
ENGROSSED SUBSTITUTE SENATE BILL 6032

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; and creating a new section.

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

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

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

16 The people of Washington state find that some patients with
17 terminal or debilitating illnesses, under their physician's care, may
18 benefit from the medical use of marijuana. Some of the illnesses for

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

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

11 Therefore, the people of the state of Washington intend that:

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

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

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

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

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

- 27 (1) "Designated provider" means a person who:
28 (a) Is eighteen years of age or older;
29 (b) Has been designated in writing by a patient to serve as a
30 designated provider under this chapter; and
31 (c) Is the designated provider to only one patient at any one time.

32 (2) "Medical use of marijuana" means the production, possession, or
33 administration of marijuana, as defined in RCW 69.50.101(q), for the
34 exclusive benefit of a qualifying patient in the treatment of his or
35 her terminal or debilitating illness.

- 36 (~~(2) "Primary caregiver" means a person who:~~
37 ~~(a) Is eighteen years of age or older;~~

1 ~~(b) Is responsible for the housing, health, or care of the patient;~~
2 ~~(c) Has been designated in writing by a patient to perform the~~
3 ~~duties of primary caregiver under this chapter.)~~

4 (3) "Production" means the manufacturing, planting, cultivating,
5 growing, harvesting, and other steps reasonably related to the
6 provision of medical marijuana individually by one patient, or by or
7 with the assistance of his or her designated provider, for the
8 exclusive benefit of the qualifying patient in the treatment of
9 terminal or debilitating medical conditions.

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

15 (b) As used in this chapter, "sixty-day supply" means that amount
16 of marijuana that a qualifying patient would reasonably be expected to
17 need over a period of sixty days for his or her personal medical use.

18 (c) By July 1, 2008, the department of health shall make
19 recommendations to the legislature addressing the efficient provision
20 of access to an adequate, safe, consistent, and secure source of
21 medical marijuana for qualifying patients. Recommendations may be
22 based on but not limited to a review of available medical and
23 scientific literature, consultation with experts, surveys of other
24 states' best practices, and public input.

25 (4) "Qualifying patient" means a person who:

26 (a) Is a patient of a physician licensed under chapter 18.71 or
27 18.57 RCW;

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

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

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

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

36 ((+4)) (5) "Terminal or debilitating medical condition" means:

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

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

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

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

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

10 (f) Diseases, including anorexia, which result in nausea, vomiting,
11 wasting, appetite loss, cramping, seizures, muscle spasms, or
12 spasticity, when these symptoms are unrelieved by standard treatments
13 or medications; or

14 (g) Any other medical condition duly approved by the Washington
15 state medical quality assurance (~~board~~ ~~[commission]~~) commission in
16 consultation with the board of osteopathic medicine and surgery as
17 directed in this chapter.

18 ((+5)) (6) "Valid documentation" means:

19 (a) A statement signed by a qualifying patient's physician, or a
20 copy of the qualifying patient's pertinent medical records, which
21 states that, in the physician's professional opinion, the (~~potential~~
22 ~~benefits of the medical use of marijuana would likely outweigh the~~
23 ~~health risks for a particular qualifying~~) patient may benefit from the
24 medical use of marijuana; ((and))

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

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

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

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

34 (1) Advising a qualifying patient about the risks and benefits of
35 medical use of marijuana or that the qualifying patient may benefit
36 from the medical use of marijuana where such use is within a

1 professional standard of care or in the individual physician's medical
2 judgment; or

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

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

10 (1) If a law enforcement officer determines that marijuana is being
11 possessed lawfully under the medical marijuana law, the officer may
12 document the amount of marijuana, take a representative sample that is
13 large enough to test, but not seize the marijuana. A law enforcement
14 officer or agency shall not be held civilly liable for failure to seize
15 marijuana in this circumstance.

16 (2) If charged with a violation of state law relating to marijuana,
17 any qualifying patient who is engaged in the medical use of marijuana,
18 or any designated ~~((primary caregiver))~~ provider who assists a
19 qualifying patient in the medical use of marijuana, will be deemed to
20 have established an affirmative defense to such charges by proof of his
21 or her compliance with the requirements provided in this chapter. Any
22 person meeting the requirements appropriate to his or her status under
23 this chapter shall be considered to have engaged in activities
24 permitted by this chapter and shall not be penalized in any manner, or
25 denied any right or privilege, for such actions.

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

28 (a) Meet all criteria for status as a qualifying patient or
29 designated provider;

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

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

36 ~~((3) The))~~ (4) A qualifying patient, if under eighteen years of
37 age at the time he or she is alleged to have committed the offense,

1 shall (~~comply~~) demonstrate compliance with subsection (~~(2)~~) (3)(a)
2 and (c) of this section. However, any possession under subsection
3 (~~(2)~~) (3)(b) of this section, as well as any production, acquisition,
4 and decision as to dosage and frequency of use, shall be the
5 responsibility of the parent or legal guardian of the qualifying
6 patient.

- 7 ~~((4) The designated primary caregiver shall:~~
8 ~~(a) Meet all criteria for status as a primary caregiver to a~~
9 ~~qualifying patient;~~
10 ~~(b) Possess, in combination with and as an agent for the qualifying~~
11 ~~patient, no more marijuana than is necessary for the patient's~~
12 ~~personal, medical use, not exceeding the amount necessary for a sixty-~~
13 ~~day supply;~~
14 ~~(c) Present a copy of the qualifying patient's valid documentation~~
15 ~~required by this chapter, as well as evidence of designation to act as~~
16 ~~primary caregiver by the patient, to any law enforcement official~~
17 ~~requesting such information;~~
18 ~~(d) Be prohibited from consuming marijuana obtained for the~~
19 ~~personal, medical use of the patient for whom the individual is acting~~
20 ~~as primary caregiver; and~~
21 ~~(e) Be the primary caregiver to only one patient at any one time.)~~

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

- 24 (1) It shall be a misdemeanor to use or display medical marijuana
25 in a manner or place which is open to the view of the general public.
26 (2) Nothing in this chapter requires any health insurance provider
27 to be liable for any claim for reimbursement for the medical use of
28 marijuana.
29 (3) Nothing in this chapter requires any physician to authorize the
30 use of medical marijuana for a patient.
31 (4) Nothing in this chapter requires any accommodation of any on-
32 site medical use of marijuana in any place of employment, in any school
33 bus or on any school grounds, (~~or~~) in any youth center, or in any
34 correctional facility.
35 (5) It is a class C felony to fraudulently produce any record
36 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under RCW
2 69.51A.010(~~(+5+)~~) (6)(a).

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

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

9 The Washington state medical quality assurance (~~board~~
10 ~~commission~~) commission in consultation with the board of osteopathic
11 medicine and surgery, or other appropriate agency as designated by the
12 governor, shall accept for consideration petitions submitted (~~by~~
13 ~~physicians or patients~~) to add terminal or debilitating conditions to
14 those included in this chapter. In considering such petitions, the
15 Washington state medical quality assurance (~~board~~~~commission~~)
16 commission in consultation with the board of osteopathic medicine and
17 surgery shall include public notice of, and an opportunity to comment
18 in a public hearing upon, such petitions. The Washington state medical
19 quality assurance (~~board~~~~commission~~) commission in consultation
20 with the board of osteopathic medicine and surgery shall, after
21 hearing, approve or deny such petitions within one hundred eighty days
22 of submission. The approval or denial of such a petition shall be
23 considered a final agency action, subject to judicial review.

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