

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6032

60th Legislature
2007 Regular Session

Passed by the Senate April 20, 2007
YEAS 37 NAYS 9

President of the Senate

Passed by the House April 18, 2007
YEAS 68 NAYS 27

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6032** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6032

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kohl-Welles, McCaslin, Kline, Regala and Keiser)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to medical use of marijuana; amending RCW
2 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.060, and
3 69.51A.070; adding a new section to chapter 69.51A RCW; and creating a
4 new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature intends to clarify the law
7 on medical marijuana so that the lawful use of this substance is not
8 impaired and medical practitioners are able to exercise their best
9 professional judgment in the delivery of medical treatment, qualifying
10 patients may fully participate in the medical use of marijuana, and
11 designated providers may assist patients in the manner provided by this
12 act without fear of state criminal prosecution. This act is also
13 intended to provide clarification to law enforcement and to all
14 participants in the judicial system.

15 **Sec. 2.** RCW 69.51A.005 and 1999 c 2 s 2 are each amended to read
16 as follows:

17 The people of Washington state find that some patients with
18 terminal or debilitating illnesses, under their physician's care, may

1 benefit from the medical use of marijuana. Some of the illnesses for
2 which marijuana appears to be beneficial include chemotherapy-related
3 nausea and vomiting in cancer patients; AIDS wasting syndrome; severe
4 muscle spasms associated with multiple sclerosis and other spasticity
5 disorders; epilepsy; acute or chronic glaucoma; and some forms of
6 intractable pain.

7 The people find that humanitarian compassion necessitates that the
8 decision to authorize the medical use of marijuana by patients with
9 terminal or debilitating illnesses is a personal, individual decision,
10 based upon their physician's professional medical judgment and
11 discretion.

12 Therefore, the people of the state of Washington intend that:
13 Qualifying patients with terminal or debilitating illnesses who, in
14 the judgment of their physicians, (~~would~~) may benefit from the
15 medical use of marijuana, shall not be found guilty of a crime under
16 state law for their possession and limited use of marijuana;

17 Persons who act as (~~primary caregivers~~) designated providers to
18 such patients shall also not be found guilty of a crime under state law
19 for assisting with the medical use of marijuana; and

20 Physicians also be excepted from liability and prosecution for the
21 authorization of marijuana use to qualifying patients for whom, in the
22 physician's professional judgment, medical marijuana may prove
23 beneficial.

24 **Sec. 3.** RCW 69.51A.010 and 1999 c 2 s 6 are each amended to read
25 as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

- 28 (1) "Designated provider" means a person who:
29 (a) Is eighteen years of age or older;
30 (b) Has been designated in writing by a patient to serve as a
31 designated provider under this chapter;
32 (c) Is prohibited from consuming marijuana obtained for the
33 personal, medical use of the patient for whom the individual is acting
34 as designated provider; and
35 (d) Is the designated provider to only one patient at any one time.
36 (2) "Medical use of marijuana" means the production, possession, or

1 administration of marijuana, as defined in RCW 69.50.101(q), for the
2 exclusive benefit of a qualifying patient in the treatment of his or
3 her terminal or debilitating illness.

4 ~~((2) "Primary caregiver" means a person who:~~
5 ~~(a) Is eighteen years of age or older;~~
6 ~~(b) Is responsible for the housing, health, or care of the patient;~~
7 ~~(c) Has been designated in writing by a patient to perform the~~
8 ~~duties of primary caregiver under this chapter.))~~

9 (3) "Qualifying patient" means a person who:

10 (a) Is a patient of a physician licensed under chapter 18.71 or
11 18.57 RCW;

12 (b) Has been diagnosed by that physician as having a terminal or
13 debilitating medical condition;

14 (c) Is a resident of the state of Washington at the time of such
15 diagnosis;

16 (d) Has been advised by that physician about the risks and benefits
17 of the medical use of marijuana; and

18 (e) Has been advised by that physician that they may benefit from
19 the medical use of marijuana.

20 (4) "Terminal or debilitating medical condition" means:

21 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
22 epilepsy or other seizure disorder, or spasticity disorders; or

23 (b) Intractable pain, limited for the purpose of this chapter to
24 mean pain unrelieved by standard medical treatments and medications; or

25 (c) Glaucoma, either acute or chronic, limited for the purpose of
26 this chapter to mean increased intraocular pressure unrelieved by
27 standard treatments and medications; or

28 (d) Crohn's disease with debilitating symptoms unrelieved by
29 standard treatments or medications; or

30 (e) Hepatitis C with debilitating nausea or intractable pain
31 unrelieved by standard treatments or medications; or

32 (f) Diseases, including anorexia, which result in nausea, vomiting,
33 wasting, appetite loss, cramping, seizures, muscle spasms, or
34 spasticity, when these symptoms are unrelieved by standard treatments
35 or medications; or

36 (g) Any other medical condition duly approved by the Washington
37 state medical quality assurance (~~board~~ ~~[commission]~~) commission in

1 consultation with the board of osteopathic medicine and surgery as
2 directed in this chapter.

3 (5) "Valid documentation" means:

4 (a) A statement signed by a qualifying patient's physician, or a
5 copy of the qualifying patient's pertinent medical records, which
6 states that, in the physician's professional opinion, the ~~((potential~~
7 ~~benefits of the medical use of marijuana would likely outweigh the~~
8 ~~health risks for a particular qualifying))~~ patient may benefit from the
9 medical use of marijuana; ((and))

10 (b) Proof of identity such as a Washington state driver's license
11 or identicard, as defined in RCW 46.20.035; and

12 (c) A copy of the physician statement described in (a) of this
13 subsection shall have the same force and effect as the signed original.

14 **Sec. 4.** RCW 69.51A.030 and 1999 c 2 s 4 are each amended to read
15 as follows:

16 A physician licensed under chapter 18.71 or 18.57 RCW shall be
17 excepted from the state's criminal laws and shall not be penalized in
18 any manner, or denied any right or privilege, for:

19 (1) Advising a qualifying patient about the risks and benefits of
20 medical use of marijuana or that the qualifying patient may benefit
21 from the medical use of marijuana where such use is within a
22 professional standard of care or in the individual physician's medical
23 judgment; or

24 (2) Providing a qualifying patient with valid documentation, based
25 upon the physician's assessment of the qualifying patient's medical
26 history and current medical condition, that the ~~((potential benefits of~~
27 ~~the))~~ medical use of marijuana ~~((would likely outweigh the health risks~~
28 ~~for the))~~ may benefit a particular qualifying patient.

29 **Sec. 5.** RCW 69.51A.040 and 1999 c 2 s 5 are each amended to read
30 as follows:

31 (1) If a law enforcement officer determines that marijuana is being
32 possessed lawfully under the medical marijuana law, the officer may
33 document the amount of marijuana, take a representative sample that is
34 large enough to test, but not seize the marijuana. A law enforcement
35 officer or agency shall not be held civilly liable for failure to seize
36 marijuana in this circumstance.

1 (2) If charged with a violation of state law relating to marijuana,
2 any qualifying patient who is engaged in the medical use of marijuana,
3 or any designated (~~(primary caregiver)~~) provider who assists a
4 qualifying patient in the medical use of marijuana, will be deemed to
5 have established an affirmative defense to such charges by proof of his
6 or her compliance with the requirements provided in this chapter. Any
7 person meeting the requirements appropriate to his or her status under
8 this chapter shall be considered to have engaged in activities
9 permitted by this chapter and shall not be penalized in any manner, or
10 denied any right or privilege, for such actions.

11 (~~(2) The~~) (3) A qualifying patient, if eighteen years of age or
12 older, or a designated provider shall:

13 (a) Meet all criteria for status as a qualifying patient or
14 designated provider;

15 (b) Possess no more marijuana than is necessary for the patient's
16 personal, medical use, not exceeding the amount necessary for a sixty-
17 day supply; and

18 (c) Present his or her valid documentation to any law enforcement
19 official who questions the patient or provider regarding his or her
20 medical use of marijuana.

21 (~~(3) The~~) (4) A qualifying patient, if under eighteen years of
22 age at the time he or she is alleged to have committed the offense,
23 shall (~~comply~~) demonstrate compliance with subsection (~~(2)~~) (3)(a)
24 and (c) of this section. However, any possession under subsection
25 (~~(2)~~) (3)(b) of this section, as well as any production, acquisition,
26 and decision as to dosage and frequency of use, shall be the
27 responsibility of the parent or legal guardian of the qualifying
28 patient.

29 (~~(4) The designated primary caregiver shall:~~

30 ~~(a) Meet all criteria for status as a primary caregiver to a~~
31 ~~qualifying patient;~~

32 ~~(b) Possess, in combination with and as an agent for the qualifying~~
33 ~~patient, no more marijuana than is necessary for the patient's~~
34 ~~personal, medical use, not exceeding the amount necessary for a sixty-~~
35 ~~day supply;~~

36 ~~(c) Present a copy of the qualifying patient's valid documentation~~
37 ~~required by this chapter, as well as evidence of designation to act as~~

1 ~~primary caregiver by the patient, to any law enforcement official~~
2 ~~requesting such information;~~

3 ~~(d) Be prohibited from consuming marijuana obtained for the~~
4 ~~personal, medical use of the patient for whom the individual is acting~~
5 ~~as primary caregiver; and~~

6 ~~(e) Be the primary caregiver to only one patient at any one time.)~~

7 **Sec. 6.** RCW 69.51A.060 and 1999 c 2 s 8 are each amended to read
8 as follows:

9 (1) It shall be a misdemeanor to use or display medical marijuana
10 in a manner or place which is open to the view of the general public.

11 (2) Nothing in this chapter requires any health insurance provider
12 to be liable for any claim for reimbursement for the medical use of
13 marijuana.

14 (3) Nothing in this chapter requires any physician to authorize the
15 use of medical marijuana for a patient.

16 (4) Nothing in this chapter requires any accommodation of any on-
17 site medical use of marijuana in any place of employment, in any school
18 bus or on any school grounds, ~~((or))~~ in any youth center, in any
19 correctional facility, or smoking medical marijuana in any public place
20 as that term is defined in RCW 70.160.020.

21 (5) It is a class C felony to fraudulently produce any record
22 purporting to be, or tamper with the content of any record for the
23 purpose of having it accepted as, valid documentation under RCW
24 69.51A.010~~((+5))~~ (6)(a).

25 (6) No person shall be entitled to claim the affirmative defense
26 provided in RCW 69.51A.040 for engaging in the medical use of marijuana
27 in a way that endangers the health or well-being of any person through
28 the use of a motorized vehicle on a street, road, or highway.

29 **Sec. 7.** RCW 69.51A.070 and 1999 c 2 s 9 are each amended to read
30 as follows:

31 The Washington state medical quality assurance ~~((board~~
32 ~~[commission]))~~ commission in consultation with the board of osteopathic
33 medicine and surgery, or other appropriate agency as designated by the
34 governor, shall accept for consideration petitions submitted ~~((by~~
35 ~~physicians or patients))~~ to add terminal or debilitating conditions to
36 those included in this chapter. In considering such petitions, the

1 Washington state medical quality assurance ((~~board~~[~~commission~~]))
2 commission in consultation with the board of osteopathic medicine and
3 surgery shall include public notice of, and an opportunity to comment
4 in a public hearing upon, such petitions. The Washington state medical
5 quality assurance ((~~board~~[~~commission~~])) commission in consultation
6 with the board of osteopathic medicine and surgery shall, after
7 hearing, approve or deny such petitions within one hundred eighty days
8 of submission. The approval or denial of such a petition shall be
9 considered a final agency action, subject to judicial review.

10 NEW SECTION. Sec. 8. A new section is added to chapter 69.51A RCW
11 to read as follows:

12 (1) By July 1, 2008, the department of health shall adopt rules
13 defining the quantity of marijuana that could reasonably be presumed to
14 be a sixty-day supply for qualifying patients; this presumption may be
15 overcome with evidence of a qualifying patient's necessary medical use.

16 (2) As used in this chapter, "sixty-day supply" means that amount
17 of marijuana that qualifying patients would reasonably be expected to
18 need over a period of sixty days for their personal medical use.
19 During the rule-making process, the department shall make a good faith
20 effort to include all stakeholders identified in the rule-making
21 analysis as being impacted by the rule.

22 (3) The department of health shall gather information from medical
23 and scientific literature, consulting with experts and the public, and
24 reviewing the best practices of other states regarding access to an
25 adequate, safe, consistent, and secure source, including alternative
26 distribution systems, of medical marijuana for qualifying patients.
27 The department shall report its findings to the legislature by July 1,
28 2008.

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