
SENATE BILL 6265

State of Washington 62nd Legislature 2012 Regular Session

By Senators Kohl-Welles, Delvin, Keiser, Pflug, and Regala

Read first time 01/16/12. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to regulating the medical use of cannabis through
2 nonprofit patient cooperatives, collective gardens, local government
3 regulation of nonprofit patient cooperatives and collective gardens,
4 security requirements for the transportation of cannabis, affirmative
5 defense and arrest and prosecution protections, establishing a
6 voluntary registry within the department of health, modifying the
7 Washington state institute for public policy study, and providing
8 technical corrections; amending RCW 69.51A.010, 69.51A.140, 69.51A.085,
9 69.51A.030, 69.51A.043, 69.51A.045, 69.51A.050, 69.51A.055, 69.51A.060,
10 69.51A.025, and 69.51A.200; adding new sections to chapter 69.51A RCW;
11 adding a new section to chapter 42.56 RCW; creating a new section; and
12 repealing RCW 69.51A.047 and 69.51A.040.

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

14 **Sec. 1.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Cannabis" means all parts of the plant *Cannabis*, whether
19 growing or not; the seeds thereof; the resin extracted from any part of

1 the plant; and every compound, manufacture, salt, derivative, mixture,
2 or preparation of the plant, its seeds, or resin. "Cannabis" does not
3 include the mature stalks of the plant, fiber produced from the stalks,
4 oil, or cake made from the seeds of the plant, any other compound,
5 manufacture, salt, derivative, mixture, or preparation of the mature
6 stalks, except the resin extracted therefrom, fiber, oil, or cake, or
7 the sterilized seed of the plant which is incapable of germination.
8 The term "cannabis" includes cannabis products and useable cannabis.

9 (2) "Collective garden" means qualifying patients or their
10 designated providers sharing responsibility for acquiring and supplying
11 the resources required to produce, process, transport, and deliver
12 cannabis for medical use such as: A location for a collective garden;
13 equipment, supplies, and labor necessary to plant, grow, and harvest
14 cannabis; cannabis plants, seeds, and cuttings; and equipment,
15 supplies, and labor necessary for proper construction, plumbing,
16 wiring, and ventilation of a garden of cannabis plants. Members of a
17 collective garden must only be qualifying patients or their designated
18 providers.

19 (3) "Commercial building unit" means a building or portion thereof,
20 designed or used for commercial purposes.

21 (4) "Correctional facility" has the meaning provided in RCW
22 72.09.015.

23 (5) "Corrections agency or department" means any agency or
24 department in the state of Washington, including local governments or
25 jails, that is vested with the responsibility to manage those
26 individuals who are being supervised in the community for a criminal
27 conviction and has established a written policy for determining when
28 the medical use of cannabis, including possession, manufacture, or
29 delivery of, or for possession with intent to manufacture or deliver,
30 is inconsistent with and contrary to the person's supervision.

31 (6)(a) "Designated provider" means a person who:

32 ((+a)) (i) Is eighteen years of age or older;

33 ((+b)) (ii) Has been designated in ((writing)) a written document
34 signed and dated by a qualifying patient to serve as a designated
35 provider under this chapter;

36 ((c) ~~Is prohibited from consuming marijuana obtained for the~~
37 ~~personal, medical use of the patient for whom the individual is acting~~
38 ~~as designated provider; and~~

1 ~~(d)~~) (iii) Is the designated provider to only one qualifying
2 patient ((at any one time)); and

3 (iv) Is in compliance with the terms and conditions set forth in
4 RCW 69.51A.043.

5 (b) "Designated provider" includes a qualifying patient who serves
6 as the designated provider for another qualifying patient and who may
7 be in possession of both patients' cannabis at the same time.

8 (7) "Dispense" means the selection, measuring, packaging, labeling,
9 delivery, or sale of cannabis by a collective garden or nonprofit
10 patient cooperative to a qualifying patient or designated provider who
11 is a member of that collective garden or nonprofit patient cooperative.

12 ~~((2))~~ (8) "Dwelling" means a building or portion thereof,
13 designed or used for residential occupancy and which includes kitchen
14 facilities.

15 (9) "Health care professional," for purposes of this chapter only,
16 means a physician licensed under chapter 18.71 RCW, a physician
17 assistant licensed under chapter 18.71A RCW, an osteopathic physician
18 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
19 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
20 18.36A RCW, or an advanced registered nurse practitioner licensed under
21 chapter 18.79 RCW.

22 ~~((3))~~ (10) "Jail" has the meaning provided in RCW 70.48.020.

23 (11) "Labeling" means all labels and other written, printed, or
24 graphic matter upon any cannabis intended for medical use or
25 accompanying such cannabis.

26 (12) "Medical use of (~~marijuana~~) cannabis" means the production,
27 possession, dispensing, manufacture, delivery, or administration of
28 (~~marijuana, as defined in RCW 69.50.101(q),~~) cannabis for the
29 exclusive benefit of a qualifying patient in the treatment of his or
30 her terminal or debilitating (~~illness~~) medical condition.

31 ~~((4))~~ (13) "Nonprofit patient cooperative" means a member run
32 nonprofit corporation registered with the secretary of state under
33 chapter 24.03 or 24.06 RCW but which is not required to be recognized
34 as an organization under 26 U.S.C. Sec. 501(c)(3) by the federal
35 internal revenue service. Nonprofit patient cooperatives dispense
36 cannabis for the medical use of their members if not prohibited by
37 counties, cities, or towns under section 2 of this act and must meet

1 all requirements of this chapter. Members of a nonprofit patient
2 cooperative must only be qualifying patients or their designated
3 providers.

4 (14) "Peace officer" has the meaning provided in RCW 43.101.010.

5 (15) "Personally identifiable information" means any information
6 that includes, but is not limited to, data that uniquely identify,
7 distinguish, or trace a person's identity, such as the person's name,
8 date of birth, or address, either alone or when combined with other
9 sources, that establish the person is a qualifying patient, designated
10 provider, licensed producer, or licensed processor of cannabis products
11 for purposes of registration with the department of health or its
12 designee. The term "personally identifiable information" also means
13 any information used by the department of health or its designee to
14 identify a person as a qualifying patient, designated provider,
15 licensed producer, or licensed processor of cannabis products.

16 (16) "Plant" means an organism having at least three
17 distinguishable and distinct leaves, each leaf being at least three
18 centimeters in diameter, and a readily observable root formation
19 consisting of at least two separate and distinct roots, each being at
20 least two centimeters in length. Multiple stalks emanating from the
21 same root ball or root system shall be considered part of the same
22 single plant.

23 (17)(a) "Qualifying patient" means a person who:

- 24 ((+a)) (i) Is a patient of a health care professional;
- 25 ((+b)) (ii) Is eighteen years of age or older or who is under
26 eighteen years of age and whose parent or guardian has provided written
27 consent for the medical use of cannabis by the minor to a health care
28 professional;

29 (iii) Has been diagnosed by that health care professional as having
30 a terminal or debilitating medical condition;

31 ((+c)) (iv) Is a resident of the state of Washington at the time
32 of such diagnosis;

33 ((+d)) (v) Has been advised by that health care professional about
34 the risks and benefits of the medical use of ((marijuana)) cannabis;
35 ((and

36 (+e)) (vi) Has been advised by that health care professional that
37 ((they)) he or she may benefit from the medical use of ((marijuana))
38 cannabis; and

1 (vii) Is otherwise in compliance with the terms and conditions of
2 this chapter.

3 (b) The term "qualifying patient" does not include a person who is
4 actively being supervised for a criminal conviction by a corrections
5 agency or department that has determined that the terms of this chapter
6 are inconsistent with and contrary to his or her supervision and all
7 related processes and procedures related to that supervision.

8 (18) "Registration card" means a card issued by the department of
9 health or its designee under section 16 of this act that demonstrates
10 registration with the registry.

11 (19) "Registry" means the registry developed and maintained by and
12 within the department of health or its designee under section 16 of
13 this act to permit qualified patients and designated providers to
14 register in order to qualify for arrest and prosecution protection.
15 Collective gardens and nonprofit patient cooperatives may also register
16 their locations.

17 ~~((+5))~~ (20) "Tamper-resistant paper" means paper that meets one or
18 more of the following industry-recognized features:

19 (a) One or more features designed to prevent copying of the paper;

20 (b) One or more features designed to prevent the erasure or
21 modification of information on the paper; or

22 (c) One or more features designed to prevent the use of counterfeit
23 valid documentation.

24 ~~((+6))~~ (21) "Terminal or debilitating medical condition" means:

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

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

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

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

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

36 (f) Diseases, including anorexia, which result in nausea, vomiting,
37 ~~((wasting))~~ cachexia, appetite loss, cramping, seizures, muscle spasms,

1 or spasticity, when these symptoms are unrelieved by standard
2 treatments or medications; or

3 (g) Any other medical condition duly approved by the Washington
4 state medical quality assurance commission in consultation with the
5 board of osteopathic medicine and surgery as directed in this chapter.

6 ~~((+7))~~ (22) "Useable cannabis" means dried flowers of the Cannabis
7 plant. Useable cannabis excludes stems, stalks, leaves, seeds, and
8 roots. "Useable cannabis" does not include cannabis products.

9 (23)(a) "Valid documentation" means:

10 ~~((+a)—A)~~ (i) An original statement signed and dated by a
11 qualifying patient's health care professional written on tamper-
12 resistant paper and valid for up to one year from the date of the
13 health care professional's signature, which states that, in the health
14 care professional's professional opinion, the patient may benefit from
15 the medical use of ~~((marijuana))~~ cannabis; and

16 ~~((+b))~~ (ii) Proof of identity such as a Washington state driver's
17 license or identicard, as defined in RCW 46.20.035.

18 (b) In the case of a designated provider, "valid documentation"
19 means the signed and dated document valid for up to one year from the
20 date of signature executed by the qualifying patient who has designated
21 the provider.

22 NEW SECTION. Sec. 2. A new section is added to chapter 69.51A RCW
23 to read as follows:

24 (1)(a) Counties with a population of less than two hundred thousand
25 and the cities and towns within such counties may enact ordinances
26 providing that nonprofit patient cooperatives are not prohibited from
27 operation within their jurisdiction. Nonprofit patient cooperatives
28 are prohibited within those jurisdictions unless such ordinance is
29 enacted.

30 (b) Counties with a population of two hundred thousand or more and
31 the cities and towns within such counties may enact ordinances
32 providing that nonprofit patient cooperatives are prohibited from
33 operation within their jurisdiction. Nonprofit patient cooperatives
34 are not prohibited within those jurisdictions unless such ordinance is
35 enacted.

36 (2) A county, city, or town that does not prohibit nonprofit
37 patient cooperatives under subsection (1) of this section may adopt and

1 enforce requirements for nonprofit patient cooperatives that include
2 but are not limited to: Security requirements; inspection standards,
3 including policies on verifying qualified patient records; limits on
4 size of membership; limits on membership periods; and limits on number
5 of plants and amounts of useable cannabis so long as such limits do not
6 exceed the maximum amount allowed under RCW 69.51A.043.

7 (3) Nonprofit patient cooperatives are subject to the requirements
8 of section 3 of this act and must comply with all city, town, or county
9 requirements adopted under this section and RCW 69.51A.140.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 69.51A RCW
11 to read as follows:

12 (1) It is not a violation of state criminal or civil law for a
13 nonprofit patient cooperative to distribute cannabis for the medical
14 use of its members if a city, town, or county in which the nonprofit
15 patient cooperative is located has enacted an ordinance under section
16 2(1)(a) of this act or has not enacted an ordinance under section 2
17 (1)(b) of this act. A nonprofit patient cooperative must comply with
18 all city, town, or county requirements and the following:

19 (a) A nonprofit patient cooperative must be registered as a
20 nonprofit corporation with the secretary of state under chapter 24.03
21 or 24.06 RCW;

22 (b) Only qualifying patients or their designated providers may
23 become members of the nonprofit patient cooperative;

24 (c) Before accepting a member, the nonprofit patient cooperative
25 must confirm that the patient qualifies for the medical use of cannabis
26 through inspection of that patient's proof of identity and registration
27 card or, if the patient is not registered, through contacting that
28 patient's health care professional or his or her staff;

29 (d) A nonprofit patient cooperative may obtain cannabis from a
30 collective garden or collective gardens operating under RCW 69.51A.085
31 and may produce and process cannabis if the nonprofit patient
32 cooperative contains no more than fifteen plants per member up to a
33 total of ninety-nine plants and:

34 (i) No more than twenty-four ounces of useable cannabis per member
35 up to a total of one hundred forty-four ounces;

36 (ii) No more cannabis product that could be made with the useable
37 cannabis limits that apply under (d)(i) of this subsection; or

1 (iii) A combination of useable cannabis and cannabis product that
2 does not exceed a combined total representing possession and processing
3 of no more useable cannabis than what is permitted under (d)(i) of this
4 subsection;

5 (e) Members of a nonprofit patient cooperative are not required to
6 provide work as part of their membership;

7 (f) A copy of each member's valid documentation or registration
8 card under section 16 of this act and a copy of the member's proof of
9 identity, must be available at all times on the premises of a nonprofit
10 patient cooperative;

11 (g) No useable cannabis from the nonprofit patient cooperative may
12 be delivered to anyone other than one of the members of the nonprofit
13 patient cooperative;

14 (h) A nonprofit patient cooperative must ensure that no cannabis,
15 cannabis paraphernalia, or artistic depictions of cannabis may be
16 viewed from outside the facility;

17 (i) A nonprofit patient cooperative may not be located within five
18 hundred feet of a community center, child care center, elementary or
19 secondary school, or college or university. A city, town, or county
20 may adopt an ordinance providing for distance requirements that are
21 greater than or less than the distance requirements under this
22 subsection (1)(i);

23 (j) A nonprofit patient cooperative may hire staff to assist in the
24 operation of the nonprofit patient cooperative or use member
25 volunteers;

26 (k) A nonprofit patient cooperative may not advertise cannabis for
27 sale to the general public in any manner that promotes or tends to
28 promote the use or abuse of cannabis. This subsection does not
29 preclude a nonprofit patient cooperative from advertising in trade
30 journals or on medical cannabis web sites;

31 (l) A nonprofit patient cooperative may not permit cannabis to be
32 consumed on the premises of the nonprofit patient cooperative;

33 (m) A nonprofit patient cooperative must exclude from its premises
34 people who are not members or employees of the nonprofit patient
35 cooperative. However, a nonprofit patient cooperative may allow
36 tradespersons and service personnel onto its premises for the purpose
37 of repair or maintenance and may periodically allow prospective
38 members, government officials, acting in their official capacity, media

1 representatives, neighborhood watch groups, and proprietors of nearby
2 businesses onto its premises for the purpose of observing the operation
3 of the nonprofit patient cooperative;

4 (n) A nonprofit patient cooperative must permit city, town, county,
5 or state employees to access patient authorization records but only
6 while engaged in their duties of enforcement and administration of the
7 requirements of that jurisdiction's ordinance or state law; and

8 (o) Each nonprofit patient cooperative shall be operated as a
9 completely independent entity. A nonprofit patient cooperative shall
10 not share or exchange with any other nonprofit patient cooperative
11 including, but not limited to, management, staff, materials, plants,
12 cannabis, proceeds, goods, or services. This requirement does not
13 preclude a nonprofit patient cooperative from operating out of multiple
14 locations.

15 (2) A person who knowingly violates a provision of this section is
16 not entitled to the protections of this chapter.

17 (3) If charged with a violation of state law relating to cannabis
18 while performing his or her duties for the nonprofit patient
19 cooperative, an employee of a nonprofit patient cooperative is deemed
20 to have established an affirmative defense to such charges by proof of
21 compliance with this section. Member volunteers are provided with
22 arrest protection if they meet the requirements of section 8 of this
23 act or may assert an affirmative defense if they meet the requirements
24 of RCW 69.51A.043.

25 **Sec. 4.** RCW 69.51A.140 and 2011 c 181 s 1102 are each amended to
26 read as follows:

27 (1) Nothing in this chapter is intended to preempt the authority of
28 cities and towns ((may adopt and enforce any of the following
29 pertaining to the production, processing, or dispensing of cannabis or
30 cannabis products within their jurisdiction*)) to impose zoning
31 requirements, ((business)) licensing requirements, permitting
32 requirements, health and safety requirements, ((and business)) taxes,
33 fees, or other conditions upon any nonprofit patient cooperative or
34 collective garden producing, processing, or dispensing cannabis within
35 its jurisdiction. ((Nothing in chapter 181, Laws of 2011 is intended
36 to limit the authority of cities and towns to impose zoning
37 requirements or other conditions upon licensed dispensers, so long as))

1 ~~However,~~ such requirements ~~((do))~~ may not preclude the possibility of
2 siting ~~((licensed—dispensers))~~ collective gardens within the
3 jurisdiction. ~~((If the jurisdiction has no commercial zones, the
4 jurisdiction is not required to adopt zoning to accommodate licensed
5 dispensers.))~~

6 (2) Nothing in this chapter is intended to preempt the authority of
7 counties ~~((may adopt and enforce any of the following pertaining to the
8 production, processing, or dispensing of cannabis or cannabis products
9 within their jurisdiction in locations outside of the corporate limits
10 of any city or town*))~~ to impose zoning requirements, ((business))
11 licensing requirements, ((and)) permitting requirements, health and
12 safety requirements, taxes, fees, or other conditions upon any
13 nonprofit patient cooperative or collective garden producing,
14 processing, or dispensing cannabis within its jurisdiction in locations
15 outside the corporate limits of any city or town. ~~((Nothing in chapter
16 181, Laws of 2011 is intended to limit the authority of counties to
17 impose zoning requirements or other conditions upon licensed
18 dispensers, so long as))~~ However, such requirements ~~((do))~~ may not
19 preclude the possibility of siting ~~((licensed dispensers))~~ collective
20 gardens within the jurisdiction. ~~((If the jurisdiction has no
21 commercial zones, the jurisdiction is not required to adopt zoning to
22 accommodate licensed dispensers.))~~

23 **Sec. 5.** RCW 69.51A.085 and 2011 c 181 s 403 are each amended to
24 read as follows:

25 (1) Qualifying patients ((may)) or their designated providers may
26 create and participate in collective gardens ~~((for the purpose of
27 producing, processing, transporting, and delivering))~~ to produce,
28 process, transport, or deliver cannabis for the medical use of its
29 members, or in the case of designated providers, the qualifying
30 patients they serve, or nonprofit patient cooperatives subject to the
31 following conditions:

32 (a) Only qualifying patients and designated providers may become
33 members of a collective garden;

34 (b) A collective garden may have no more than ten ~~((qualifying
35 patients may participate in a single collective garden at any time))~~
36 members at any time;

1 ~~((b))~~ (c) No more than one collective garden is permitted per
2 dwelling or commercial building unit;

3 (d) A collective garden may contain no more than fifteen plants per
4 ~~(patient)~~ member up to a total of forty-five plants;

5 ~~((e))~~ (e) A collective garden may contain no more than twenty-
6 four ounces of useable cannabis per ~~(patient)~~ member up to a total of
7 seventy-two ounces of useable cannabis;

8 ~~((d))~~ (f) A copy of each ~~(qualifying patient's)~~ member's valid
9 documentation or ~~(proof of)~~ registration ~~(with the registry~~
10 ~~established in section 901 of this act, including)~~ card and a copy of
11 the ~~(patient's)~~ member's proof of identity, must be available at all
12 times on the premises of the collective garden; and

13 ~~((e))~~ (g) No useable cannabis from the collective garden ~~(is)~~
14 may be delivered to anyone other than one of the ~~(qualifying patients~~
15 ~~participating in)~~ members of the collective garden or a nonprofit
16 patient cooperative.

17 (2) ~~((For purposes of this section, the creation of a "collective~~
18 ~~garden" means qualifying patients sharing responsibility for acquiring~~
19 ~~and supplying the resources required to produce and process cannabis~~
20 ~~for medical use such as, for example, a location for a collective~~
21 ~~garden; equipment, supplies, and labor necessary to plant, grow, and~~
22 ~~harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,~~
23 ~~supplies, and labor necessary for proper construction, plumbing,~~
24 ~~wiring, and ventilation of a garden of cannabis plants.~~

25 ~~(3))~~ A person who knowingly violates a provision of subsection (1)
26 of this section is not entitled to the protections of this chapter.

27 NEW SECTION. Sec. 6. A new section is added to chapter 69.51A RCW
28 to read as follows:

29 (1) Useable cannabis exceeding twenty-four ounces, cannabis product
30 exceeding what one could reasonably produce with twenty-four ounces of
31 useable cannabis, or a combination of useable cannabis and cannabis
32 product that represents possession and processing of more than twenty-
33 four ounces of useable cannabis must be transported in a locked metal
34 box that is bolted to the transporting vehicle.

35 (2) This section does not apply to qualified patients or designated
36 providers who are transporting:

37 (a) No more than twenty-four ounces of useable cannabis;

1 (b) No more cannabis product than what could reasonably be produced
2 with no more than twenty-four ounces of useable cannabis; or

3 (c) A combination of useable cannabis and cannabis product that
4 does not exceed a combined total representing possession and processing
5 of no more than twenty-four ounces of useable cannabis.

6 (3) This section does not apply to a designated provider who is
7 both a qualifying patient and a designated provider for another
8 qualifying patient, and is transporting no more than twice the amounts
9 described in subsection (2) of this section.

10 **Sec. 7.** RCW 69.51A.030 and 2011 c 181 s 301 are each amended to
11 read as follows:

12 (1) The following acts do not constitute crimes under state law or
13 unprofessional conduct under chapter 18.130 RCW, and a health care
14 professional may not be arrested, searched, prosecuted, disciplined, or
15 subject to other criminal sanctions or civil consequences or liability
16 under state law, or have real or personal property searched, seized, or
17 forfeited pursuant to state law, notwithstanding any other provision of
18 law as long as the health care professional complies with subsection
19 (2) of this section:

20 (a) Advising a patient about the risks and benefits of medical use
21 of cannabis or that the patient may benefit from the medical use of
22 cannabis; or

23 (b) Providing a patient meeting the (~~criteria established~~)
24 definition of qualifying patient under RCW 69.51A.010(~~(+26)~~) with
25 valid documentation, based upon the health care professional's
26 assessment of the patient's medical history and current medical
27 condition, where such use is within a professional standard of care or
28 in the individual health care professional's medical judgment.

29 (2)(a) A health care professional may only provide a patient with
30 valid documentation authorizing the medical use of cannabis or register
31 the patient with the registry established in section (~~(901)~~) 16 of this
32 act if he or she has a newly initiated or existing documented
33 relationship with the patient, as a primary care provider or a
34 specialist, relating to the diagnosis and ongoing treatment or
35 monitoring of the patient's terminal or debilitating medical condition,
36 and only after:

1 (i) Completing a physical examination of the patient as
2 appropriate, based on the patient's condition and age;

3 (ii) Documenting the terminal or debilitating medical condition of
4 the patient in the patient's medical record and that the patient may
5 benefit from treatment of this condition or its symptoms with medical
6 use of cannabis;

7 (iii) Informing the patient of other options for treating the
8 terminal or debilitating medical condition; and

9 (iv) Documenting other measures attempted to treat the terminal or
10 debilitating medical condition that do not involve the medical use of
11 cannabis.

12 (b) A health care professional shall not:

13 (i) Accept, solicit, or offer any form of pecuniary remuneration
14 from or to a (~~licensed dispenser, licensed producer, or licensed~~
15 ~~processor of cannabis products~~) collective garden or nonprofit patient
16 cooperative;

17 (ii) Offer a discount or any other thing of value to a qualifying
18 patient who is a (~~customer~~) member of, or agrees to be a (~~customer~~)
19 member of, a particular (~~licensed dispenser, licensed producer, or~~
20 ~~licensed processor of cannabis products~~) collective garden or
21 nonprofit patient cooperative;

22 (iii) Examine or offer to examine a patient for purposes of
23 diagnosing a terminal or debilitating medical condition at a location
24 where cannabis is produced, processed, or dispensed;

25 (iv) Have a business or practice which consists solely of
26 authorizing the medical use of cannabis;

27 (v) Include any statement or reference, visual or otherwise, on the
28 medical use of cannabis in any advertisement for his or her business or
29 practice; or

30 (vi) Hold an economic interest in an enterprise that produces,
31 processes, or dispenses cannabis if the health care professional
32 authorizes the medical use of cannabis.

33 (3) A violation of any provision of subsection (2) of this section
34 constitutes unprofessional conduct under chapter 18.130 RCW.

35 NEW SECTION. **Sec. 8.** The medical use of cannabis in accordance
36 with the terms and conditions of this chapter does not constitute a
37 crime and a qualifying patient or designated provider in compliance

1 with the terms and conditions of this chapter may not be arrested,
2 prosecuted, or subject to other criminal sanctions or civil
3 consequences, for possession, manufacture, or delivery of, or for
4 possession with intent to manufacture or deliver, cannabis under state
5 law, or have real or personal property seized or forfeited for
6 possession, manufacture, or delivery of, or for possession with intent
7 to manufacture or deliver, cannabis under state law, and investigating
8 peace officers and law enforcement agencies may not be held civilly
9 liable for failure to seize cannabis in this circumstance, if:

10 (1)(a) The qualifying patient or designated provider possesses no
11 more than fifteen cannabis plants and:

12 (i) No more than twenty-four ounces of useable cannabis;

13 (ii) No more cannabis product than what could reasonably be
14 produced with no more than twenty-four ounces of useable cannabis; or

15 (iii) A combination of useable cannabis and cannabis product that
16 does not exceed a combined total representing possession and processing
17 of no more than twenty-four ounces of useable cannabis.

18 (b) If a person is both a qualifying patient and a designated
19 provider for another qualifying patient, the person may possess no more
20 than twice the amounts described in (a) of this subsection, whether the
21 plants, useable cannabis, and cannabis product are possessed
22 individually or in combination between the qualifying patient and his
23 or her designated provider;

24 (2) The qualifying patient or designated provider is registered
25 with the registry established in section 16 of this act and presents
26 his or her registration card, to any peace officer who questions the
27 patient or provider regarding his or her medical use of cannabis;

28 (3) The qualifying patient or designated provider keeps a copy of
29 his or her registration card with the registry established in section
30 16 of this act and the qualifying patient or designated provider's
31 contact information posted prominently next to any cannabis plants,
32 cannabis products, or useable cannabis located at his or her residence;

33 (4) The investigating peace officer does not possess evidence that:

34 (a) The designated provider has converted cannabis produced or
35 obtained for the qualifying patient for his or her own personal use or
36 benefit; or

37 (b) The qualifying patient has converted cannabis produced or

1 obtained for his or her own medical use to the qualifying patient's
2 personal, nonmedical use or benefit;

3 (5) The investigating peace officer does not possess evidence that
4 the designated provider has served as a designated provider to more
5 than one qualifying patient within a fifteen-day period; and

6 (6) The investigating peace officer has not observed evidence of
7 any of the circumstances identified in section 16(2) of this act.

8 **Sec. 9.** RCW 69.51A.043 and 2011 c 181 s 402 are each amended to
9 read as follows:

10 ~~((1))~~ A qualifying patient or designated provider who is not
11 registered with the registry established in section ~~((901))~~ 16 of this
12 act may raise ~~((the))~~ an affirmative defense ~~((set forth in subsection~~
13 ~~(2) of this section, if))~~ to charges of violations relating to
14 possession, manufacture, or delivery of, or possession with intent to
15 manufacture or deliver, cannabis under state law, through proof at
16 trial, by a preponderance of the evidence, that he or she:

17 ~~(1)(a) ((The qualifying patient or designated provider presents his~~
18 ~~or her valid documentation to any peace officer who questions the~~
19 ~~patient or provider regarding his or her medical use of cannabis;~~

20 ~~(b) The qualifying patient or designated provider)) Possesses no~~
21 ~~more cannabis than ((the limits set forth in RCW 69.51A.040(1))~~
22 fifteen cannabis plants and:

23 (i) No more than twenty-four ounces of useable cannabis;

24 (ii) No more cannabis product than what could reasonably be
25 produced with no more than twenty-four ounces of useable cannabis; or

26 (iii) A combination of useable cannabis and cannabis product that
27 does not exceed a combined total representing possession and processing
28 of no more than twenty-four ounces of useable cannabis; or

29 (b) Possess no more than twice the amounts described in (a) of this
30 subsection if the person is both a qualifying patient or designated
31 provider for another qualifying patient, whether the plants, useable
32 cannabis, and cannabis products are possessed individually or in
33 combination between the qualifying patient and his or her designated
34 provider;

35 ~~((e))~~ (2) The qualifying patient or designated provider is in
36 compliance with all other terms and conditions of this chapter; and

1 ~~((d) The investigating peace officer does not have probable cause~~
2 ~~to believe that the qualifying patient or designated provider has~~
3 ~~committed a felony, or is committing a misdemeanor in the officer's~~
4 ~~presence, that does not relate to the medical use of cannabis;~~

5 ~~(e) No outstanding warrant for arrest exists for the qualifying~~
6 ~~patient or designated provider; and~~

7 ~~(f) The investigating peace officer has not observed evidence of~~
8 ~~any of the circumstances identified in section 901(4) of this act.~~

9 ~~(2) A qualifying patient or designated provider who is not~~
10 ~~registered with the registry established in section 901 of this act,~~
11 ~~but who presents his or her valid documentation to any peace officer~~
12 ~~who questions the patient or provider regarding his or her medical use~~
13 ~~of cannabis, may assert an affirmative defense to charges of violations~~
14 ~~of state law relating to cannabis through proof at trial, by a~~
15 ~~preponderance of the evidence, that he or she otherwise meets the~~
16 ~~requirements of RCW 69.51A.040. A qualifying patient or designated~~
17 ~~provider meeting the conditions of this subsection but possessing more~~
18 ~~cannabis than the limits set forth in RCW 69.51A.040(1) may, in the~~
19 ~~investigating peace officer's discretion, be taken into custody and~~
20 ~~booked into jail in connection with the investigation of the~~
21 ~~incident.)) (3) The qualifying patient or designated provider presents~~
22 ~~his or her valid documentation to any peace officer who questions the~~
23 ~~patient or provider regarding his or her medical use of cannabis or is~~
24 ~~able to demonstrate that he or she had valid documentation in effect at~~
25 ~~the time of questioning.~~

26 **Sec. 10.** RCW 69.51A.045 and 2011 c 181 s 405 are each amended to
27 read as follows:

28 A qualifying patient or designated provider in possession of
29 cannabis plants, useable cannabis, or cannabis product exceeding the
30 limits set forth in RCW ~~((69.51A.040))~~ 69.51A.043(1) but otherwise in
31 compliance with all other terms and conditions of this chapter may
32 establish an affirmative defense to charges of violations of state law
33 relating to cannabis through proof at trial, by a preponderance of the
34 evidence, that the qualifying patient's necessary medical use exceeds
35 the amounts set forth in RCW ~~((69.51A.040))~~ 69.51A.043(1). An
36 investigating peace officer may seize cannabis plants, useable
37 cannabis, or cannabis product exceeding the amounts set forth in RCW

1 ((69.51A.040)) 69.51A.043(1): PROVIDED, That in the case of cannabis
2 plants, the qualifying patient or designated provider shall be allowed
3 to select the plants that will remain at the location. The officer and
4 his or her law enforcement agency may not be held civilly liable for
5 failure to seize cannabis in this circumstance.

6 **Sec. 11.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
7 as follows:

8 (1) The lawful possession, dispensing, delivery, or manufacture of
9 medical ((~~marijuana as authorized by~~)) cannabis under this chapter
10 shall not result in the forfeiture or seizure of any real or personal
11 property including, but not limited to, cannabis intended for medical
12 use, items used to facilitate the medical use of cannabis or its
13 production or dispensing for medical use, or proceeds of sales of
14 cannabis for medical use made by nonprofit patient cooperatives.

15 (2) No person shall be prosecuted for constructive possession,
16 conspiracy, or any other criminal offense solely for being in the
17 presence or vicinity of ((~~medical marijuana~~)) cannabis intended for
18 medical use or its use as authorized by this chapter.

19 (3) The state shall not be held liable for any deleterious outcomes
20 from the medical use of ((~~marijuana~~)) cannabis by any qualifying
21 patient.

22 **Sec. 12.** RCW 69.51A.055 and 2011 c 181 s 1105 are each amended to
23 read as follows:

24 (1)(a) The arrest and prosecution protections established in ((~~RCW~~
25 ~~69.51A.040~~)) section 8 of this act may not be asserted in a supervision
26 revocation or violation hearing by a person who is supervised by a
27 corrections agency or department, including local governments or jails,
28 that has determined that the terms of this section are inconsistent
29 with and contrary to his or her supervision.

30 (b) The affirmative defenses established in RCW 69.51A.043((~~7~~)) and
31 69.51A.045((~~7, 69.51A.047, and section 407 of this act~~)) may not be
32 asserted in a supervision revocation or violation hearing by a person
33 who is supervised by a corrections agency or department, including
34 local governments or jails, that has determined that the terms of this
35 section are inconsistent with and contrary to his or her supervision.

1 (2) The provisions of RCW ((69.51A.040)) 69.51A.043, 69.51A.085,
2 and 69.51A.025 do not apply to a person who is supervised for a
3 criminal conviction by a corrections agency or department, including
4 local governments or jails, that has determined that the terms of this
5 chapter are inconsistent with and contrary to his or her supervision.

6 ~~((3) A person may not be licensed as a licensed producer, licensed
7 processor of cannabis products, or a licensed dispenser under section
8 601, 602, or 701 of this act if he or she is supervised for a criminal
9 conviction by a corrections agency or department, including local
10 governments or jails, that has determined that licensure is
11 inconsistent with and contrary to his or her supervision.))~~

12 **Sec. 13.** RCW 69.51A.060 and 2011 c 181 s 501 are each amended to
13 read as follows:

14 (1) It shall be a class 3 civil infraction to use or display
15 medical cannabis in a manner or place which is open to the view of the
16 general public.

17 (2) Nothing in this chapter establishes a right of care as a
18 covered benefit or requires any state purchased health care as defined
19 in RCW 41.05.011 or other health carrier or health plan as defined in
20 Title 48 RCW to be liable for any claim for reimbursement for the
21 medical use of cannabis. Such entities may enact coverage or
22 noncoverage criteria or related policies for payment or nonpayment of
23 medical cannabis in their sole discretion.

24 (3) Nothing in this chapter requires any health care professional
25 to authorize the medical use of cannabis for a patient.

26 (4) Nothing in this chapter requires any accommodation of any on-
27 site medical use of cannabis in any place of employment, in any school
28 bus or on any school grounds, in any youth center, in any correctional
29 facility, or smoking cannabis in any public place as that term is
30 defined in RCW 70.160.020 or hotel or motel.

31 (5) Nothing in this chapter authorizes the use of medical cannabis
32 by any person who is subject to the Washington code of military justice
33 in chapter 38.38 RCW.

34 (6) Employers may establish drug-free work policies. Nothing in
35 this chapter requires an accommodation for the medical use of cannabis
36 if an employer has a drug-free work place.

1 (7) It is a class C felony to fraudulently produce any record
2 purporting to be, or tamper with the content of any record for the
3 purpose of having it accepted as, valid documentation under RCW
4 69.51A.010(~~((32)(a))~~) (23), or to backdate such documentation to a time
5 earlier than its actual date of execution.

6 (8) No person shall be entitled to claim the protection from arrest
7 and prosecution under (~~RCW 69.51A.040~~) section 8 of this act or the
8 affirmative defense under RCW 69.51A.043 for engaging in the medical
9 use of cannabis in a way that endangers the health or well-being of any
10 person through the use of a motorized vehicle on a street, road, or
11 highway, including violations of RCW 46.61.502 or 46.61.504, or
12 equivalent local ordinances provided that a conviction under RCW
13 46.61.502 or 46.61.504, or equivalent local ordinances must not be
14 based solely on the presence of cannabis in an individual's system,
15 proof of actual impairment is required.

16 **Sec. 14.** RCW 69.51A.025 and 2011 c 181 s 413 are each amended to
17 read as follows:

18 Nothing in this chapter or in the rules adopted to implement it
19 precludes a qualifying patient or designated provider from engaging in
20 the private, unlicensed, noncommercial production, possession,
21 transportation, delivery, or administration of cannabis for medical use
22 as authorized under RCW (~~69.51A.040~~) 69.51A.043.

23 **Sec. 15.** RCW 69.51A.200 and 2011 c 181 s 1001 are each amended to
24 read as follows:

25 (1) By July 1, (~~2014~~) 2015, the Washington state institute for
26 public policy shall, within available funds, (~~conduct a cost benefit~~
27 ~~evaluation of the implementation of chapter 181, Laws of 2011 and the~~
28 ~~rules adopted to carry out its purposes~~) evaluate the implementation
29 of this act and report to the appropriate committees of the legislature
30 on which cities and counties permit nonprofit patient cooperatives.

31 (2) The evaluation (~~of the implementation of chapter 181, Laws of~~
32 ~~2011 and the rules adopted to carry out its purposes~~) shall include(~~(,~~
33 ~~but not necessarily be limited to,~~) consideration of the following
34 factors:

35 (a) Qualifying patients' access to (~~an~~) a safe, adequate, and
36 consistent source of cannabis for medical use;

1 ~~(b) ((Qualifying patients' access to a safe source of cannabis for~~
2 ~~medical use;~~

3 ~~(c) Qualifying patients' access to a consistent source of cannabis~~
4 ~~for medical use;~~

5 ~~(d) Qualifying patients' access to a secure source of cannabis for~~
6 ~~medical use;~~

7 ~~(e))~~ Qualifying patients' and designated providers' contact with
8 law enforcement and involvement in the criminal justice system;

9 ~~((+f))~~ (c) Diversion of cannabis intended for medical use to
10 nonmedical uses;

11 ~~((+g))~~ (d) Incidents of home invasion burglaries, robberies, and
12 other violent and property crimes associated with qualifying patients
13 accessing cannabis for medical use;

14 ~~((+h))~~ (e) Whether there are health care professionals who make a
15 disproportionately high amount of authorizations in comparison to the
16 health care professional community at large; and

17 ~~((+i))~~ (f) Whether there are indications of health care
18 professionals in violation of RCW 69.51A.030(~~(+and~~

19 ~~(j) Whether the health care professionals making authorizations~~
20 ~~reside in this state or out of this state))~~.

21 (3) For purposes of facilitating this evaluation, the
22 department(~~(s))~~ of health (~~(and agriculture)~~) will make available to
23 the Washington state institute for public policy requested data, and
24 any other data (~~(either))~~ the department (~~(may))~~ considers relevant,
25 from which all personally identifiable information has been redacted.

26 NEW SECTION. Sec. 16. A new section is added to chapter 69.51A
27 RCW to read as follows:

28 (1) By January 1, 2014, the department of health shall adopt rules
29 for the creation, implementation, maintenance, and timely upgrading of
30 a secure and confidential registration system that allows:

31 (a) A peace officer to verify at any time whether a health care
32 professional has registered a person as either a qualifying patient or
33 a designated provider; and

34 (b) A peace officer to verify at any time whether an entity is
35 registered as a collective garden or nonprofit patient cooperative.

36 (2) Before seeking a nonvehicle search warrant or arrest warrant,
37 a peace officer investigating a cannabis-related incident must make

1 reasonable efforts to ascertain whether the location or person under
2 investigation is registered under subsection (1) of this section and
3 include the results of this inquiry in the affidavit submitted in
4 support of the application for the warrant. This requirement does not
5 apply to investigations in which:

6 (a) The peace officer has observed evidence of a cannabis operation
7 that is not for the medical use of its participants;

8 (b) The peace officer has observed evidence of theft of electrical
9 power;

10 (c) The peace officer has observed evidence of illegal drugs other
11 than cannabis at the premises;

12 (d) The peace officer has observed frequent and numerous short-term
13 visits over an extended period that are consistent with commercial
14 activity, if the subject of the investigation is not a nonprofit
15 patient cooperative;

16 (e) The peace officer has observed violent crime or other
17 demonstrated dangers to the community;

18 (f) The peace officer has probable cause to believe the subject of
19 the investigation has committed a felony, or a misdemeanor in the
20 officer's presence, that does not relate to cannabis; or

21 (g) The subject of the investigation has an outstanding arrest
22 warrant.

23 (3) Law enforcement may access the registry only in connection with
24 a specific, legitimate criminal investigation regarding cannabis.

25 (4) Qualified patients, designated providers, collective gardens,
26 and nonprofit patient cooperatives are not required to register under
27 subsection (1) of this section. However, only those entities that are
28 registered will be provided with arrest and prosecution protection
29 under section 8 of this act. Registrations are valid for one year;
30 however, qualifying patients and designated providers must be able to
31 remove themselves from the registry at any time.

32 (5) During the rule-making process, the department of health must
33 consult with the University of Washington computer science and
34 engineering security and privacy research lab.

35 (6) The department of health must adopt rules providing for
36 registration renewals and for removing expired registrations from the
37 registry.

1 (7) The department of health may designate a private entity to
2 administer the registry, subject to chapter 43.19 RCW. Either the
3 department of health or its designee must issue registration cards to
4 registered entities.

5 (8) Fees, including renewal fees, for entities participating in the
6 registration system are limited to the cost to the department of health
7 or its designee of implementing, maintaining, and enforcing the
8 provisions of this section and the cost to the department of health of
9 adopting rules to carry out the purposes of this section. The fee
10 shall also include any costs for the department of health to
11 disseminate information to employees of state and local law enforcement
12 agencies relating to whether a person or location is a qualified
13 patient, designated provider, collective garden, or nonprofit patient
14 cooperative, and for the dissemination of log records relating to such
15 requests for information to the subjects of those requests. No fee may
16 be charged to local law enforcement agencies for accessing the
17 registry.

18 (9) The medical cannabis registry advisory committee is established
19 as an advisory group for the department of health.

20 (a) The department of health shall appoint members of the committee
21 from stakeholders and persons with relevant expertise including, but
22 not limited to, qualifying patients, designated providers, health care
23 professionals, medical marijuana advocates, state and local law
24 enforcement agencies, and the University of Washington computer science
25 and engineering security and privacy research lab.

26 (b) The committee shall review the proposed rules relating to the
27 registration system created by this section and advise the department
28 of health on the administrative aspects of the registry, including how
29 to best protect personally identifiable information. The department of
30 health may discontinue the committee after the final adoption of the
31 rules or may continue consulting committee members if deemed necessary
32 by the department.

33 (c) The department of health shall provide staff support to the
34 committee.

35 (10) The registry shall meet the following requirements:

36 (a) Any personally identifiable information included in the
37 registry must be nonreversible, pursuant to definitions and standards
38 set forth by the national institute of standards and technology;

1 (b) Any personally identifiable information included in the
2 registry must not be susceptible to linkage by use of data external to
3 the registry;

4 (c) The registry must incorporate current best differential privacy
5 practices, allowing for maximum accuracy of registry queries while
6 minimizing the chances of identifying the personally identifiable
7 information included therein; and

8 (d) The registry must be upgradable and updated in a timely fashion
9 to keep current with state of the art privacy and security standards
10 and practices.

11 (11) The registry shall maintain a log of each verification query
12 submitted by a peace officer, including the peace officer's name,
13 agency, and identification number, for a period of no less than three
14 years from the date of the query. Personally identifiable information
15 of qualifying patients and designated providers included in the log
16 shall be confidential and exempt from public disclosure, inspection, or
17 copying under chapter 42.56 RCW: PROVIDED, That:

18 (a) Names and other personally identifiable information from the
19 list may be released only to authorized employees of state or local law
20 enforcement agencies, only as necessary to verify that the person or
21 location is a qualified patient, designated provider, collective
22 garden, or nonprofit patient cooperative, and only after the inquiring
23 employee has provided adequate identification. Authorized employees
24 who obtain personally identifiable information under this subsection
25 may not release or use the information for any purpose other than
26 verification that a person or location is a qualified patient,
27 designated provider, collective garden, or nonprofit patient
28 cooperative;

29 (b) Information contained in the registry may be released in
30 aggregate form, with all personally identifying information redacted,
31 for the purpose of statistical analysis and oversight of agency
32 performance and actions;

33 (c) The subject of a registration query may appear during ordinary
34 business hours of the entity administering the registry and inspect or
35 copy log records relating to him or her upon adequate proof of
36 identity; and

37 (d) The subject of a registration query may submit a written

1 request to the entity administering the registry, along with adequate
2 proof of identity, for copies of log records relating to him or her.

3 (12) Fees collected under this section must be deposited into the
4 health professions account under RCW 43.70.320.

5 NEW SECTION. **Sec. 17.** A new section is added to chapter 42.56 RCW
6 to read as follows:

7 Records containing names and other personally identifiable
8 information relating to qualifying patients, designated providers,
9 collective gardens, and nonprofit patient cooperatives are exempt from
10 disclosure under this chapter.

11 NEW SECTION. **Sec. 18.** The following acts or parts of acts are
12 each repealed:

13 (1) RCW 69.51A.047 (Failure to register or present valid
14 documentation--Affirmative defense) and 2011 c 181 s 406; and

15 (2) RCW 69.51A.040 (Compliance with chapter--Qualifying patients
16 and designated providers not subject to penalties--Law enforcement not
17 subject to liability) and 2011 c 181 s 401, 2007 c 371 s 5, & 1999 c 2
18 s 5.

--- END ---