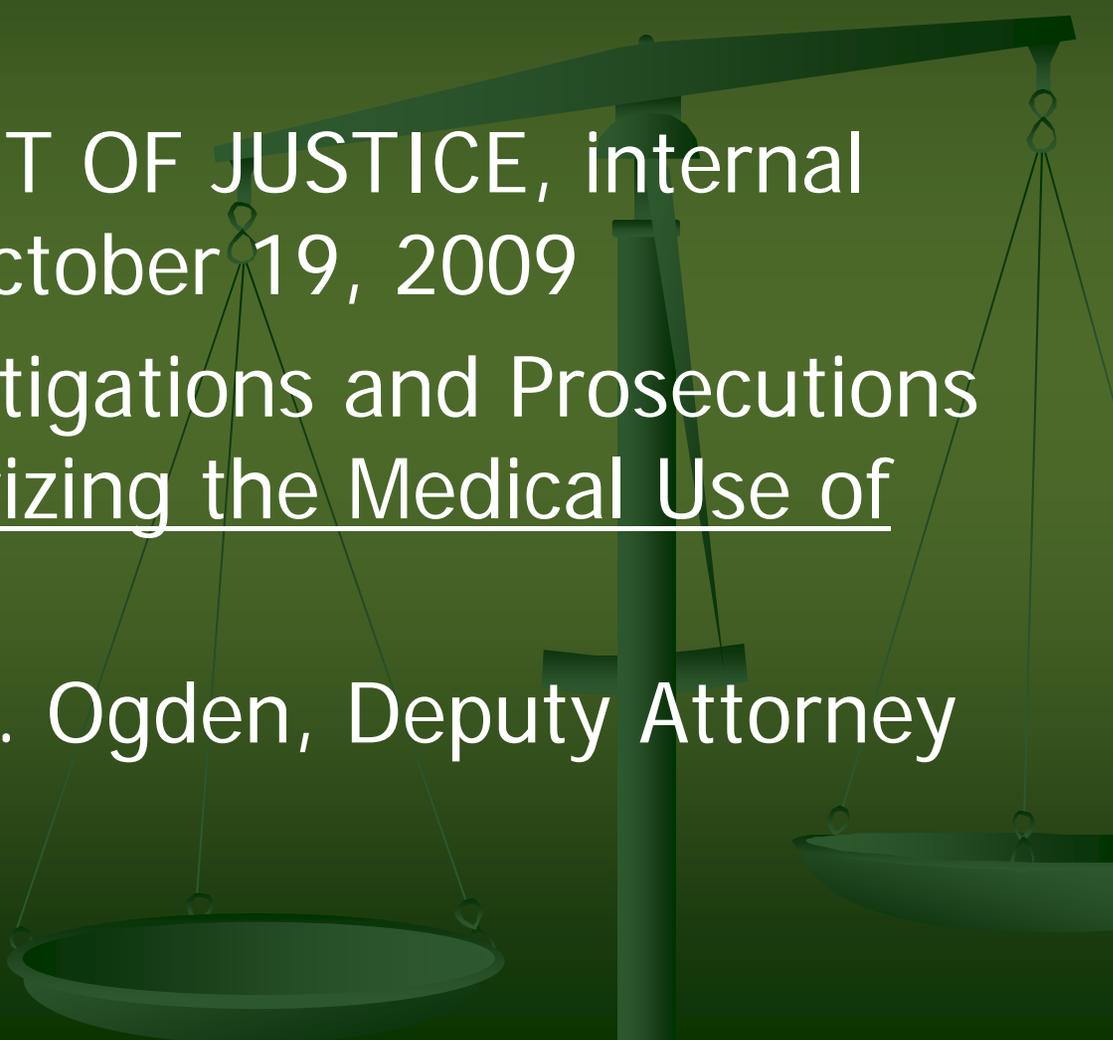
- The people in the audience didn't need to hear from us. Patients asked to give public comment. The police got an earful. This process repeated itself throughout the State.
- Late at the polls, 62% approved.
- The people had spoken.



Things were quiet for five years.

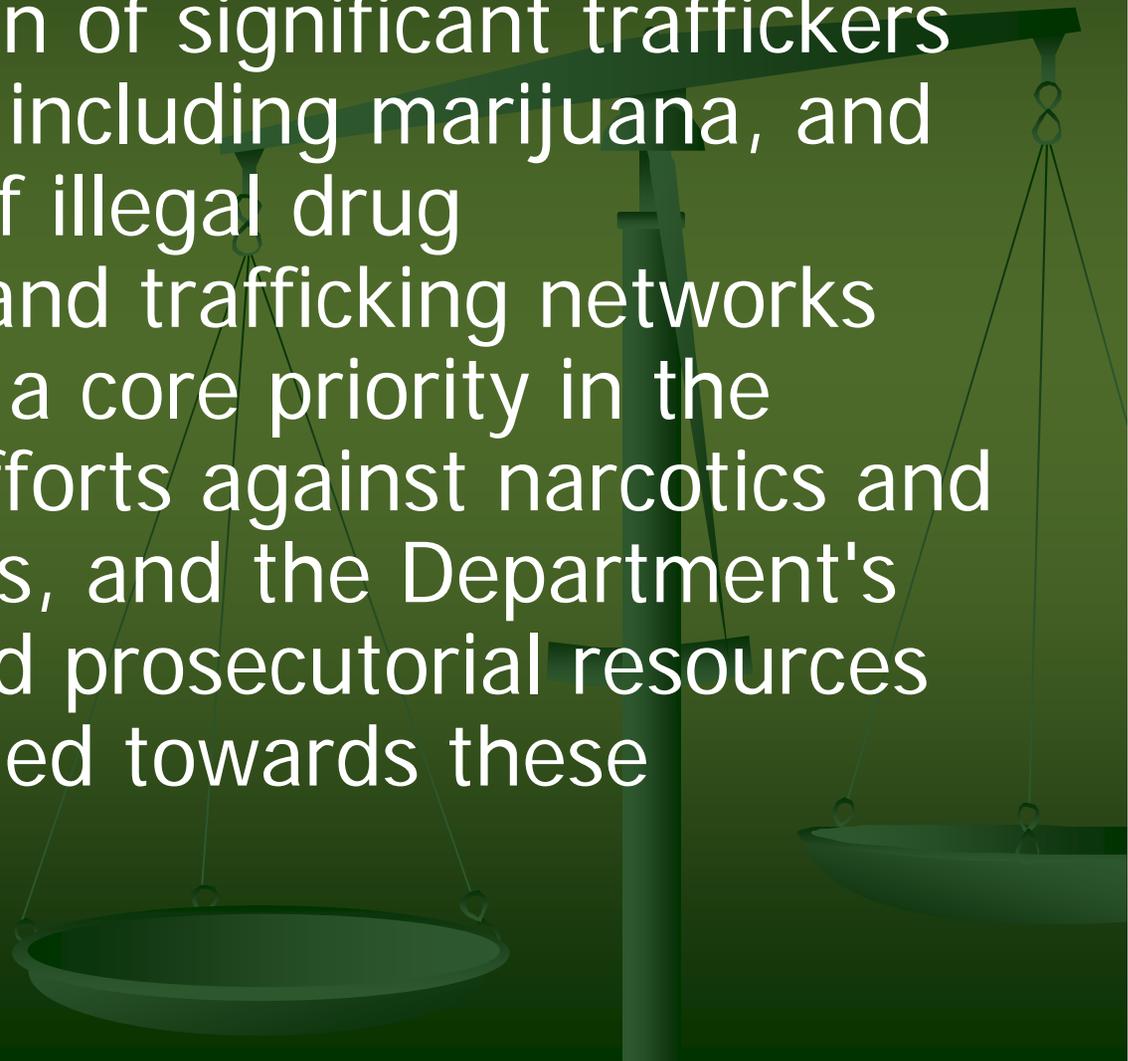
- The Montana Medical Marijuana Act lay virtually dormant for nearly five years.
- The Montana Medical Marijuana Initiative survived three legislative sessions without much attention.
- In 2009, SB 325 amended I-148, but only slightly. There was some abuse occurring.
- It clarified that caregivers could not USE (ingest) marijuana for quality control.
- It also tightened up the affirmative defense to apply only to a caregiver or a qualifying patient.

Then on October 19, 2009, the damn broke and the water rushed in.

- US DEPARTMENT OF JUSTICE, internal policy memo, October 19, 2009
 - SUBJECT: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana
 - FROM: David W. Ogden, Deputy Attorney General
- 

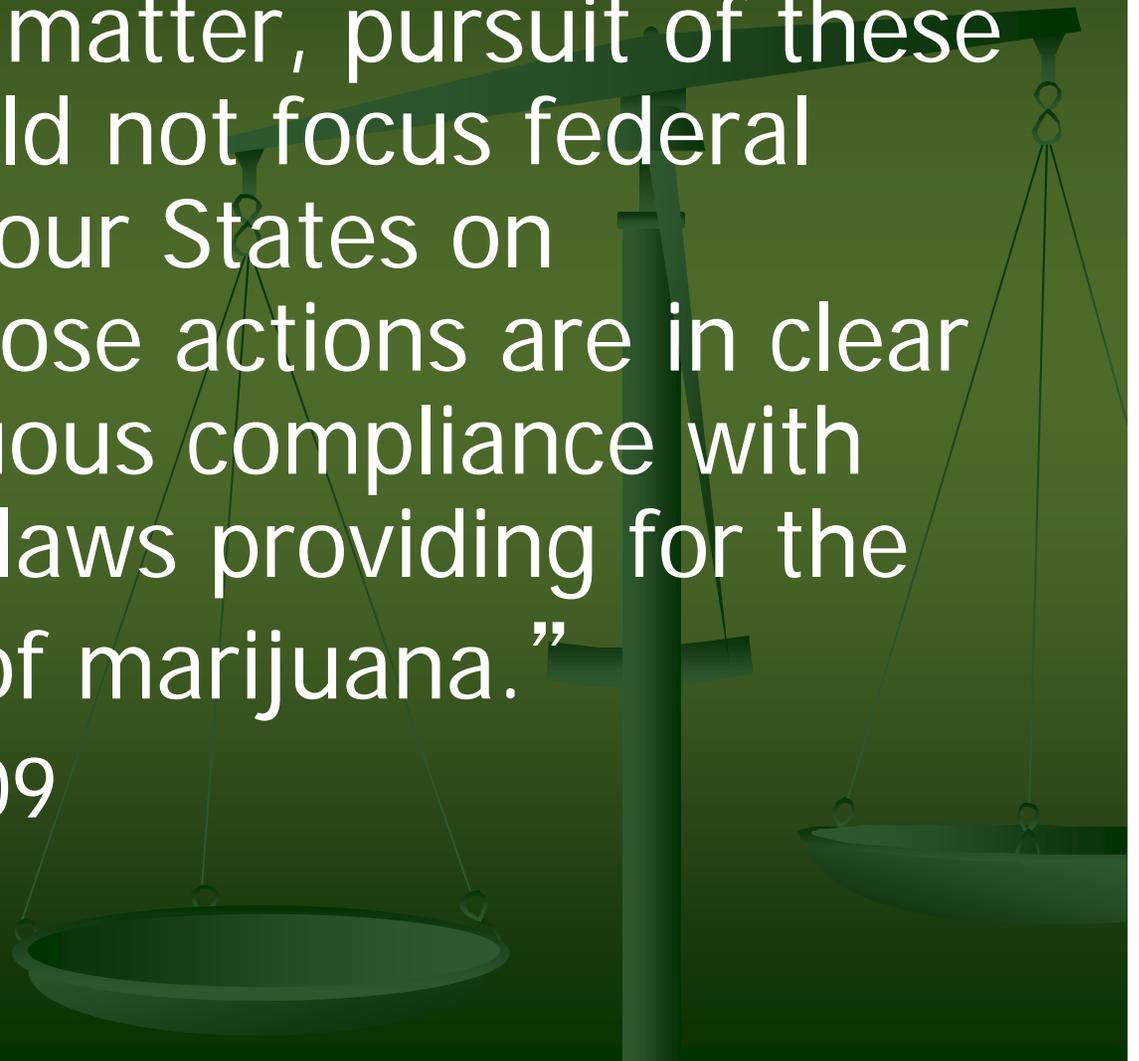
The memo made clear that marijuana was illegal

- “The prosecution of significant traffickers of illegal drugs, including marijuana, and the disruption of illegal drug manufacturing and trafficking networks continues to be a core priority in the Department's efforts against narcotics and dangerous drugs, and the Department's investigative and prosecutorial resources should be directed towards these objectives.”



But the citizenry found safe harbor in other language found in the letter

- “As a general matter, pursuit of these priorities should not focus federal resources in your States on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.”
- October 19, 2009



What was dubbed as the “Green Rush” followed the memo

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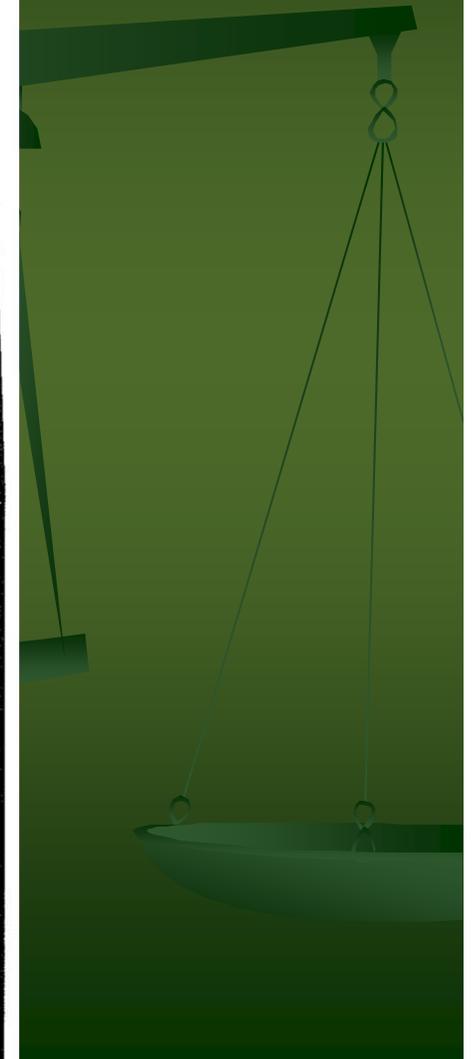
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Has your Caregiver stopped Caring?

Does your caregiver seem like they might not be here long term? Does your caregiver have difficulty filling your orders? Does your caregiver seem more interested in your money than in your well-being? If so, come experience a new approach to Medical Marijuana.

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STOP SB 423 - REPEAL Part II

The legislature is trying to repeal our medical marijuana act with this regulation - it REPLACES our initiative...visit STCP05423.com and see videos, events, and other resources we can use to win!

HOW OUR REPRESENTATIVES ARE BREAKING THE LAW

The Montana Constitution, Article II, Section 1, States: "ALL POLITICAL POWER IS VESTED IN AND DERIVED FROM THE PEOPLE. ALL GOVERNMENT OF RIGHT ORIGINATES WITH THE PEOPLE, IS FOUNDED UPON THEIR WILL ONLY..." This means that the current law, as put in place directly by we the people in 2003, cannot be changed!! FIND OUT MORE Thursday Night, May 5th, 2011 at the Broadway Inn at 7PM. (This is NOT a rally - it is a combined effort; with education and action items, it's about DOING)

MONTANA CITIZENS vs. STATE OF MONTANA

We will have a complaint and summons in the next week, so that you can take the Montana government to court for what they are trying to do with our MEDICAL MARIJUANA ACT. Keep checking back for the documents...You will be able to use them for court action against the state of Montana. Montana State Constitution says that we can sue the sh# out of our government...Article II, Section 18

FIGHT BACK AGAINST YOUR GOVERNMENT!!!

Now is the time...not only must you call (406) 444-3111 and tell the Governor to VETO SB423, but GO TO HELENA. We will be in HELENA at the CAPITOL all week!! Fight this in Court! Because this is against the law!! See MT Constitution Article II, Sections 1, 2, 3, 8 and 18. WE WILL FIGHT YOU IN COURT MONTANA GOVERNMENT!!!

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Clinic Schedule

- RENEWAL TeleClinic™ Thu, May 12th
- Big Sky Health, 1925 Brooks St. Missoula, MT Fri, May 13th
- Mile High Caregivers, 1006 S Montana St, Butte, MT Sat, May 14th
- RENEWAL Teleclinic (1724 Knight St.) Sun, May 15th
- TeleClinic☐ Sun, May 15th

Next >>

Latest News

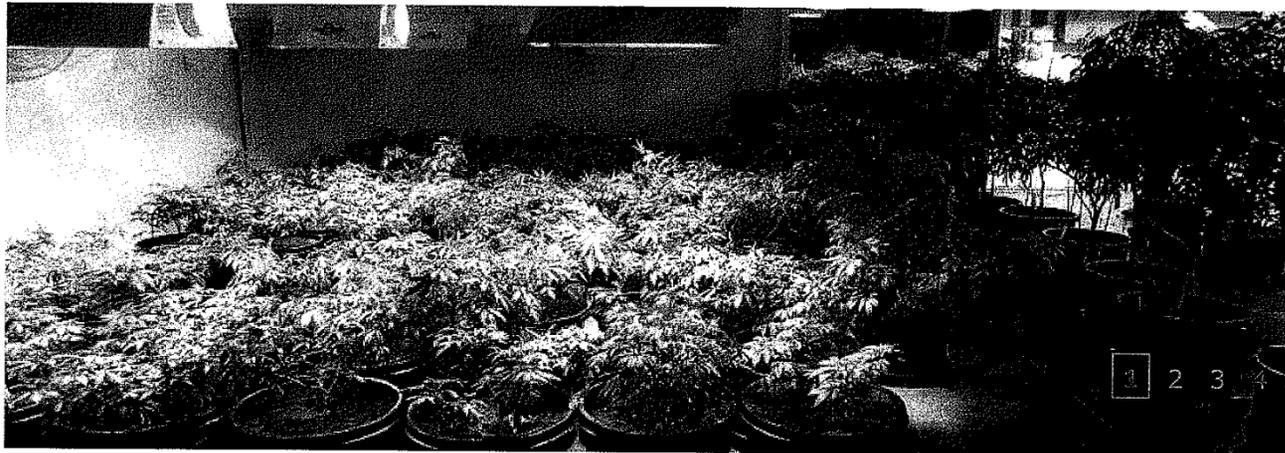


education | member services | testing | contact

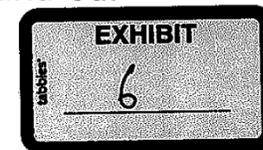


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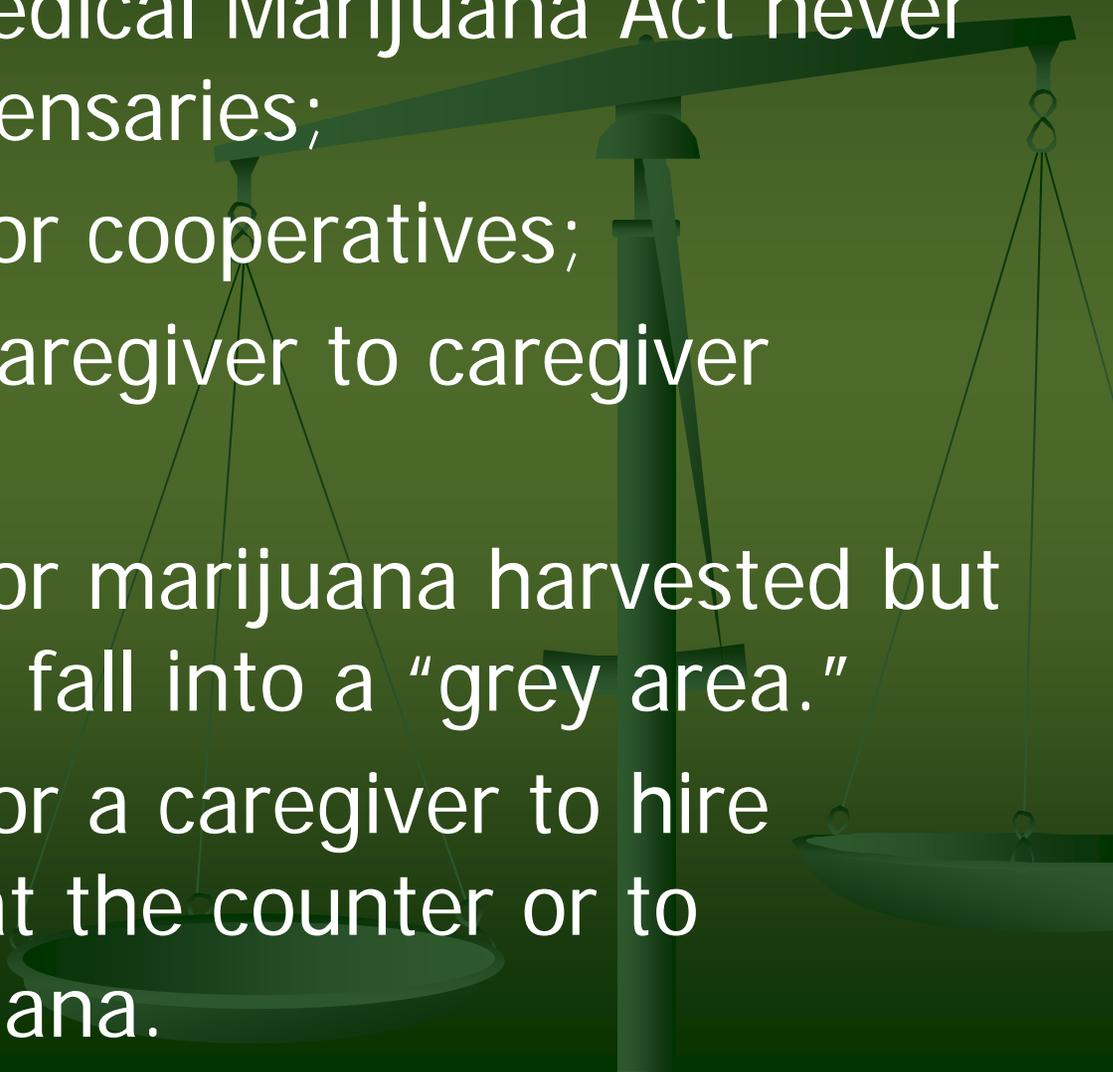
Experience a new approach to Medical Marijuana.



Our friendly, professional solar powered storefront in Belgrade, MT features a variety of strains grown with an emphasis on organics, sustainability and our community.

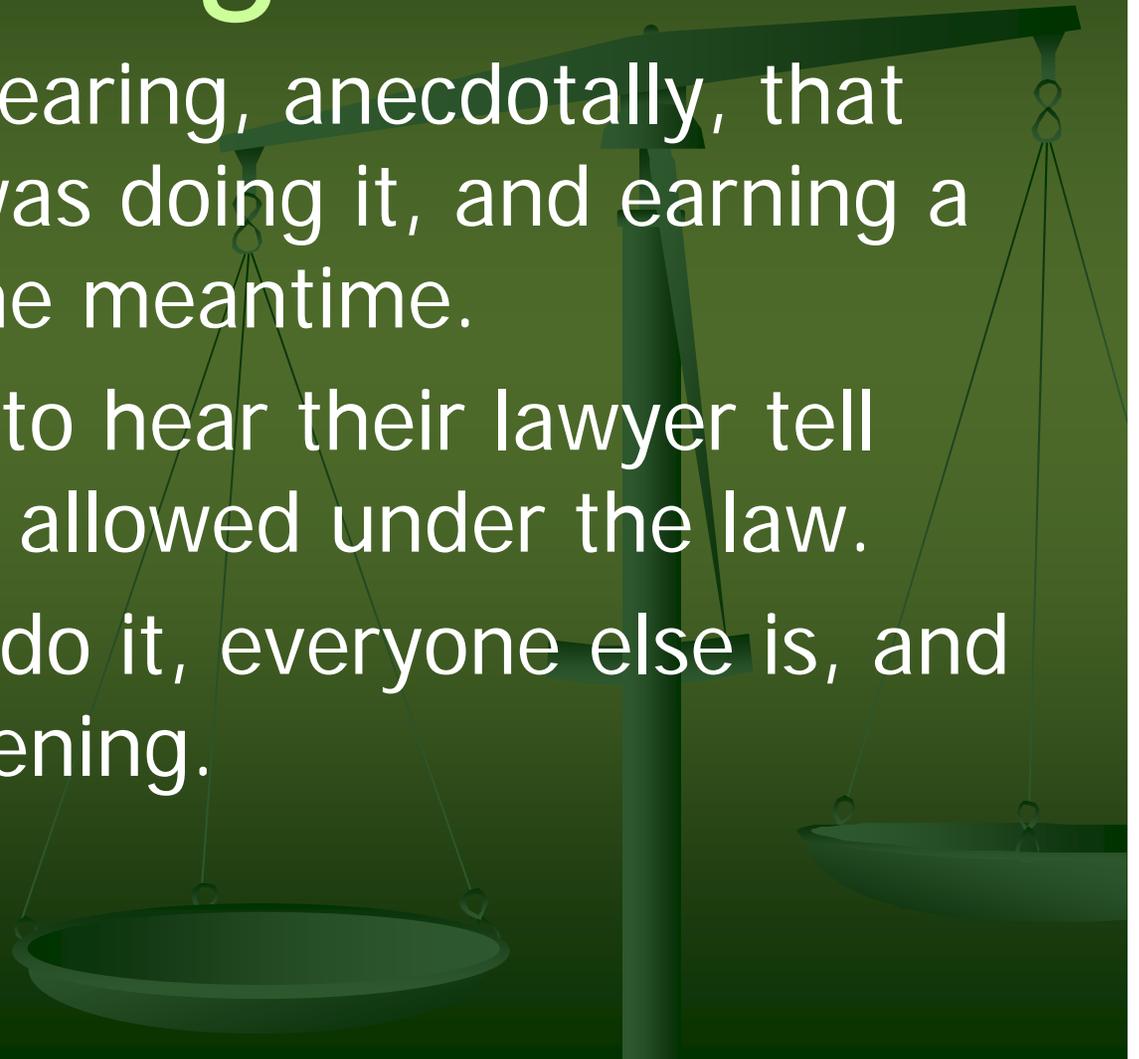


Large Dispensaries and Cooperatives began to form.

- The Montana Medical Marijuana Act never allowed for dispensaries;
 - Never allowed for cooperatives;
 - Never allowed caregiver to caregiver transfers;
 - Never allowed for marijuana harvested but not yet cured to fall into a "grey area."
 - Never allowed for a caregiver to hire another to sell at the counter or to transport marijuana.
- 

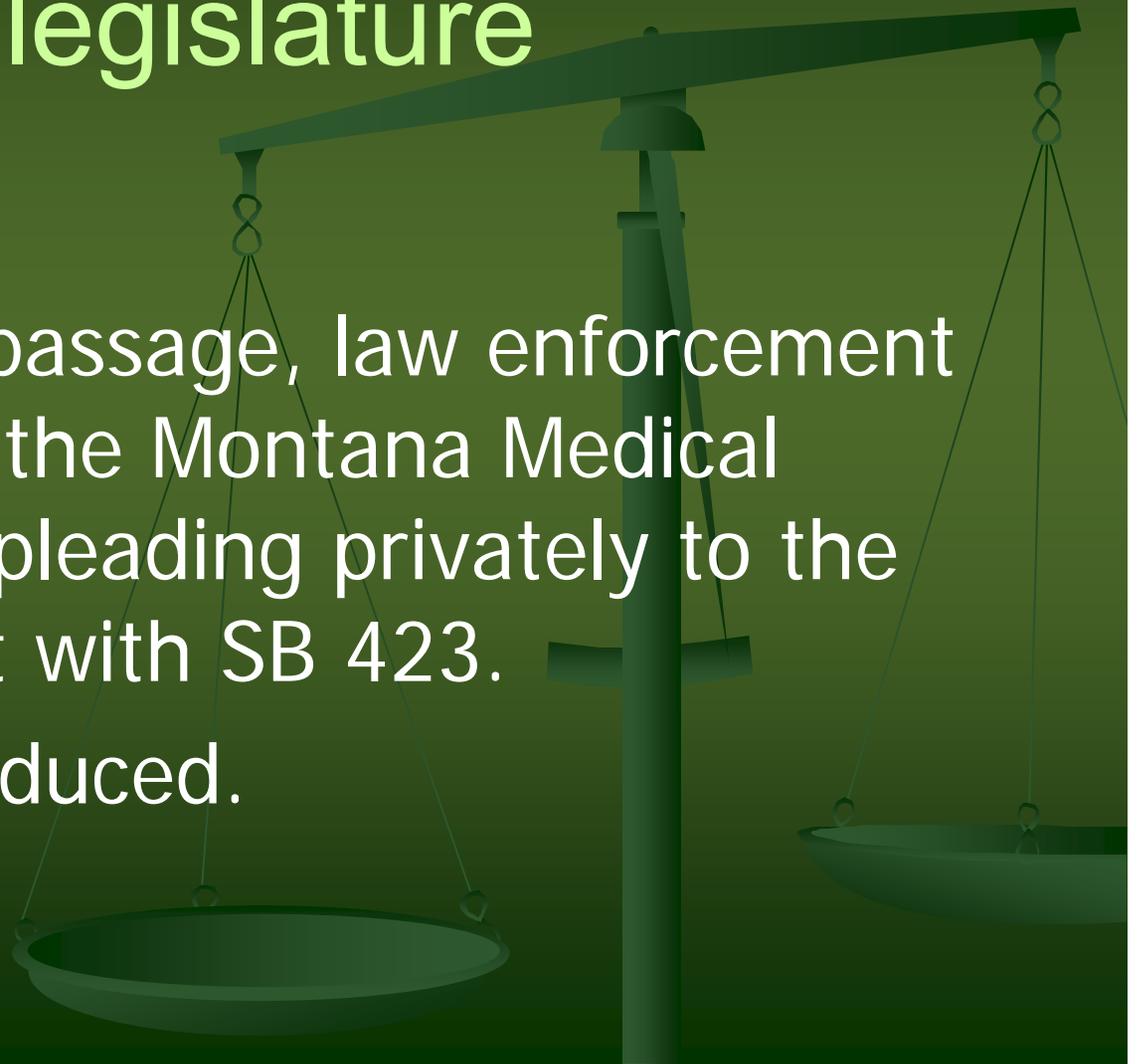
But everyone else is doing it!

- Everyone was hearing, anecdotally, that everyone else was doing it, and earning a good living in the meantime.
- No one wanted to hear their lawyer tell them it was not allowed under the law.
- But why can't I do it, everyone else is, and nothing is happening.



Law enforcement lost in the public debate so they took it to the legislature

- 7 years after its passage, law enforcement came out against the Montana Medical Marijuana Act by pleading privately to the legislature to fix it with SB 423.
- SB 423 was introduced.

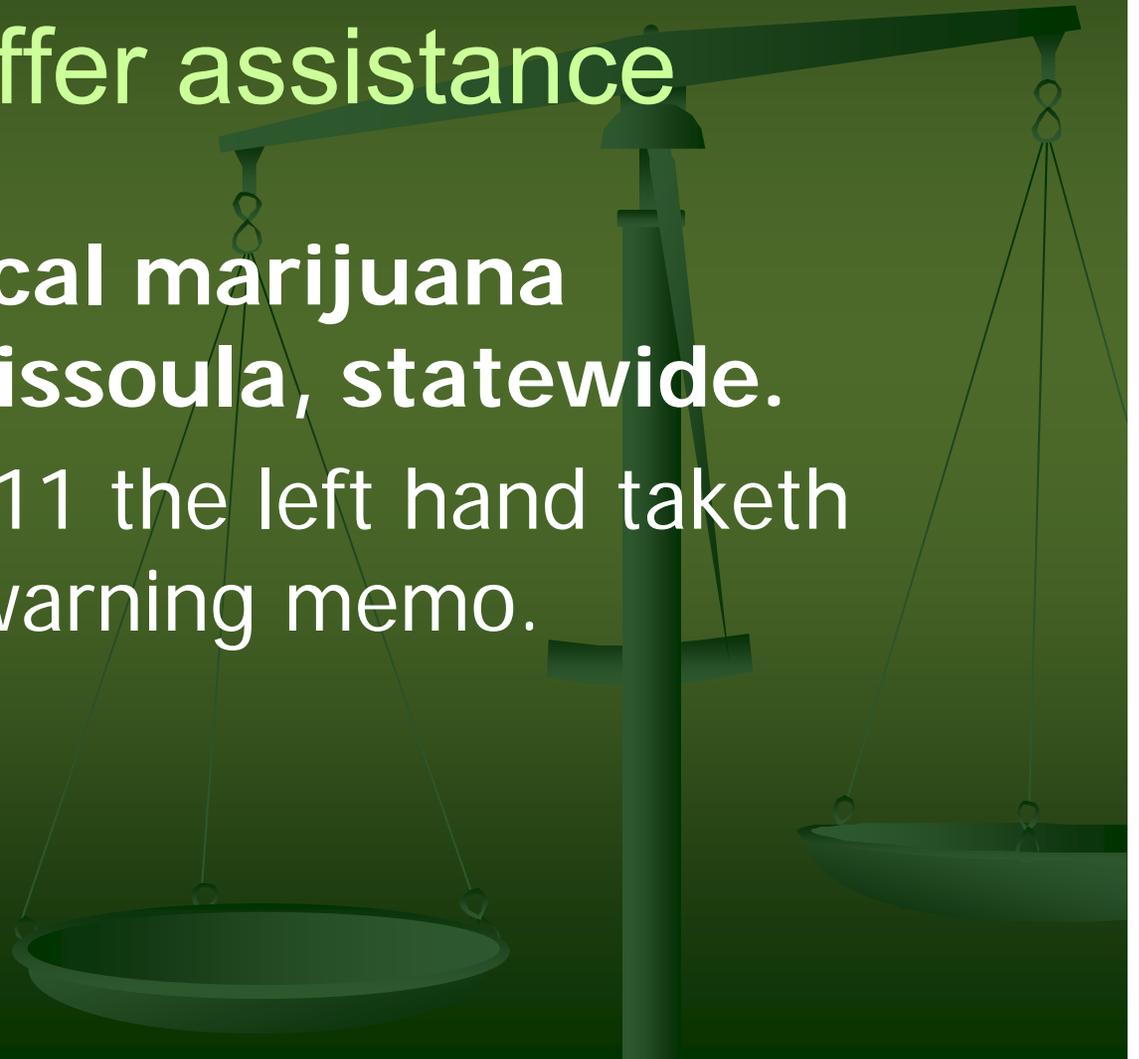


SB 423

- SB 423 repeals I-148.
- It allows qualifying patients to use medical marijuana, (what the right hand giveth) but makes it practically impossible for the patient who cannot personally grow it to get it (the left hand taketh away).
- It prevents caregivers from earning a living by precluding them from charging for their product (50-46-308(6)(a)), or providing to more than three patients (50-46-308(3)),
- Prohibits all medical marijuana advertising (50-46-341),
- it allows law enforcement open access to any place (homes) where medical marijuana is grown (50-46-329),
- it requires the Board of Medical Examiners to scrutinize a physician who recommends marijuana to more than twenty five patients a year (50-46-303(10)),
- and prevents a husband from living in a home with his registered wife who may grow her medical marijuana unless he himself is also registered, (50-46-307(7)).

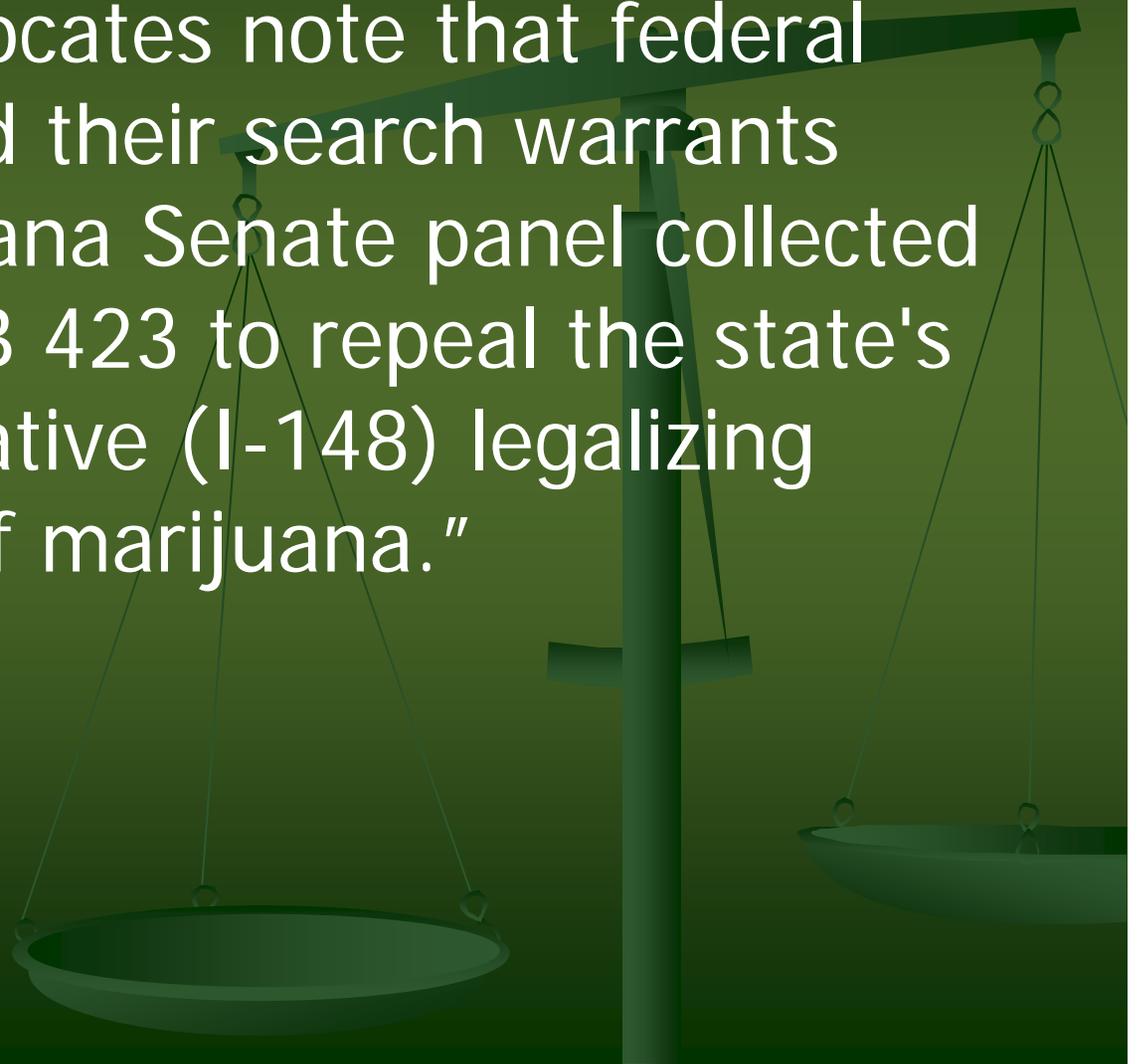
While local law enforcement was busy convincing the legislature that something need to be done, the
Feds offer assistance

- Feds raid medical marijuana operations in Missoula, statewide.
- On March 14, 2011 the left hand taketh away, without a warning memo.



According to Missoulian blog:

- "Marijuana Advocates note that federal agents executed their search warrants even as a Montana Senate panel collected testimony on SB 423 to repeal the state's 2004 voter initiative (I-148) legalizing medicinal use of marijuana."



f. Governor Schweitzer expresses disappointment about SB 423 by letter to the Senate dated April 28

As presented to me, Senate Bill 423 is disappointing.

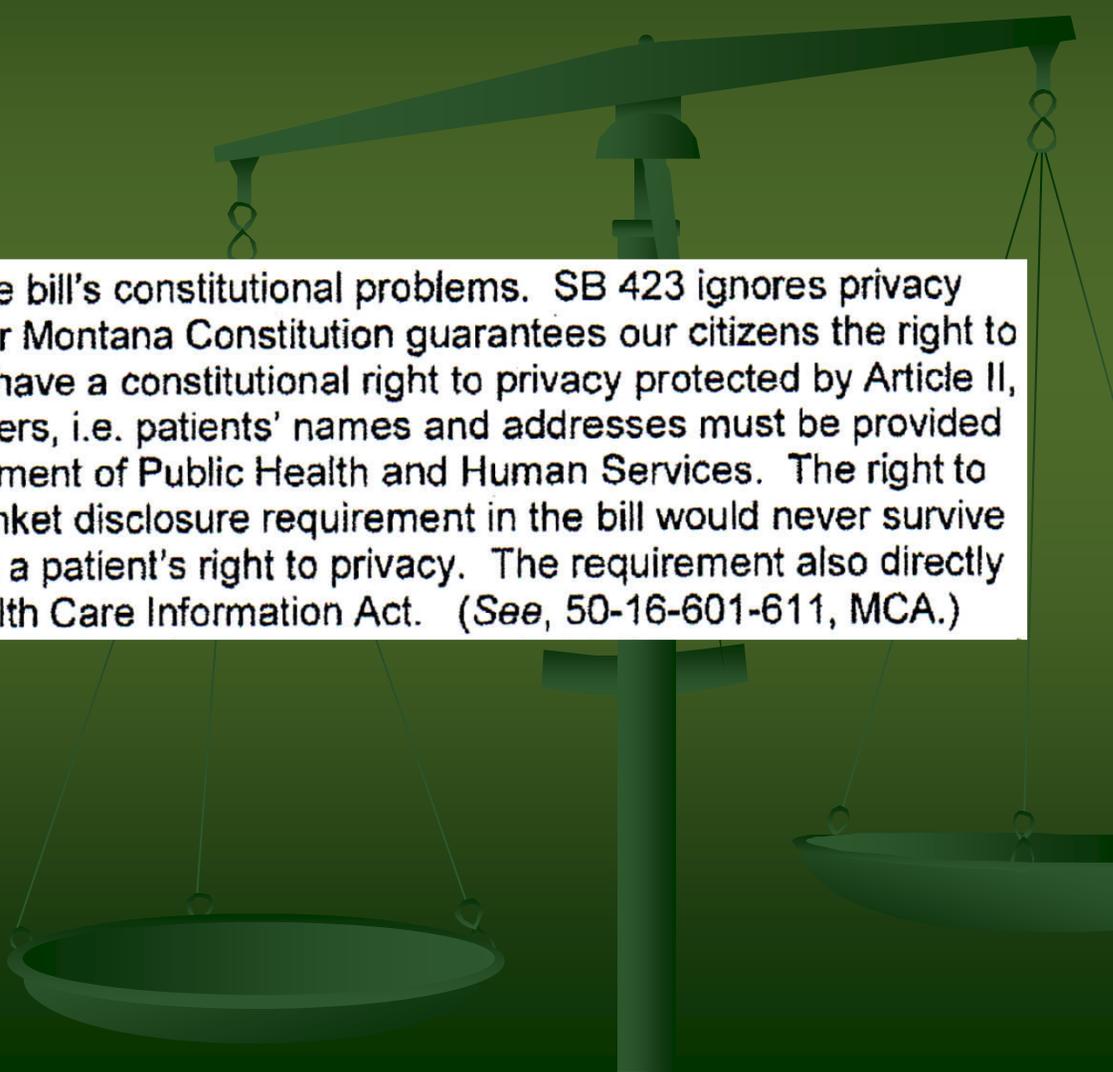
As you know, I vetoed House Bill 161, the outright repeal of I-148, the 2004 citizen initiative that created our current medical marijuana law. That initiative passed with a vote of 276,042 to 170,579; almost 62% of those Montanans casting a ballot voted for the measure. It is not the role of my office or the legislative body to pass laws that ignore the will of the people expressed at the ballot box. I believe HB 423 essentially repeals I-148.

Governor Schweitzer continues:

cardholders. It abruptly shuts down the provider industry effective July 1, 2011, eliminates the jobs associated with the industry and makes access to medical marijuana very difficult for vulnerable patients. More importantly, the content of the current version of the bill ignores over forty hours of compelling testimony by the public describing patients who are suffering terribly and their reliance on “caregivers”, now known as “providers” in Senate Bill 423.

This is the fourth session since passage of the medical marijuana initiative. I hoped this legislature would pass a law that honored the intent of the voters while providing law enforcement the necessary tools to prevent abuse and protect public safety. I agree current law is unacceptable and have spent

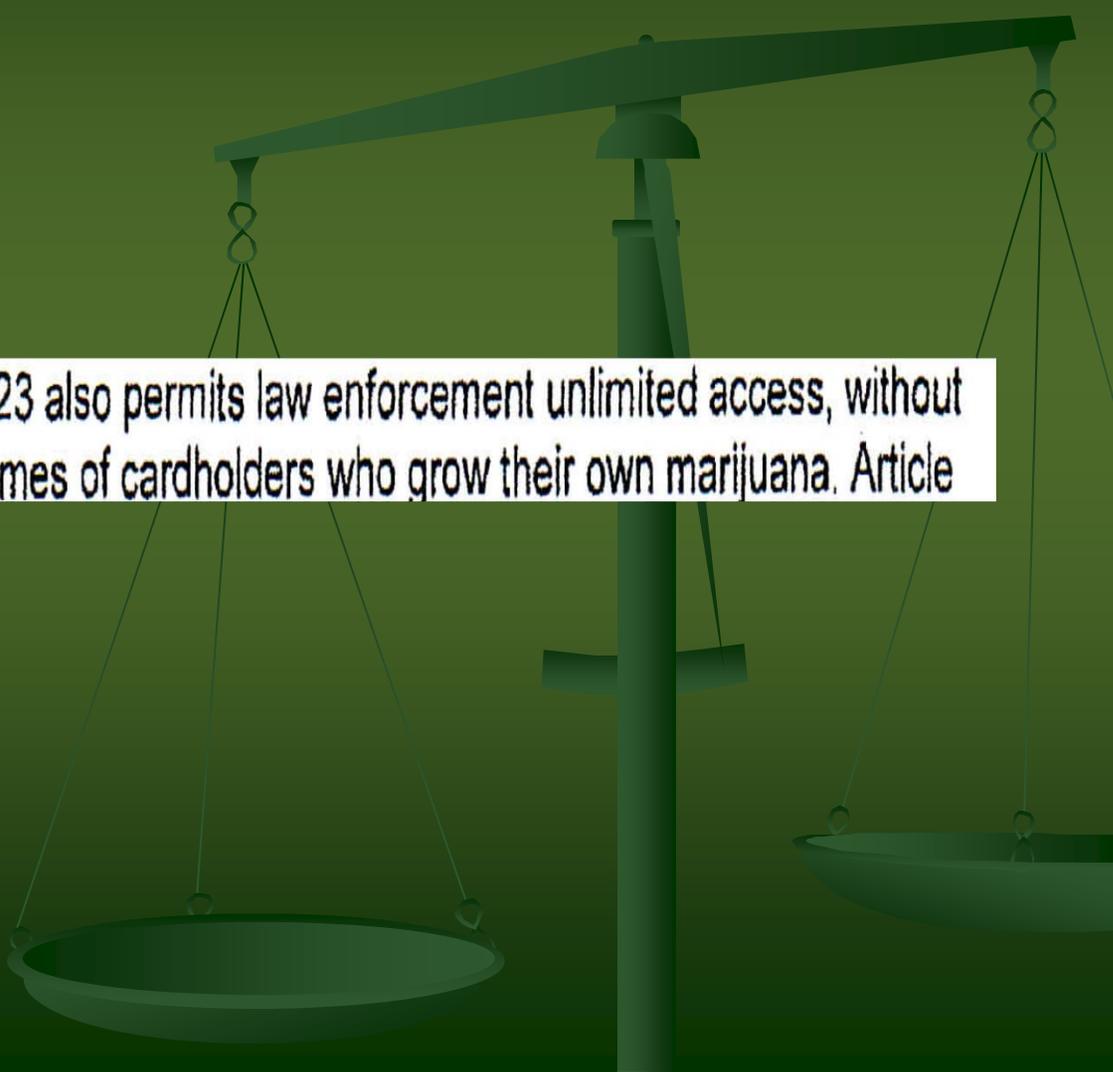
Governor Schweitzer expresses privacy concerns with respect to SB 423



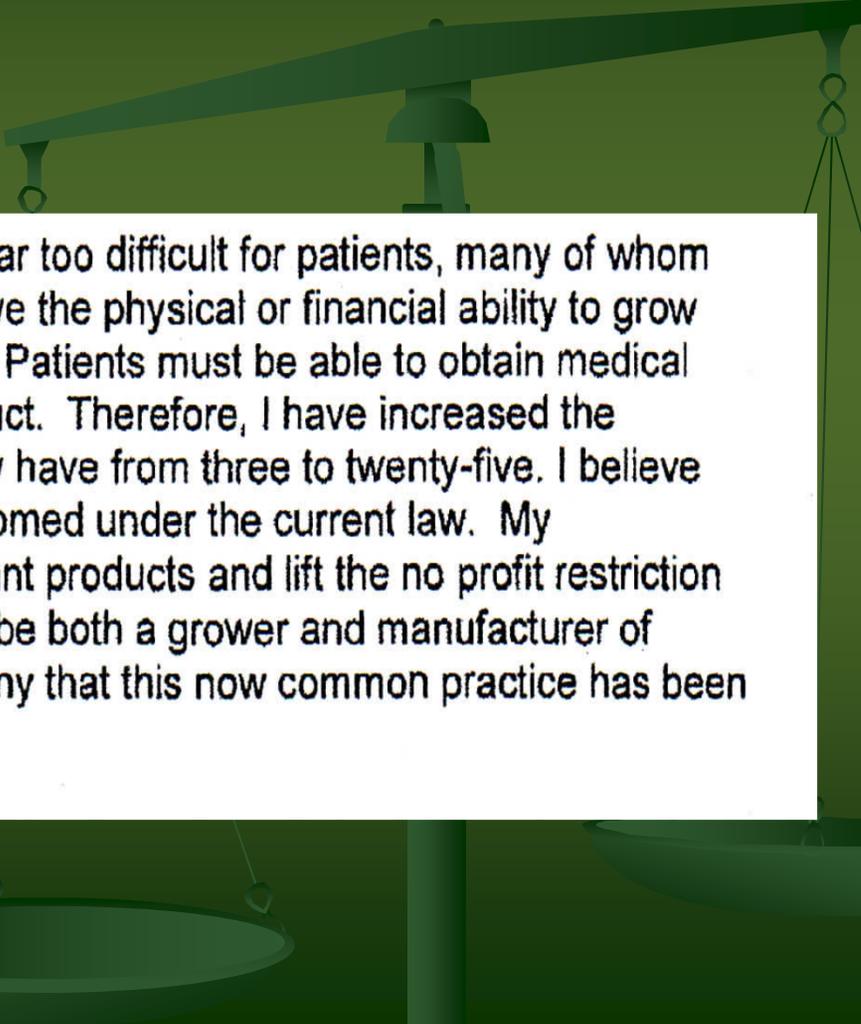
My amendments to SB 423 address the bill's constitutional problems. SB 423 ignores privacy concerns. Article II, Section § 10 of our Montana Constitution guarantees our citizens the right to privacy. Those who register for cards have a constitutional right to privacy protected by Article II, Section § 10. Under SB 423, cardholders, i.e. patients' names and addresses must be provided to local law enforcement by the Department of Public Health and Human Services. The right to privacy is a fundamental right. The blanket disclosure requirement in the bill would never survive the strict scrutiny standard for invading a patient's right to privacy. The requirement also directly violates the Montana Government Health Care Information Act. (See, 50-16-601-611, MCA.)

Governor Schweitzer expresses search and seizure concerns with SB 423

Compounding the privacy issues, SB 423 also permits law enforcement unlimited access, without permission or warrant, to the private homes of cardholders who grow their own marijuana. Article



Governor Schweitzer is concerned with patient access

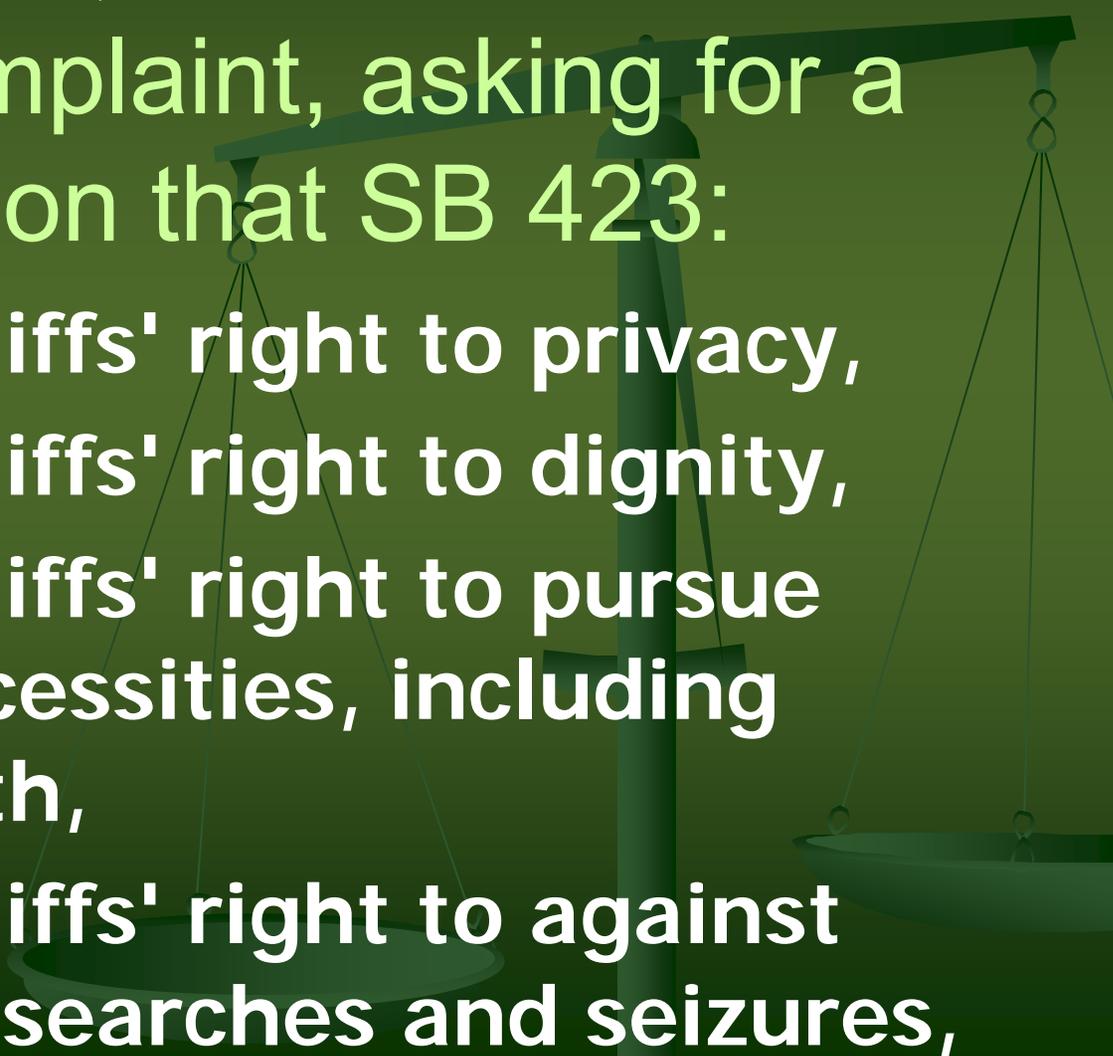


I believe SB 423 makes access to medical marijuana far too difficult for patients, many of whom are suffering chronic and severe illness and do not have the physical or financial ability to grow their own marijuana to treat their debilitating condition. Patients must be able to obtain medical marijuana from legitimate sources with a reliable product. Therefore, I have increased the number of cardholders a provider or manufacturer may have from three to twenty-five. I believe this limit will prevent the large grow operations that boomed under the current law. My amendments do allow a provider to charge for their plant products and lift the no profit restriction from the bill. Another amendment allows a provider to be both a grower and manufacturer of marijuana infused product. There has been no testimony that this now common practice has been a problem.

Despite the Governor's concerns, SB 423 is approved by the Senate, effective July 1, 2011, cite as MCA 50-46-301 et. seq.

- The citizens revolt:
- Montana Cannabis Industry Association vs. Montana
- IR-124, on the November 6, 2012 Ballot to repeal SB 423 in favor of I-148
- CI-109, on the November 2012 Ballot to prevent the legislature from repealing a voter initiative without citizen approval.

Montana Cannabis Industry Association vs. Montana ddv-2011-518, Lewis and Clark County, Complaint, asking for a declaration that SB 423:



- violates Plaintiffs' right to privacy,
- violates Plaintiffs' right to dignity,
- violates Plaintiffs' right to pursue life's basic necessities, including personal health,
- violates Plaintiffs' right to against unreasonable searches and seizures,

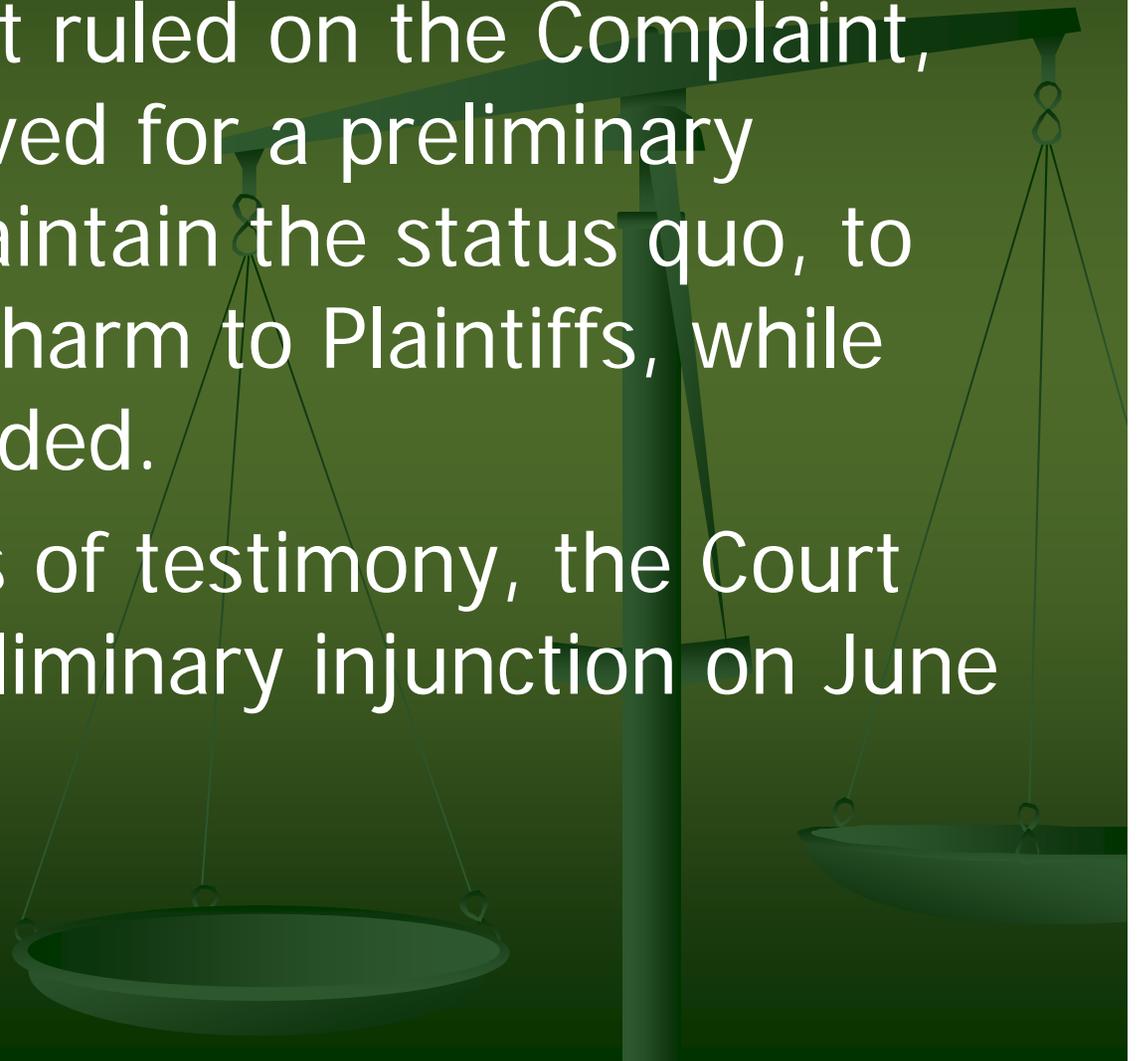
and

- violates Plaintiffs' right to freedom of speech,
- infringes on the individual Plaintiffs' associational anonymity rights and right to petition the courts, and
- an order enjoining the State from codifying or enforcing Senate Bill 423.



But first, a Preliminary Injunction

- Before the Court ruled on the Complaint, the Plaintiff moved for a preliminary injunction to maintain the status quo, to prevent further harm to Plaintiffs, while the case proceeded.
- After three days of testimony, the Court granted the preliminary injunction on June 30, 2011.



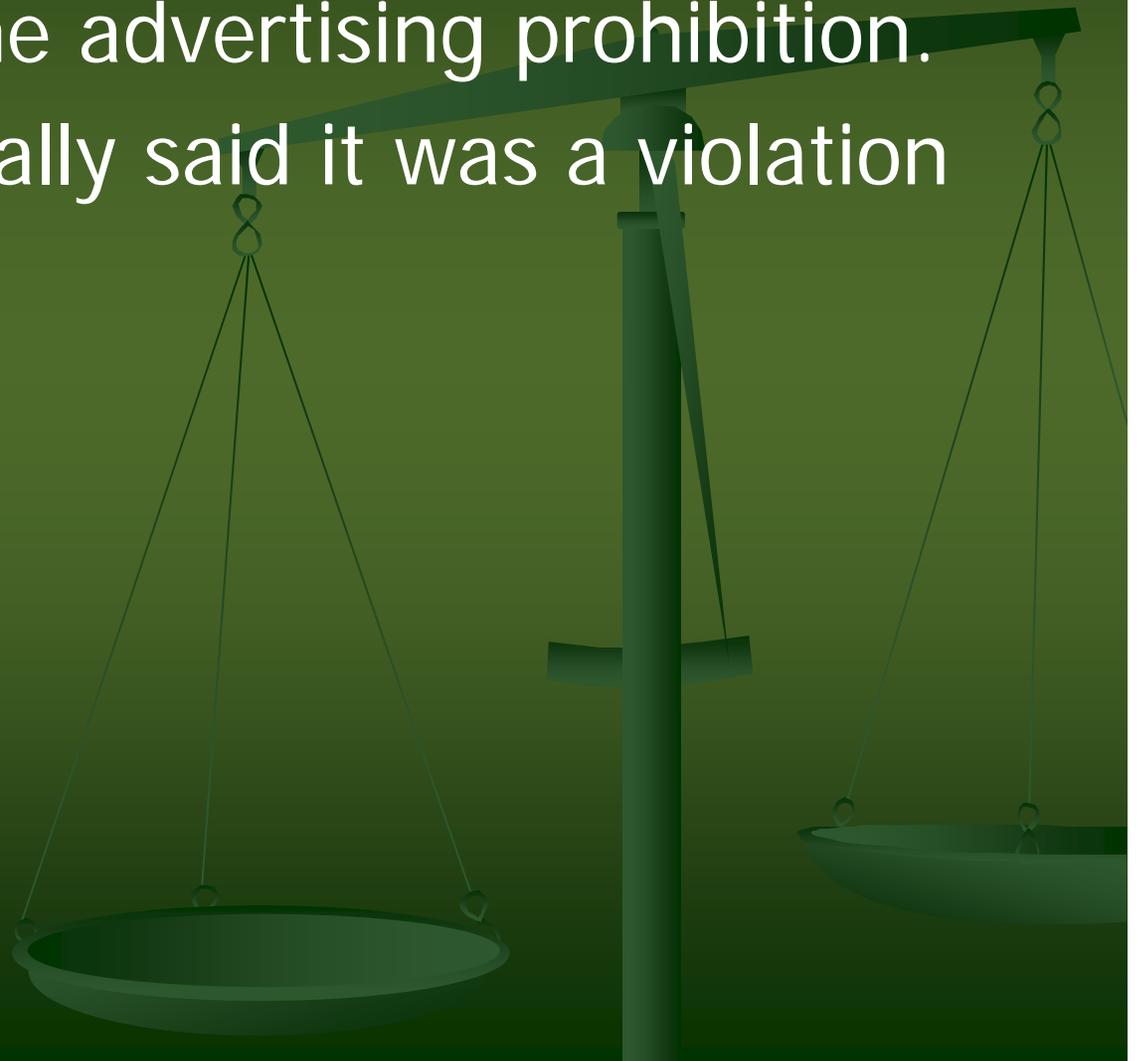
Order Granting Preliminary Injunction

PRELIMINARY INJUNCTION

1. The State of Montana is hereby enjoined from enforcing the following sections of Senate Bill 423:
 - a. Section 20 entitled “Advertising prohibited;”
 - b. Sections 14(1), (2) and (3), the section entitled “Inspection Procedures.”
 - c. Section 3(10), the section entitled “Department responsibilities – issuance of cards – confidentiality – reports.”
 - d. Sections 5(3), 5(4), and 5(6)(a) and (b), the section entitled “Provider types – requirements – limitations – activities.”
2. The remaining provisions of Senate Bill may take effect as scheduled.

Let's take a closer look at each part of the Court's order

- First consider the advertising prohibition.
- The Court basically said it was a violation of free speech.



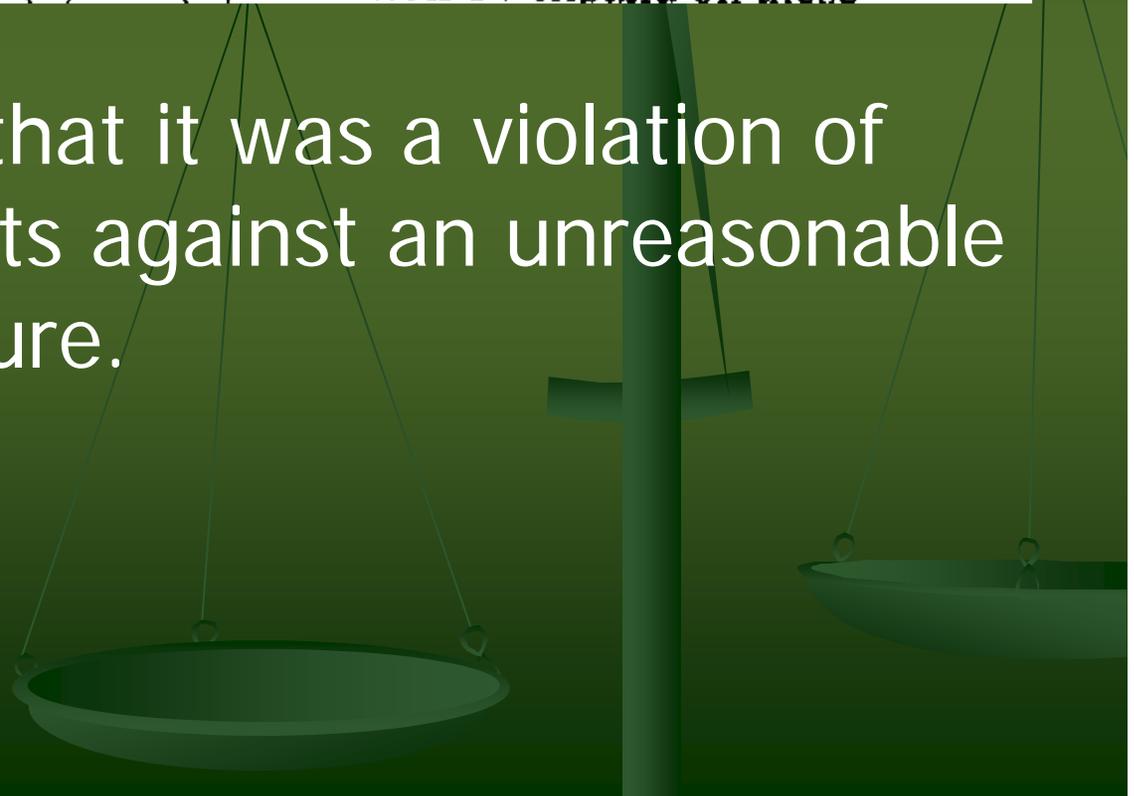
Section 20 entitled “Advertising prohibited;”

The complete prohibition against advertising of any kind by only persons with valid registry identification cards implicates substantial constitutional rights of Plaintiffs. Medical marijuana is, under this law, a legal substance. Advertising concerning it cannot be banned consistent with first amendment principles.

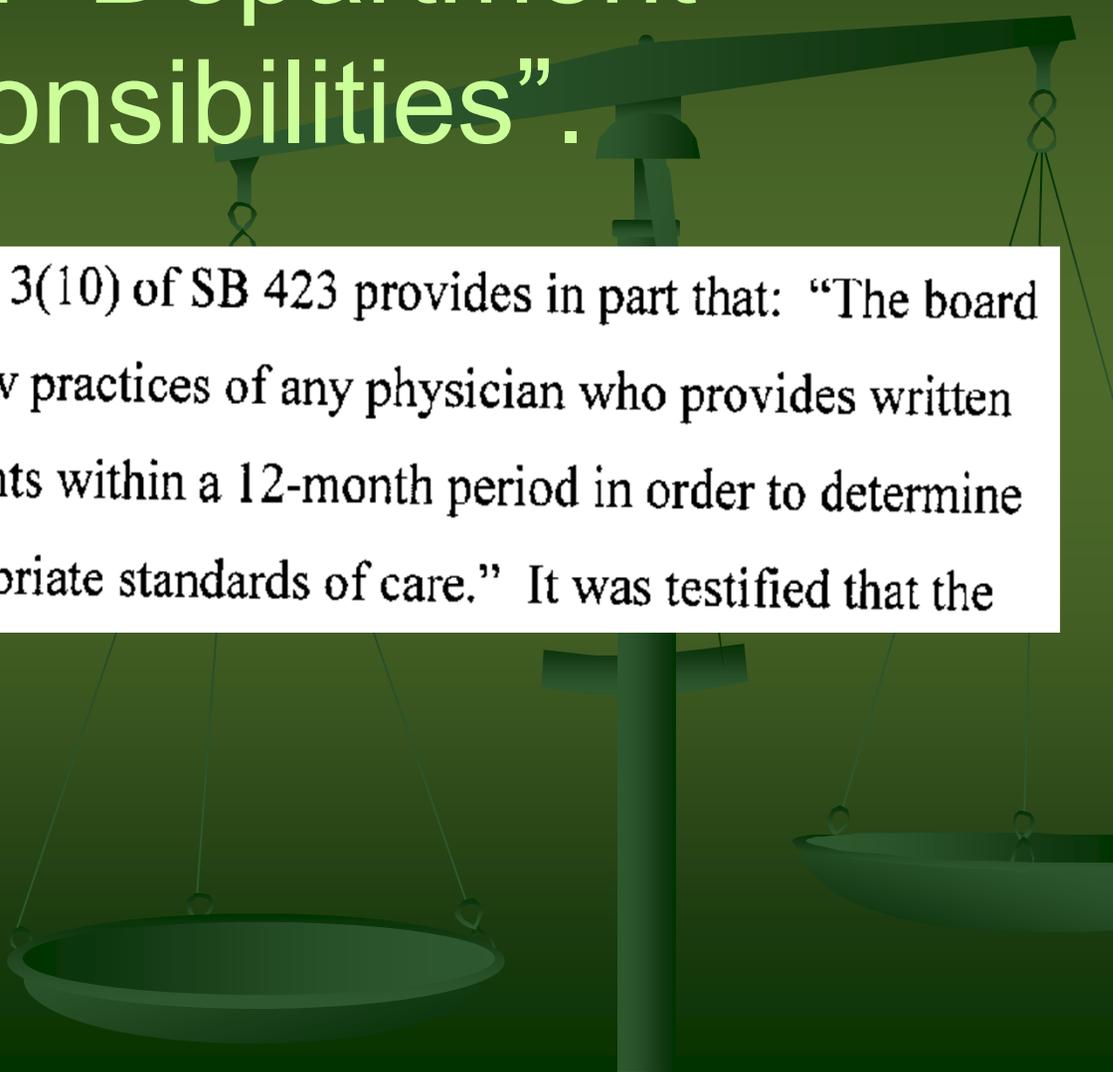
Next let's look at the "inspection procedures"

□ b. Section 14(1) of SB 423 provides: "The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises." Subsections (2) and (3) of section 14 expand on these

- The Court said that it was a violation of the citizens rights against an unreasonable search and seizure.



Next consider section 3(10) entitled “Department responsibilities”.



c. Section 3(10) of SB 423 provides in part that: “The board of medical examiners shall review practices of any physician who provides written certification for 25 or more patients within a 12-month period in order to determine whether the practices meet appropriate standards of care.” It was testified that the

Judge Reynolds was concerned with patient access to legal medicine

- He enjoined the State from enforcing this part of the Bill as well.



Judge Reynolds wrote:

situations. It was also testified that certain physicians who have been involved in writing certifications for medical marijuana users under the former law are concerned that such reviews are unprecedented, could reflect badly on a physician's professional reputation, and would cause these physicians to discontinue making any certifications for any patients. In addition, section 3(10)(b) requires the physician to pay the costs of this review.

Last, we consider section 5, “Provider types”

- Judge Reynolds felt that the prohibition of any remuneration for a medical marijuana provider and the prohibition of a provider from buying or selling mature marijuana plants or seedlings, cuttings, clones, usable marijuana, or marijuana –infused products” violated the citizens fundamental right to “seek their safety, health and happiness in all lawful ways.”

Judge Reynold's considered that:

d. Sections 5(6)(a) and (b) of SB 423 prohibit medical marijuana providers from “accept[ing] anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;” and from “buy[ing] or sell[ing] mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products.” Section 5(4) provides that medical marijuana providers may only accept remuneration from a medical marijuana user to pay for the provider’s registration fee. Section 5(3) limits a registered medical marijuana provider to no more than three registered users of medical marijuana.

Judge Reynold's, again, considered patient access:

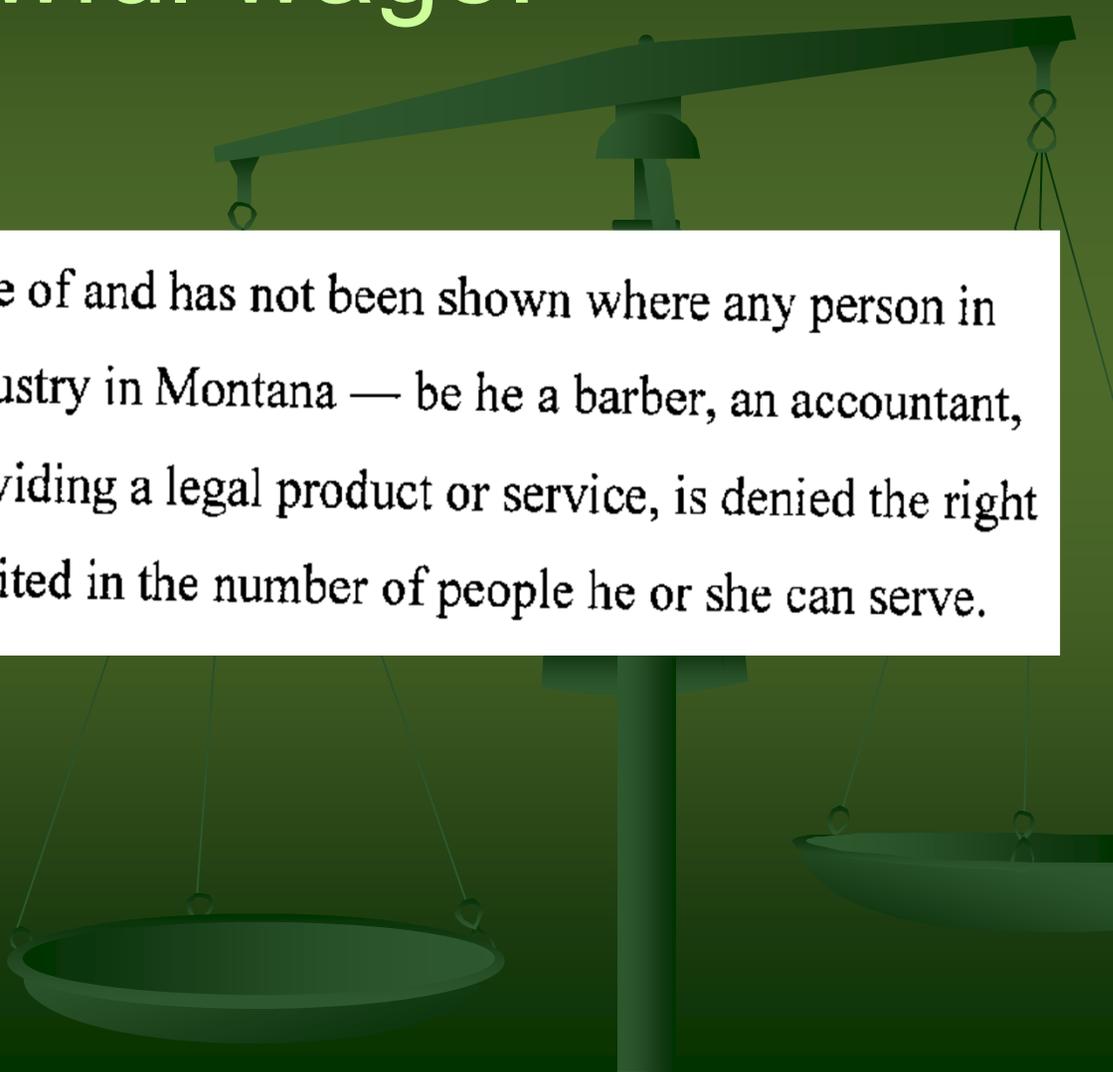
lawful ways.” Medical marijuana is a lawful means of seeking one’s own health under this provision. The ban on providers receiving compensation and limiting the number of cardholders that each provider can serve will certainly limit the number of willing providers and will thereby deny the access of Montanans otherwise

Judge Reynold's wrote:

The State has declared medical marijuana a legal product in Montana. It has established a licensing and distribution system through providers. Persons engaged in that activity subject to the licensing and other restrictions within the law are engaged in legal activities.



Judge Reynolds recognized that it is a fundamental right to earn a lawful wage:



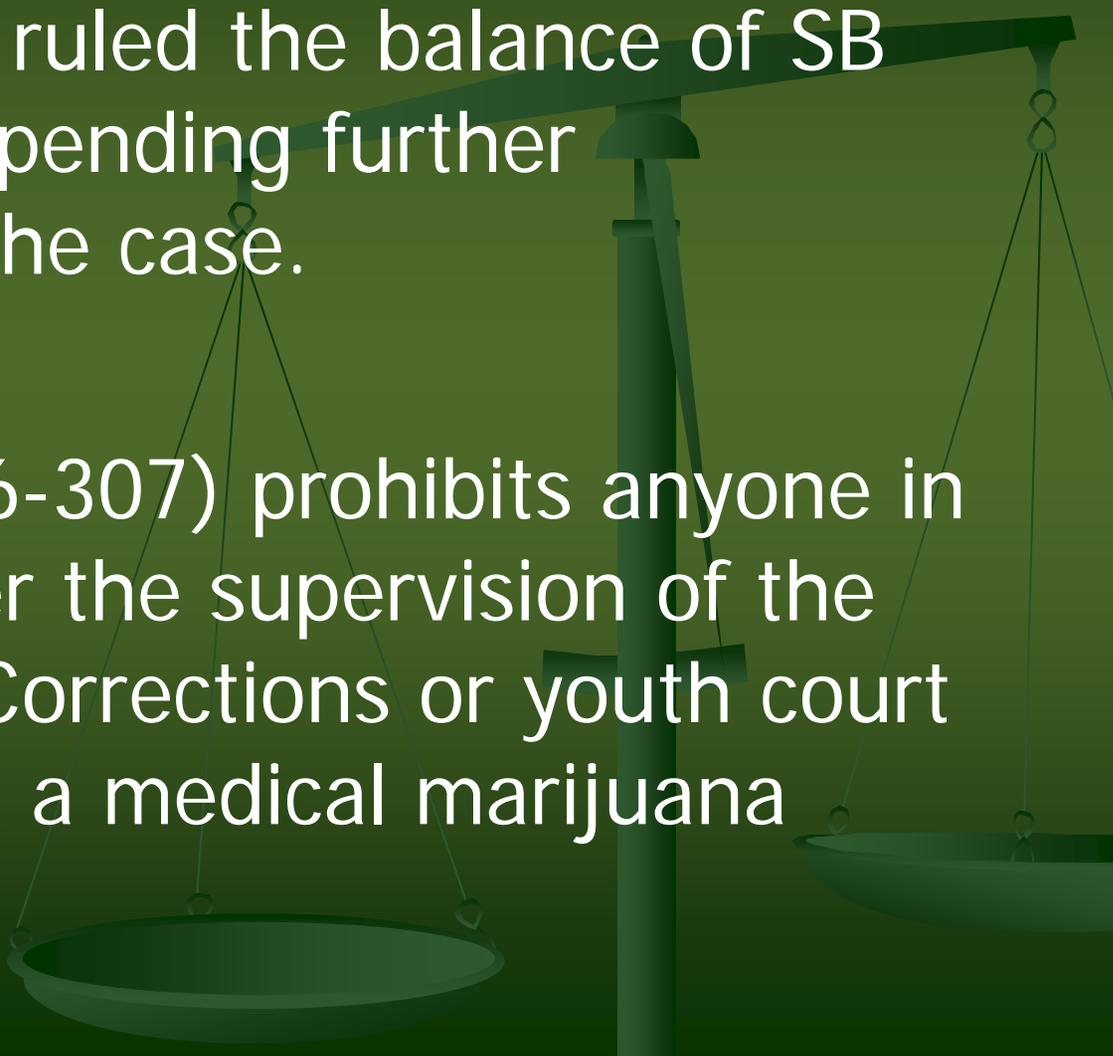
The Court is unaware of and has not been shown where any person in any other licensed and lawful industry in Montana — be he a barber, an accountant, a lawyer, or a doctor — who, providing a legal product or service, is denied the right to charge for that service or is limited in the number of people he or she can serve.

Judge Reynolds again was bothered by patient access to a legal medicine:

same is true here. By these provisions, the legislature is attempting to make it as difficult and as inconvenient for persons eligible under state law to use medical marijuana to obtain this legally authorized product.

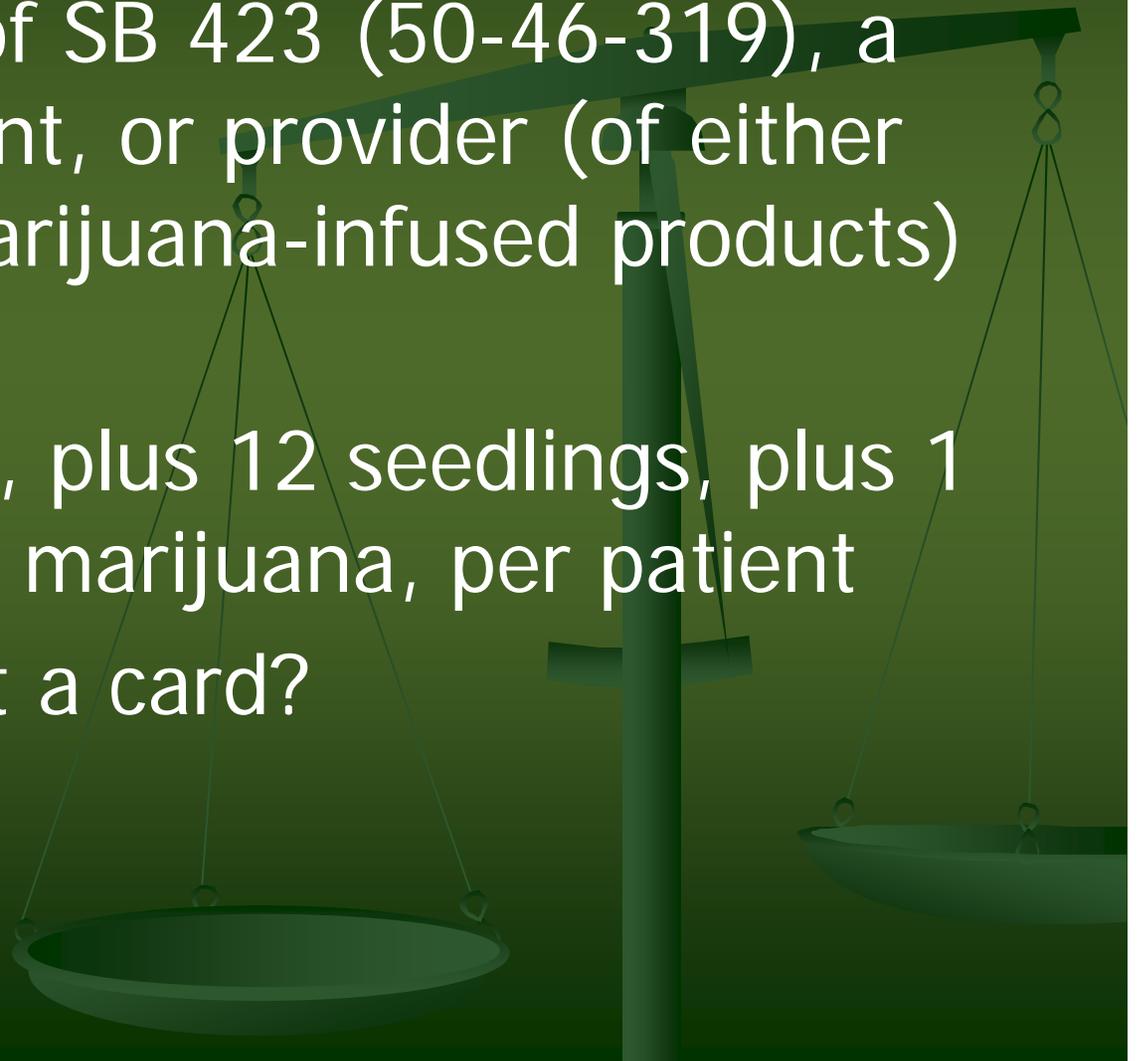


2. The remaining provisions of Senate Bill may take effect as scheduled.

- Judge Reynolds ruled the balance of SB 423 is effective pending further proceedings in the case.
 - of note:
 - Section 4 (50-46-307) prohibits anyone in custody or under the supervision of the Department of Corrections or youth court from possessing a medical marijuana registry card;
- 

Of further note

- Per section 10 of SB 423 (50-46-319), a registered patient, or provider (of either marijuana or marijuana-infused products) can possess:
- 4 mature plants, plus 12 seedlings, plus 1 ounce of usable marijuana, per patient
- So, who can get a card?



Under SB 423 you are either a patient or provider 50-46-308(2)(e)

- If you need it for medical, look to 50-46-307 (Section 4 of SB 423).
- A Montana resident with a “debilitating medical condition” as defined under 50-46-302(2)- much the same as under I-148 except for “chronic pain” which has been tightened up by requiring objective proof of the “etiology” or cause of the pain or a second opinion.
- The patient must now opt to either grow it or obtain it from a provider whom he must name. In either case, the grow location must now be disclosed.

If you are a provider look to 50-46-308. You can be a provider if

- you are named on the patient's form as either a marijuana provider or a marijuana-infused products provider,
- you are a Montana resident,
- you list the single grow site address,
- you provide fingerprints,
- you have no felony, no drug conviction, not in custody of DOC or youth court,
- you have not failed to pay taxes, interests, penalties or judgments to a government agency,
- You have not failed to pay child support.
- You cannot register as a provider if you have named another person as a provider. This prevents a circle. It is intended to create a one to one relationship, I think.
- Last, you cannot share any portion of the grow site with another- no Co-ops.
- See 50-46-309 for a few restrictions on marijuana-infused products providers.
- So in the meantime, what happened to the Lewis and Clark case?

State of Montana Appeals

- State of Montana appeals Judge Reynolds' order in DDV-2011-518, August 9, 2011.
- Montana Cannabis Industry Association files cross-appeal.
- The Goetz law firm advised me by email that they do not expect an answer on the appeal before the November 2012 elections on IR-124 and CI-109.

Just when the Medical Marijuana Community is feeling a little better,

- DOJ SENDS OUT ANOTHER LETTER:
- "OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES" DATED SEPTEMBER 21, 2011.
- Warning the reader that registered medical marijuana patients are nonetheless prohibited from possessing a firearm under federal law.

The letter from the DOJ reads, in pertinent part:

As you know, Federal law, 18 U.S.C. § 922(g)(3), prohibits any person who is an “unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))” from shipping, transporting, receiving or possessing firearms or ammunition. Marijuana is listed in the Controlled Substances Act as a Schedule I controlled substance, and there are no exceptions in Federal law for marijuana

Therefore, any person who uses or is addicted to marijuana, regardless of whether his or her State has passed legislation authorizing marijuana use for medicinal purposes, is an unlawful user of or addicted to a controlled substance, and is prohibited by Federal law from possessing firearms or ammunition. Such persons should answer “yes” to question 11.e. on ATF Form 4473 (August 2008), Firearms Transaction Record, and you may not transfer firearms or ammunition to them. Further, if you are aware that the potential transferee is in possession of a card authorizing the possession and use of marijuana under State law, then you have “reasonable cause to believe” that the person is an unlawful user of a controlled substance. As such, you may not transfer firearms or ammunition to the person, even if the person answered “no” to question 11.e. on ATF Form 4473.

This letter had a further chilling effect on caregivers throughout the State.

□ whatever



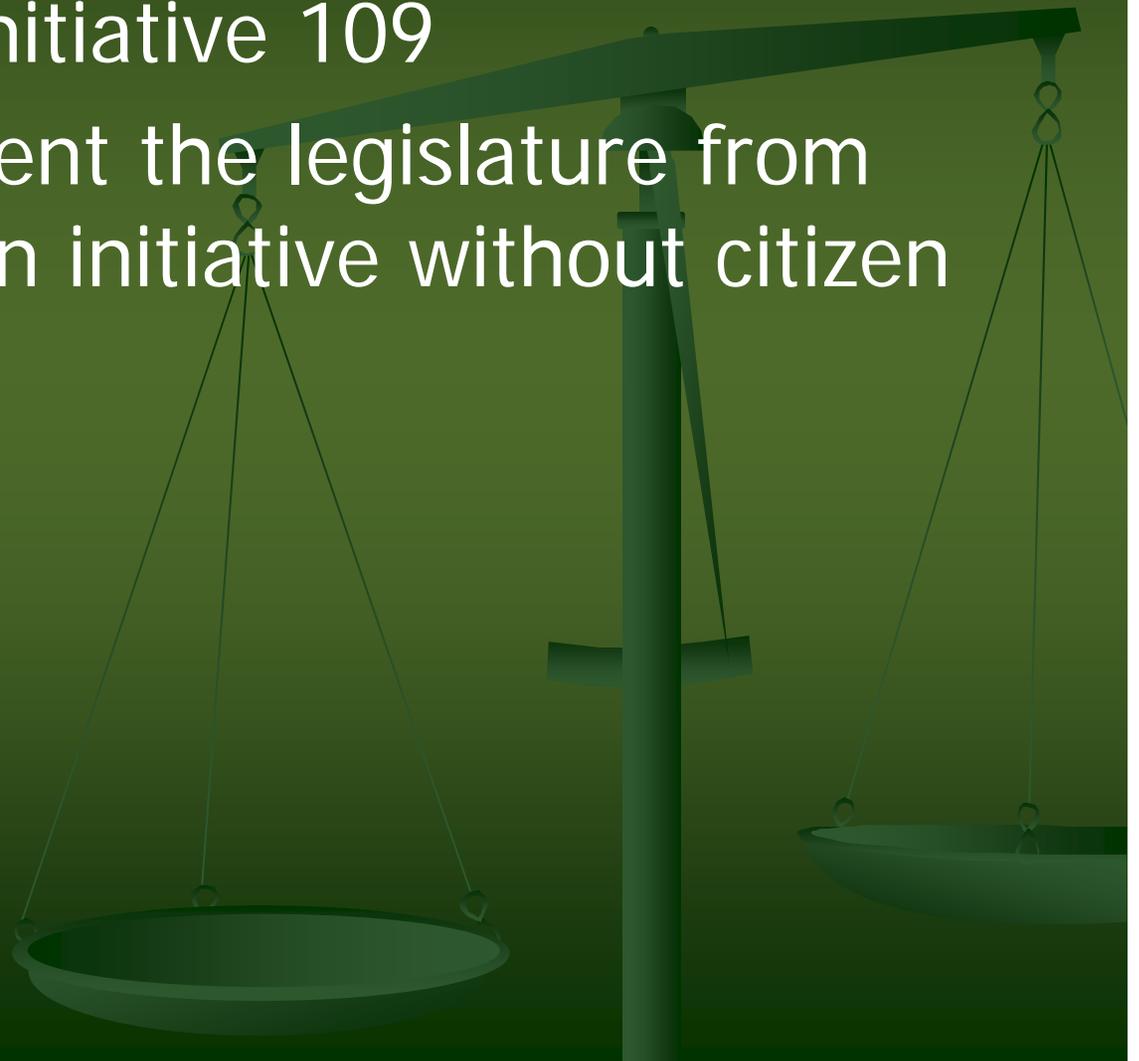
For any answers to any other frequently asked questions regarding the medical marijuana act,

- Check out the Department of Public Health and Human Services first.



The people may get the final word

- Constitutional Initiative 109
- It seeks to prevent the legislature from undoing a citizen initiative without citizen approval.



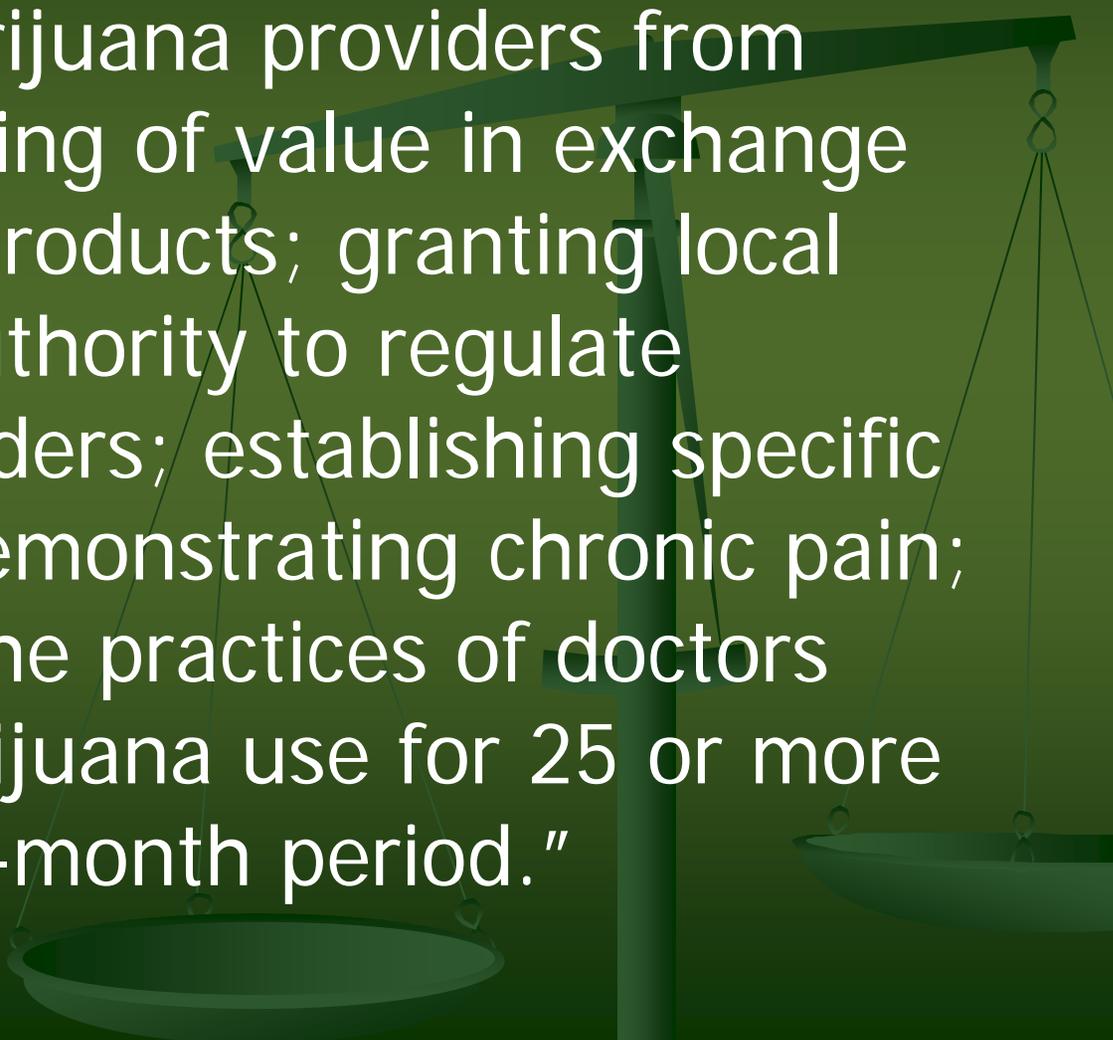
CI-109

- [] FOR amending Article III, section 4 of the Montana Constitution to reserve to the people the power to amend or repeal laws passed by initiative.
- [] AGAINST amending Article III, section 4 of the Montana Constitution to reserve to the people the power to amend or repeal laws passed by initiative.

And the people speak again with Initiative Referendum 124

- “In 2004, Montana voters approved I-148, creating a medical marijuana program for patients with debilitating medical conditions. Senate Bill 423, passed by the 2011 Legislature, repeals I-148 and enacts a new medical marijuana program, which includes: permitting patients to grow marijuana or designate a provider; limiting each marijuana provider to three patients;”

and

- “prohibiting marijuana providers from accepting anything of value in exchange for services or products; granting local governments authority to regulate marijuana providers; establishing specific standards for demonstrating chronic pain; and reviewing the practices of doctors who certify marijuana use for 25 or more patients in a 12-month period.”
- 

The continuing saga of I-148 will have to wait until November 6, 2012 when IR-124 is decided.

□ "[] FOR Senate Bill 423, a bill which repeals I-148 and enacts a new medical marijuana program."

□ "[] AGAINST Senate Bill 423, a bill which repeals I-148 and enacts a new medical marijuana program. A vote against Senate Bill 423 will restore I-148"

Thank you

- For more information, please contact Craig Shannon at craigks@gmail.com.

