
SUBSTITUTE SENATE BILL 5073

State of Washington

62nd Legislature

2011 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe, and Chase)

READ FIRST TIME 02/10/11.

1 AN ACT Relating to medical use of cannabis; amending RCW
2 69.51A.005, 69.51A.020, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.050,
3 69.51A.060, and 69.51A.900; adding new sections to chapter 69.51A RCW;
4 adding a new section to chapter 42.56 RCW; adding a new section to
5 chapter 28B.20 RCW; creating a new section; repealing RCW 69.51A.080;
6 prescribing penalties; providing an effective date; and providing an
7 expiration date.

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

9 **PART I**

10 **LEGISLATIVE DECLARATION AND INTENT**

11 NEW SECTION. **Sec. 101.** (1) The legislature intends to amend and
12 clarify the law on the medical use of cannabis so that:

13 (a) Qualifying patients and designated providers complying with the
14 terms of this act will no longer be subject to arrest or prosecution,
15 other criminal sanctions, or civil consequences based solely on their
16 medical use of cannabis;

17 (b) Qualifying patients will have access to an adequate, safe,
18 consistent, and secure source of medical quality cannabis; and

1 (c) Health care professionals may authorize the medical use of
2 cannabis in the manner provided by this act without fear of state
3 criminal or civil sanctions.

4 (2) This act is not intended to amend or supersede Washington state
5 law prohibiting the acquisition, possession, manufacture, sale, or use
6 of cannabis for nonmedical purposes.

7 **Sec. 102.** RCW 69.51A.005 and 2010 c 284 s 1 are each amended to
8 read as follows:

9 (1) The ~~((people of Washington state)) legislature finds that:~~

10 (a) There is medical evidence that some patients with terminal or
11 debilitating ~~((illnesses)) medical conditions may,~~ under their health
12 care professional's care, ~~((may)) benefit from the medical use of~~
13 ~~((marijuana)) cannabis.~~ Some of the ~~((illnesses)) conditions for which~~
14 ~~((marijuana)) cannabis appears to be beneficial include ~~((chemotherapy-~~~~
15 ~~related))~~, but are not limited to:

16 (i) Nausea ~~((and)), vomiting ~~((in cancer patients; AIDS wasting~~~~
17 ~~syndrome))~~, and cachexia associated with cancer, HIV-positive status,
18 AIDS, hepatitis C, anorexia, and their treatments;

19 (ii) Severe muscle spasms associated with multiple sclerosis,
20 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy;))~~

21 (iii) Acute or chronic glaucoma;

22 (iv) Crohn's disease; and

23 (v) Some forms of intractable pain.

24 ~~((The people find that)) (b) Humanitarian compassion necessitates~~
25 that the decision to ~~((authorize the medical)) use ~~((of marijuana))~~~~
26 cannabis by patients with terminal or debilitating ~~((illnesses))~~
27 medical conditions is a personal, individual decision, based upon their
28 health care professional's professional medical judgment and
29 discretion.

30 (2) Therefore, the ~~((people of the state of Washington))~~
31 legislature intends that:

32 (a) Qualifying patients with terminal or debilitating ~~((illnesses))~~
33 medical conditions who, in the judgment of their health care
34 professionals, may benefit from the medical use of ~~((marijuana))~~
35 cannabis, shall not be ~~((found guilty of a crime under state law for~~
36 ~~their possession and limited use of marijuana)) arrested, prosecuted,~~

1 or subject to other criminal sanctions or civil consequences under
2 state law based solely on their medical use of cannabis,
3 notwithstanding any other provision of law;

4 (b) Persons who act as designated providers to such patients shall
5 also not be ((found guilty of a crime under state law for)) arrested,
6 prosecuted, or subject to other criminal sanctions or civil
7 consequences under state law, notwithstanding any other provision of
8 law, based solely on their assisting with the medical use of
9 ((marijuana)) cannabis; and

10 (c) Health care professionals shall also ((be excepted from
11 liability and prosecution)) not be arrested, prosecuted, or subject to
12 other criminal sanctions or civil consequences under state law for the
13 authorization of ((marijuana)) medical use ((to)) of cannabis by
14 qualifying patients for whom, in the health care professional's
15 professional judgment, the medical ((marijuana)) use of cannabis may
16 prove beneficial.

17 **Sec. 103.** RCW 69.51A.020 and 1999 c 2 s 3 are each amended to read
18 as follows:

19 Nothing in this chapter shall be construed to supersede Washington
20 state law prohibiting the acquisition, possession, manufacture, sale,
21 or use of ((marijuana)) cannabis for nonmedical purposes.

22 **PART II**
23 **DEFINITIONS**

24 **Sec. 201.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to
25 read as follows:

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

28 (1) "Cannabis" means all parts of the plant Cannabis, whether
29 growing or not; the seeds thereof; the resin extracted from any part of
30 the plant; and every compound, manufacture, salt, derivative, mixture,
31 or preparation of the plant, its seeds, or resin. For the purposes of
32 this chapter, "cannabis" does not include the mature stalks of the
33 plant, fiber produced from the stalks, oil or cake made from the seeds
34 of the plant, any other compound, manufacture, salt, derivative,
35 mixture, or preparation of the mature stalks, except the resin

1 extracted therefrom, fiber, oil, or cake, or the sterilized seed of the
2 plant which is incapable of germination. The term "cannabis" includes
3 cannabis products and useable cannabis.

4 (2) "Cannabis analysis laboratory" means a laboratory that performs
5 chemical analysis and inspection of cannabis samples.

6 (3) "Cannabis products" means products that contain cannabis or
7 cannabis extracts, have a measurable THC concentration greater than
8 three-tenths of one percent, and are intended for human consumption or
9 application, including, but not limited to, edible products, tinctures,
10 and lotions. The term "cannabis products" does not include useable
11 cannabis.

12 (4) "Designated provider" means a person who:

13 (a) Is eighteen years of age or older;

14 (b) Has been designated in (~~writing~~) a written document signed
15 and dated by a qualifying patient to serve as a designated provider
16 under this chapter; and

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

20 ~~(d) Is the designated provider to only one patient at any one time.~~

21 ~~(2))~~ in compliance with the terms and conditions set forth in RCW
22 69.51A.040.

23 A qualifying patient may be the designated provider for another
24 qualifying patient and be in possession of both patients' cannabis at
25 the same time.

26 (5) "Director" means the director of the department of agriculture.

27 (6) "Dispense" means the selection, measuring, packaging, labeling,
28 delivery, or retail sale of cannabis by a licensed dispenser to a
29 qualifying patient or designated provider.

30 (7) "Health care professional," for purposes of this chapter only,
31 means a physician licensed under chapter 18.71 RCW, a physician
32 assistant licensed under chapter 18.71A RCW, an osteopathic physician
33 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
34 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
35 18.36A RCW, or an advanced registered nurse practitioner licensed under
36 chapter 18.79 RCW.

37 ~~((3))~~ (8) "Labeling" means all labels and other written, printed,

1 or graphic matter (a) upon any cannabis intended for medical use, or
2 (b) accompanying such cannabis.

3 (9) "Licensed dispenser" means a nonprofit corporation organized
4 under chapter 24.03 RCW and licensed to dispense cannabis for medical
5 use to qualifying patients and designated providers by the department
6 of health in accordance with rules adopted by the department of health
7 pursuant to the terms of this chapter.

8 (10) "Licensed processor of cannabis products" means a person
9 licensed by the department of agriculture to manufacture, process,
10 handle, and label cannabis products for wholesale to licensed
11 dispensers.

12 (11) "Licensed producer" means a person licensed by the department
13 of agriculture to produce cannabis for medical use for wholesale to
14 licensed dispensers and licensed processors of cannabis products in
15 accordance with rules adopted by the department of agriculture pursuant
16 to the terms of this chapter.

17 (12) "Medical use of ((marijuana)) cannabis" means the manufacture,
18 production, processing, possession, transportation, delivery,
19 dispensing, ingestion, application, or administration of ((marijuana,
20 as defined in RCW 69.50.101(q),)) cannabis for the exclusive benefit of
21 a qualifying patient in the treatment of his or her terminal or
22 debilitating ((illness)) medical condition.

23 ((+4)) (13) "Nonresident" means a person who is temporarily in the
24 state but is not a Washington state resident.

25 (14) "Peace officer" means any law enforcement personnel as defined
26 in RCW 43.101.010.

27 (15) "Person" means an individual or an entity.

28 (16) "Personally identifiable information" means any information
29 that includes, but is not limited to, data that uniquely identify,
30 distinguish, or trace a person's identity, such as the person's name,
31 date of birth, or address, either alone or when combined with other
32 sources, that establish the person is a qualifying patient, designated
33 provider, licensed producer, or licensed processor of cannabis products
34 for purposes of registration with the department of health or
35 department of agriculture. The term "personally identifiable
36 information" also means any information used by the department of
37 health or department of agriculture to identify a person as a

1 qualifying patient, designated provider, licensed producer, or licensed
2 processor of cannabis products.

3 (17) "Plant" means an organism having at least three
4 distinguishable and distinct leaves, each leaf being at least three
5 centimeters in diameter, and a readily observable root formation
6 consisting of at least two separate and distinct roots, each being at
7 least two centimeters in length. Multiple stalks emanating from the
8 same root ball or root system shall be considered part of the same
9 single plant.

10 (18) "Process" means to handle or process cannabis in preparation
11 for medical use.

12 (19) "Processing facility" means the premises and equipment where
13 cannabis products are manufactured, processed, handled, and labeled for
14 wholesale to licensed dispensers.

15 (20) "Produce" means to plant, grow, or harvest cannabis for
16 medical use.

17 (21) "Production facility" means the premises and equipment where
18 cannabis is planted, grown, harvested, processed, stored, handled,
19 packaged, or labeled by a licensed producer for wholesale, delivery, or
20 transportation to a licensed dispenser or licensed processor of
21 cannabis products, and all vehicles and equipment used to transport
22 cannabis from a licensed producer to a licensed dispenser or licensed
23 processor of cannabis products.

24 (22) "Public place" includes streets and alleys of incorporated
25 cities and towns; state or county or township highways or roads;
26 buildings and grounds used for school purposes; public dance halls and
27 grounds adjacent thereto; premises where goods and services are offered
28 to the public for retail sale; public buildings, public meeting halls,
29 lobbies, halls and dining rooms of hotels, restaurants, theatres,
30 stores, garages, and filling stations which are open to and are
31 generally used by the public and to which the public is permitted to
32 have unrestricted access; railroad trains, stages, buses, ferries, and
33 other public conveyances of all kinds and character, and the depots,
34 stops, and waiting rooms used in conjunction therewith which are open
35 to unrestricted use and access by the public; publicly owned bathing
36 beaches, parks, or playgrounds; and all other places of like or similar
37 nature to which the general public has unrestricted right of access,
38 and which are generally used by the public.

1 (23) "Qualifying patient" means a person who:
2 (a) Is a patient of a health care professional;
3 (b) Has been diagnosed by that health care professional as having
4 a terminal or debilitating medical condition;
5 (c) Is a resident of the state of Washington at the time of such
6 diagnosis;
7 (d) Has been advised by that health care professional about the
8 risks and benefits of the medical use of (~~marijuana~~) cannabis; and
9 (e) Has been advised by that health care professional that (~~they~~)
10 he or she may benefit from the medical use of (~~marijuana~~) cannabis.
11 (~~(+5)~~) (24) "Secretary" means the secretary of health.
12 (25) "Tamper-resistant paper" means paper that meets one or more of
13 the following industry-recognized features:
14 (a) One or more features designed to prevent copying of the paper;
15 (b) One or more features designed to prevent the erasure or
16 modification of information on the paper; or
17 (c) One or more features designed to prevent the use of counterfeit
18 valid documentation.
19 (~~(+6)~~) (26) "Terminal or debilitating medical condition" means:
20 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
21 epilepsy or other seizure disorder, or spasticity disorders; or
22 (b) Intractable pain(~~(, limited for the purpose of this chapter to~~
23 ~~mean pain unrelieved by standard medical treatments and medications)~~);
24 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~~) cachexia, appetite loss, cramping, seizures, muscle spasms,
34 or spasticity(~~(, when these symptoms are unrelieved by standard~~
35 ~~treatments or medications)~~); or
36 (g) Any other medical condition duly approved by the Washington
37 state medical quality assurance commission in consultation with the
38 board of osteopathic medicine and surgery as directed in this chapter.

1 ~~((7))~~ (27) "THC concentration" means percent of
2 tetrahydrocannabinol content per weight or volume of useable cannabis
3 or cannabis product.

4 (28) "Useable cannabis" means dried flowers of the Cannabis plant
5 having a THC concentration greater than three-tenths of one percent.
6 Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For
7 purposes of this subsection, "dried" means containing less than fifteen
8 percent moisture content by weight. The term "useable cannabis" does
9 not include cannabis products.

10 (29)(a) Until July 1, 2012, "valid documentation" means:

11 ~~((a))~~ (i) A statement signed and dated by a qualifying patient's
12 health care professional written on tamper-resistant paper, which
13 states that, in the health care professional's professional opinion,
14 the patient may benefit from the medical use of (~~(marijuana)) cannabis;~~
15 (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; and

18 (iii) In the case of a designated provider, the signed and dated
19 document valid for one year from the date of signature executed by the
20 qualifying patient who has designated the provider; and

21 (b) Beginning July 1, 2012, "valid documentation" means:

22 (i) An original statement signed and dated by a qualifying
23 patient's health care professional written on tamper-resistant paper
24 and valid for up to one year from the date of the health care
25 professional's signature, which states that, in the health care
26 professional's professional opinion, the patient may benefit from the
27 medical use of cannabis;

28 (ii) Proof of identity such as a Washington state driver's license
29 or identicard, as defined in RCW 46.20.035; and

30 (iii) In the case of a designated provider, the signed and dated
31 document valid for up to one year from the date of signature executed
32 by the qualifying patient who has designated the provider.

33 PART III

34 PROTECTIONS FOR HEALTH CARE PROFESSIONALS

35 **Sec. 301.** RCW 69.51A.030 and 2010 c 284 s 3 are each amended to
36 read as follows:

1 ~~((A health care professional shall be excepted from the state's~~
2 ~~criminal laws and shall not be penalized in any manner, or denied any~~
3 ~~right or privilege, for)) (1) The following acts do not constitute
4 crimes under state law or unprofessional conduct under chapter 18.130
5 RCW, and a health care professional may not be arrested, searched,
6 prosecuted, disciplined, or subject to other criminal sanctions or
7 civil consequences or liability under state law, or have real or
8 personal property searched, seized, or forfeited pursuant to state law,
9 notwithstanding any other provision of law as long as the health care
10 professional complies with subsection (2) of this section:~~

11 ~~((+1))~~ (a) Advising a ((qualifying)) patient about the risks and
12 benefits of medical use of ((marijuana)) cannabis or that the
13 ((qualifying)) patient may benefit from the medical use of ((marijuana
14 ~~where such use is within a professional standard of care or in the~~
15 ~~individual health care professional's medical judgment)) cannabis; or~~

16 ~~((+2))~~ (b) Providing a ((qualifying)) patient meeting the criteria
17 established under RCW 69.51A.010(23) with valid documentation, based
18 upon the health care professional's assessment of the ((qualifying))
19 patient's medical history and current medical condition, ((that the
20 ~~medical use of marijuana may benefit a particular qualifying patient))~~
21 where such use is within a professional standard of care or in the
22 individual health care professional's medical judgment.

23 (2) A health care professional may only advise a patient that he or
24 she may benefit from the medical use of cannabis after: Completing a
25 physical examination of the patient; documenting the terminal or
26 debilitating medical condition of the patient in the patient's medical
27 record and that this condition may benefit from the medical use of
28 cannabis; informing the patient of other options for the control of the
29 terminal or debilitating medical condition; and first attempting
30 measures to treat the terminal or debilitating medical condition that
31 do not involve the medical use of cannabis. The health care
32 professional must monitor the patient's condition on at least a
33 quarterly basis and determine whether the patient will continue to
34 benefit from the medical use of cannabis in the treatment of his or her
35 terminal or debilitating medical condition.

36 (3) A health care professional must report to the department of
37 health on a quarterly basis. This quarterly report must include the
38 number of medical cannabis authorizations the professional has made

1 during the previous quarter. The department of health may determine if
2 the amount of authorizations a health care professional is making is
3 inappropriate. Inappropriate authorizations of cannabis for medical
4 use constitutes unprofessional conduct under chapter 18.130 RCW.

5 **PART IV**

6 **PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS**

7 **Sec. 401.** RCW 69.51A.040 and 2007 c 371 s 5 are each amended to
8 read as follows:

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

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

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

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

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

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

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

1 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~
2 ~~However, any possession under subsection (3)(b) of this section, as~~
3 ~~well as any production, acquisition, and decision as to dosage and~~
4 ~~frequency of use, shall be the responsibility of the parent or legal~~
5 ~~guardian of the qualifying patient.)~~ The medical use of cannabis in
6 accordance with the terms and conditions of this chapter does not
7 constitute a crime and a qualifying patient or designated provider in
8 compliance with the terms and conditions of this chapter may not be
9 arrested, searched, prosecuted, or subject to other criminal sanctions
10 or civil consequences for possession, manufacture, or delivery of, or
11 for possession with intent to manufacture or deliver, cannabis under
12 state law, or have real or personal property searched, seized, or
13 forfeited for possession, manufacture, or delivery of, or for
14 possession with intent to manufacture or deliver, cannabis under state
15 law, and investigating peace officers and law enforcement agencies may
16 not be held civilly liable for failure to seize cannabis in this
17 circumstance, if:

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

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

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

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

26 (b) If a person is both a qualifying patient and a designated
27 provider for another qualifying patient, the person may possess no more
28 than twice the amounts described in (a) of this subsection, whether the
29 plants, useable cannabis, and cannabis product are possessed
30 individually or in combination between the qualifying patient and his
31 or her designated provider;

32 (2) The qualifying patient or designated provider presents his or
33 her proof of registration with the department of health, to any peace
34 officer who questions the patient or provider regarding his or her
35 medical use of cannabis;

36 (3) The qualifying patient or designated provider keeps a copy of
37 his or her proof of registration with the registry established in
38 section 901 of this act and the qualifying patient or designated

1 provider's contact information posted prominently next to any cannabis
2 plants, cannabis products, or useable cannabis located at his or her
3 residence;

4 (4) The investigating peace officer does not possess evidence that
5 the designated provider has converted cannabis produced or obtained for
6 the qualifying patient for his or her own personal use or benefit; and

7 (5) The investigating peace officer does not possess evidence that
8 the designated provider has served as a designated provider to more
9 than one qualifying patient within a fifteen-day period.

10 NEW SECTION. Sec. 402. A qualifying patient or designated
11 provider who is not registered with the registry established in section
12 901 of this act, but who possesses valid documentation that he or she
13 is a qualifying patient may assert an affirmative defense at trial if
14 he or she otherwise meets the requirements of section 401 of this act.

15 NEW SECTION. Sec. 403. (1) Qualifying patients may create and
16 participate in collective gardens for the purpose of producing,
17 processing, transporting, and delivering cannabis for medical use
18 subject to the following conditions:

19 (a) No more than three qualifying patients may participate in a
20 single collective garden at any time;

21 (b) A collective garden may contain no more than fifteen plants per
22 patient up to a total of forty-five plants;

23 (c) A collective garden may contain no more than twenty-four ounces
24 of useable cannabis per patient up to a total of seventy-two ounces of
25 useable cannabis;

26 (d) A copy of each qualifying patient's valid documentation or
27 proof of registration with the registry established in section 901 of
28 this act, including a copy of the patient's proof of identity, must be
29 available at all times on the premises of the collective garden; and

30 (e) No useable cannabis from the collective garden is delivered to
31 anyone other than one of the qualifying patients participating in the
32 collective garden.

33 (2) For purposes of this section, the creation of a "collective
34 garden" means qualifying patients sharing responsibility for acquiring
35 and supplying the resources required to produce and process cannabis
36 for medical use such as, for example, a location for a collective

1 garden; equipment, supplies, and labor necessary to plant, grow, and
2 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,
3 supplies, and labor necessary for proper construction, plumbing,
4 wiring, and ventilation of a garden of cannabis plants.

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

7 NEW SECTION. **Sec. 404.** (1) A qualifying patient may revoke his or
8 her designation of a specific provider and designate a different
9 provider at any time. A revocation of designation must be in writing,
10 signed and dated. The protections of this chapter cease to apply to a
11 person who has served as a designated provider to a qualifying patient
12 seventy-two hours after receipt of that patient's revocation of his or
13 her designation.

14 (2) A person may stop serving as a designated provider to a given
15 qualifying patient at any time. However, that person may not begin
16 serving as a designated provider to a different qualifying patient
17 until fifteen days have elapsed from the date the last qualifying
18 patient designated him or her to serve as a provider.

19 NEW SECTION. **Sec. 405.** A qualifying patient or designated
20 provider in possession of cannabis plants, useable cannabis, or
21 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)
22 but otherwise in compliance with all other terms and conditions of this
23 chapter may establish an affirmative defense to charges of violations
24 of state law relating to cannabis through proof at trial, by a
25 preponderance of the evidence, that the qualifying patient's necessary
26 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An
27 investigating peace officer may seize cannabis plants, useable
28 cannabis, or cannabis product exceeding the amounts set forth in RCW
29 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the
30 qualifying patient or designated provider shall be allowed to select
31 the plants that will remain at the location. The officer and his or
32 her law enforcement agency may not be held civilly liable for failure
33 to seize cannabis in this circumstance.

34 NEW SECTION. **Sec. 406.** A qualifying patient or designated
35 provider who is not registered with the registry established in section

1 901 of this act does not present his or her valid documentation, or
2 proof of registration with the department of health, to a peace officer
3 who questions the patient or provider regarding his or her medical use
4 of cannabis but is in compliance with all other terms and conditions of
5 this chapter may establish an affirmative defense to charges of
6 violations of state law relating to cannabis through proof at trial, by
7 a preponderance of the evidence, that he or she was a validly
8 authorized qualifying patient or designated provider at the time of the
9 officer's questioning. A qualifying patient or designated provider who
10 establishes an affirmative defense under the terms of this section may
11 also establish an affirmative defense under section 405 of this act.

12 NEW SECTION. **Sec. 407.** A nonresident who is duly authorized to
13 engage in the medical use of cannabis under the laws of another state
14 or territory of the United States may raise an affirmative defense to
15 charges of violations of Washington state law relating to cannabis,
16 provided that the nonresident:

17 (1) Possesses no more than fifteen cannabis plants and no more than
18 twenty-four ounces of useable cannabis, no more cannabis product than
19 reasonably could be produced with no more than twenty-four ounces of
20 useable cannabis, or a combination of useable cannabis and cannabis
21 product that does not exceed a combined total representing possession
22 and processing of no more than twenty-four ounces of useable cannabis;

23 (2) Is in compliance with all provisions of this chapter other than
24 requirements relating to being a Washington resident or possessing
25 valid documentation issued by a licensed health care professional in
26 Washington; and

27 (3) Presents the documentation of authorization required under the
28 nonresident's authorizing state or territory's law and proof of
29 identity issued by the authorizing state or territory to any peace
30 officer who questions the nonresident regarding his or her medical use
31 of cannabis.

32 NEW SECTION. **Sec. 408.** A qualifying patient's medical use of
33 cannabis as authorized by a health care professional may not be a sole
34 disqualifying factor in determining the patient's suitability for an
35 organ transplant, unless it is shown that this use poses a significant
36 risk of rejection or organ failure. This section does not preclude a

1 health care professional from requiring that a patient abstain from the
2 medical use of cannabis, for a period of time determined by the health
3 care professional, while waiting for a transplant organ or before the
4 patient undergoes an organ transplant.

5 NEW SECTION. **Sec. 409.** A qualifying patient or designated
6 provider may not have his or her parental rights or residential time
7 with a child restricted solely due to his or her medical use of
8 cannabis in compliance with the terms of this chapter absent written
9 findings supported by evidence that such use has resulted in a long-
10 term impairment that interferes with the performance of parenting
11 functions as defined under RCW 26.09.004.

12 NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)
13 of this section, a qualifying patient may not be refused housing or
14 evicted from housing solely as a result of his or her possession or use
15 of useable cannabis or cannabis products except that housing providers
16 otherwise permitted to enact and enforce prohibitions against smoking
17 in their housing may apply those prohibitions to smoking cannabis
18 provided that such smoking prohibitions are applied and enforced
19 equally as to the smoking of cannabis and the smoking of all other
20 substances, including without limitation tobacco.

21 (2) Housing programs containing a program component prohibiting the
22 use of drugs or alcohol among its residents are not required to permit
23 the medical use of cannabis among those residents.

24 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,
25 deferred prosecution, stipulated order of continuance, deferred
26 disposition, or dispositional order, any court organized under the laws
27 of Washington state may permit the medical use of cannabis in
28 compliance with the terms of this chapter and exclude it as a possible
29 ground for finding that the offender has violated the conditions or
30 requirements of the sentence, deferred prosecution, stipulated order of
31 continuance, deferred disposition, or dispositional order. This
32 section does not require the accommodation of any on-site medical use
33 of cannabis in any correctional facility.

1 **Sec. 412.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
2 as follows:

3 (1) The lawful possession, delivery, dispensing, production, or
4 manufacture of ((~~medical marijuana~~)) cannabis for medical use as
5 authorized by this chapter shall not result in the forfeiture or
6 seizure of any real or personal property including, but not limited to,
7 cannabis intended for medical use, items used to facilitate the medical
8 use of cannabis or its production or dispensing for medical use, or
9 proceeds of sales of cannabis for medical use made by licensed
10 producers, licensed processors of cannabis products, or licensed
11 dispensers.

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

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

19 NEW SECTION. Sec. 413. Nothing in this chapter or in the rules
20 adopted to implement it precludes a qualifying patient or designated
21 provider from engaging in the private, unlicensed, noncommercial
22 production, possession, transportation, delivery, or administration of
23 cannabis for medical use as authorized under RCW 69.51A.040.

24 **PART V**
25 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**
26 **PATIENTS AND DESIGNATED PROVIDERS**

27 **Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to
28 read as follows:

29 (1) (~~It shall be a misdemeanor to use or display medical marijuana~~
30 ~~in a manner or place which is open to the view of the general public.))~~
31 It is unlawful to open a package containing cannabis or consume
32 cannabis in a public place in a manner that presents a reasonably
33 foreseeable risk that another person would see and be able to identify
34 the substance contained in the package or being consumed as cannabis.
35 A person who violates a provision of this section commits a class 3

1 civil infraction under chapter 7.80 RCW. This subsection does not
2 apply to licensed dispensers or their employees, members, officers, or
3 directors displaying cannabis to customers on their licensed premises
4 as long as such displays are not visible to members of the public
5 standing or passing outside the premises.

6 (2) Nothing in this chapter requires any health insurance provider
7 to be liable for any claim for reimbursement for the medical use of
8 ((marijuana)) cannabis.

9 (3) Nothing in this chapter requires any health care professional
10 to authorize the medical use of ((medical-marijuana)) cannabis for a
11 patient.

12 (4) Nothing in this chapter requires any accommodation of any on-
13 site medical use of ((marijuana)) cannabis in any place of employment,
14 in any school bus or on any school grounds, in any youth center, in any
15 correctional facility, or smoking ((medical-marijuana)) cannabis in any
16 public place as that term is defined in RCW 70.160.020.

17 (5) It is a class C felony to fraudulently produce any record
18 purporting to be, or tamper with the content of any record for the
19 purpose of having it accepted as, valid documentation under RCW
20 69.51A.010((+7)) (29)(a), or to backdate such documentation to a time
21 earlier than its actual date of execution.

22 (6) ~~((No person shall be entitled to claim the affirmative defense~~
23 ~~provided in RCW 69.51A.040 for engaging)) The fact that a qualifying
24 patient has been authorized to engage in the medical use of ((marijuana
25 ~~in a way that endangers the health or well-being of any person through~~
26 ~~the use of a motorized vehicle on a street, road, or highway)) cannabis~~
27 does not constitute a defense against a charge of violating RCW
28 46.61.502 or 46.61.504.~~

29 **PART VI**

30 **LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS**

31 NEW SECTION. **Sec. 601.** A person may not act as a licensed
32 producer without a license for each production facility issued by the
33 department of agriculture. Provided they are acting in compliance with
34 the terms of this chapter and rules adopted to enforce and carry out
35 its purposes, licensed producers and their employees, members,
36 officers, and directors may manufacture, plant, cultivate, grow,

1 harvest, produce, prepare, propagate, process, package, repackage,
2 transport, transfer, deliver, label, relabel, wholesale, or possess
3 cannabis intended for medical use by qualifying patients, including
4 seeds, seedlings, cuttings, plants, and useable cannabis, and may not
5 be arrested, searched, prosecuted, or subject to other criminal
6 sanctions or civil consequences under state law, or have real or
7 personal property searched, seized, or forfeited pursuant to state law,
8 for such activities, notwithstanding any other provision of law.

9 NEW SECTION. **Sec. 602.** A person may not act as a licensed
10 processor without a license for each processing facility issued by the
11 department of agriculture. Provided they are acting in compliance with
12 the terms of this chapter and rules adopted to enforce and carry out
13 its purposes, licensed processors of cannabis products and their
14 employees, members, officers, and directors may possess useable
15 cannabis and manufacture, produce, prepare, process, package,
16 repackage, transport, transfer, deliver, label, relabel, wholesale, or
17 possess cannabis products intended for medical use by qualifying
18 patients, and may not be arrested, searched, prosecuted, or subject to
19 other criminal sanctions or civil consequences under state law, or have
20 real or personal property searched, seized, or forfeited pursuant to
21 state law, for such activities, notwithstanding any other provision of
22 law.

23 NEW SECTION. **Sec. 603.** The director shall administer and carry
24 out the provisions of this chapter relating to licensed producers and
25 licensed processors of cannabis products, and rules adopted under this
26 chapter.

27 NEW SECTION. **Sec. 604.** (1) On a schedule determined by the
28 department of agriculture, licensed producers and licensed processors
29 must submit representative samples of cannabis grown or processed to a
30 cannabis analysis laboratory for grade, condition, cannabinoid profile,
31 THC concentration, other qualitative measurements of cannabis intended
32 for medical use, and other inspection standards determined by the
33 department of agriculture. Any samples remaining after testing must be
34 destroyed by the laboratory or returned to the licensed producer or
35 licensed processor.

1 (2) Licensed producers and licensed processors must submit copies
2 of the results of this inspection and testing to the department of
3 agriculture on a form developed by the department.

4 (3) If a representative sample of cannabis tested under this
5 section has a THC concentration of three-tenths of one percent or less,
6 the lot of cannabis the sample was taken from may not be sold for
7 medical use and must be destroyed or sold to a manufacturer of hemp
8 products.

9 NEW SECTION. **Sec. 605.** The department of agriculture may contract
10 with a cannabis analysis laboratory to conduct independent inspection
11 and testing of cannabis samples to verify testing results provided
12 under section 604 of this act.

13 NEW SECTION. **Sec. 606.** The department of agriculture may adopt
14 rules on:

15 (1) Facility standards, including scales, for all licensed
16 producers and licensed processors of cannabis products;

17 (2) Measurements for cannabis intended for medical use, including
18 grade, condition, cannabinoid profile, THC concentration, other
19 qualitative measurements, and other inspection standards for cannabis
20 intended for medical use; and

21 (3) Methods to identify cannabis intended for medical use so that
22 such cannabis may be readily identified if stolen or removed in
23 violation of the provisions of this chapter from a production or
24 processing facility, or if otherwise unlawfully transported.

25 NEW SECTION. **Sec. 607.** The director is authorized to deny,
26 suspend, or revoke a producer's or processor's license after a hearing
27 in any case in which it is determined that there has been a violation
28 or refusal to comply with the requirements of this chapter or rules
29 adopted hereunder. All hearings for the denial, suspension, or
30 revocation of a producer's or processor's license are subject to
31 chapter 34.05 RCW, the administrative procedure act, as enacted or
32 hereafter amended.

33 NEW SECTION. **Sec. 608.** (1) By July 1, 2012, taking into

1 consideration, but not being limited by, the security requirements
2 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
3 rules:

4 (a) On the inspection or grading and certification of grade,
5 grading factors, condition, cannabinoid profile, THC concentration, or
6 other qualitative measurement of cannabis intended for medical use that
7 must be used by cannabis analysis laboratories in section 604 of this
8 act;

9 (b) Fixing the sizes, dimensions, and safety and security features
10 required of containers to be used for packing, handling, or storing
11 cannabis intended for medical use;

12 (c) Establishing labeling requirements for cannabis intended for
13 medical use including, but not limited to:

14 (i) The business or trade name and Washington state unified
15 business identifier (UBI) number of the licensed producer of the
16 cannabis;

17 (ii) THC concentration; and

18 (iii) Information on whether the cannabis was grown using organic,
19 inorganic, or synthetic fertilizers;

20 (d) Establishing requirements for transportation of cannabis
21 intended for medical use from production facilities to processing
22 facilities and licensed dispensers;

23 (e) Security requirements for the facilities of licensed producers
24 and licensed processors of cannabis products. These security
25 requirements must consider the safety of the licensed producers and
26 licensed processors as well as the safety of the community surrounding
27 the licensed producers and licensed processors;

28 (f) Establishing requirements for the licensure of producers, and
29 processors of cannabis products, setting forth procedures to obtain
30 licenses, and determining expiration dates and renewal requirements;
31 and

32 (g) Establishing license application and renewal fees adequate to
33 recapture the cost to the state of implementing, maintaining, and
34 enforcing the provisions of this section and section 902 of this act
35 and the rules adopted to carry out their purposes. Such fees shall
36 reflect a range of classes of licenses, varying in proportion to
37 revenues received by the licensees.

1 (2) Fees collected under this section must be deposited into the
2 agricultural local fund created in RCW 43.23.230.

3 (3) During the rule-making process, the department of agriculture
4 shall consult with stakeholders and persons with relevant expertise, to
5 include but not be limited to qualifying patients, designated
6 providers, health care professionals, state and local law enforcement
7 agencies, and the department of health.

8 NEW SECTION. **Sec. 609.** (1) Each licensed producer and licensed
9 processor of cannabis products shall maintain complete records at all
10 times with respect to all cannabis produced, processed, weighed,
11 tested, stored, shipped, or sold. The director shall adopt rules
12 specifying the minimum recordkeeping requirements necessary to comply
13 with this section.

14 (2) The property, books, records, accounts, papers, and proceedings
15 of every licensed producer and licensed processor of cannabis products
16 shall be subject to inspection by the department of agriculture at any
17 time during ordinary business hours. Licensed producers and licensed
18 processors of cannabis products shall maintain adequate records and
19 systems for the filing and accounting of crop production, product
20 manufacturing and processing, records of weights and measurements,
21 product testing, receipts, canceled receipts, other documents, and
22 transactions necessary or common to the medical cannabis industry.

23 (3) The director may administer oaths and issue subpoenas to compel
24 the attendance of witnesses, or the production of books, documents, and
25 records anywhere in the state pursuant to a hearing relative to the
26 purposes and provisions of this chapter. Witnesses shall be entitled
27 to fees for attendance and travel, as provided in chapter 2.40 RCW.

28 (4) Each licensed producer and licensed processor of cannabis
29 products shall report information to the department of agriculture at
30 such times and as may be reasonably required by the director for the
31 necessary enforcement and supervision of a sound, reasonable, and
32 efficient cannabis inspection program for the protection of the health
33 and welfare of qualifying patients.

34 NEW SECTION. **Sec. 610.** (1) The department of agriculture may give
35 written notice to a licensed producer or processor of cannabis products
36 to furnish required reports, documents, or other requested information,

1 under such conditions and at such time as the department of agriculture
2 deems necessary if a licensed producer or processor of cannabis
3 products fails to:

4 (a) Submit his or her books, papers, or property to lawful
5 inspection or audit;

6 (b) Submit required laboratory results, reports, or documents to
7 the department of agriculture by their due date; or

8 (c) Furnish the department of agriculture with requested
9 information.

10 (2) If the licensed producer or processor of cannabis products
11 fails to comply with the terms of the notice within seventy-two hours
12 from the date of its issuance, or within such further time as the
13 department of agriculture may allow, the department of agriculture
14 shall levy a fine of five hundred dollars per day from the final date
15 for compliance allowed by this section or the department of
16 agriculture. In those cases where the failure to comply continues for
17 more than seven days or where the director determines the failure to
18 comply creates a threat to public health, public safety, or a
19 substantial risk of diversion of cannabis to unauthorized persons or
20 purposes, the department of agriculture may, in lieu of levying further
21 fines, petition the superior court of the county where the licensee's
22 principal place of business in Washington is located, as shown by the
23 license application, for an order:

24 (a) Authorizing the department of agriculture to seize and take
25 possession of all books, papers, and property of all kinds used in
26 connection with the conduct or the operation of the licensed producer
27 or processor's business, and the books, papers, records, and property
28 that pertain specifically, exclusively, and directly to that business;
29 and

30 (b) Enjoining the licensed producer or processor from interfering
31 with the department of agriculture in the discharge of its duties as
32 required by this chapter.

33 (3) All necessary costs and expenses, including attorneys' fees,
34 incurred by the department of agriculture in carrying out the
35 provisions of this section may be recovered at the same time and as
36 part of the action filed under this section.

37 (4) The department of agriculture may request the Washington state

1 patrol to assist it in enforcing this section if needed to ensure the
2 safety of its employees.

3 NEW SECTION. **Sec. 611.** (1) A licensed producer may not sell or
4 deliver cannabis to any person other than a cannabis analysis
5 laboratory, licensed processor of cannabis products, licensed
6 dispenser, or law enforcement officer except as provided by court
7 order. Violation of this section is a class C felony punishable
8 according to chapter 9A.20 RCW.

9 (2) A licensed processor of cannabis products may not sell or
10 deliver cannabis to any person other than a cannabis analysis
11 laboratory licensed dispenser, or law enforcement officer except as
12 provided by court order. Violation of this section is a class C felony
13 punishable according to chapter 9A.20 RCW.

14 **PART VII**
15 **LICENSED DISPENSERS**

16 NEW SECTION. **Sec. 701.** A person may not act as a licensed
17 dispenser without a license for each place of business issued by the
18 department of health. Provided they are acting in compliance with the
19 terms of this chapter and rules adopted to enforce and carry out its
20 purposes, licensed dispensers and their employees, members, officers,
21 and directors may deliver, distribute, dispense, transfer, prepare,
22 package, repackage, label, relabel, sell at retail, or possess cannabis
23 intended for medical use by qualifying patients, including seeds,
24 seedlings, cuttings, plants, useable cannabis, and cannabis products,
25 and may not be arrested, searched, prosecuted, or subject to other
26 criminal sanctions or civil consequences under state law, or have real
27 or personal property searched, seized, or forfeited pursuant to state
28 law, for such activities, notwithstanding any other provision of law.

29 NEW SECTION. **Sec. 702.** (1) By July 1, 2012, taking into
30 consideration the security requirements described in 21 C.F.R. 1301.71-
31 1301.76, the secretary shall adopt rules:

32 (a) Establishing requirements for the licensure of dispensers of
33 cannabis for medical use, setting forth procedures to obtain licenses,
34 and determining expiration dates and renewal requirements;

- 1 (b) Providing for mandatory inspection of licensed dispensers'
2 locations;
- 3 (c) Establishing procedures governing the suspension and revocation
4 of licenses of dispensers;
- 5 (d) Establishing recordkeeping requirements for licensed
6 dispensers;
- 7 (e) Fixing the sizes and dimensions of containers to be used for
8 dispensing cannabis for medical use;
- 9 (f) Establishing safety standards for containers to be used for
10 dispensing cannabis for medical use;
- 11 (g) Establishing cannabis storage requirements, including security
12 requirements;
- 13 (h) Establishing cannabis labeling requirements, to include
14 information on whether the cannabis was grown using organic, inorganic,
15 or synthetic fertilizers;
- 16 (i) Establishing physical standards for cannabis dispensing
17 facilities;
- 18 (j) Establishing physical standards for sanitary conditions for
19 cannabis dispensing facilities;
- 20 (k) Establishing physical and sanitation standards for cannabis
21 dispensing equipment;
- 22 (l) Enforcing and carrying out the provisions of this section and
23 the rules adopted to carry out its purposes; and
- 24 (m) Establishing license application and renewal fees adequate to
25 recapture the cost to the state of implementing, maintaining, and
26 enforcing the provisions of this section and section 903 of this act
27 and the rules adopted to carry out their purposes, pursuant to the
28 secretary's authority under RCW 43.70.250. Such fees shall reflect a
29 range of classes of licenses, varying in proportion to revenues
30 received by the licensees.
- 31 (2) Fees collected under this section must be deposited into the
32 health professions account created in RCW 43.70.320.
- 33 (3) During the rule-making process, the department of health shall
34 consult with stakeholders and persons with relevant expertise, to
35 include but not be limited to qualifying patients, designated
36 providers, health care professionals, state and local law enforcement
37 agencies, and the department of agriculture.

1 NEW SECTION. **Sec. 703.** A licensed dispenser may not sell cannabis
2 received from any person other than a licensed producer or licensed
3 processor of cannabis products, or sell or deliver cannabis to any
4 person other than a qualifying patient, designated provider, or
5 licensed producer except as provided by court order. Before selling or
6 providing cannabis to a qualifying patient or designated provider, the
7 licensed dispenser must confirm that the patient qualifies for the
8 medical use of cannabis by contacting that patient's health care
9 professional. Violation of this section is a class C felony punishable
10 according to chapter 9A.20 RCW.

11 **PART VIII**
12 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**
13 **LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

14 NEW SECTION. **Sec. 801.** All weighing and measuring instruments and
15 devices used by licensed producers, processors of cannabis products,
16 and dispensers shall comply with the requirements set forth in chapter
17 19.94 RCW.

18 NEW SECTION. **Sec. 802.** (1) No licensed producer, processor of
19 cannabis products, or dispenser may advertise cannabis for sale to the
20 general public on broadcast television or radio or on a billboard in
21 any manner that promotes or tends to promote the use or abuse of
22 cannabis. For the purposes of this subsection, displaying cannabis,
23 including artistic depictions of cannabis, is considered to promote or
24 to tend to promote the use or abuse of cannabis.

25 (2) The department of agriculture may fine a licensed producer or
26 processor of cannabis products up to one thousand dollars for each
27 violation of subsection (1) of this section. Fines collected under
28 this subsection must be deposited into the agriculture local fund
29 created in RCW 43.23.230.

30 (3) The department of health may fine a licensed dispenser up to
31 one thousand dollars for each violation of subsection (1) of this
32 section. Fines collected under this subsection must be deposited into
33 the health professions account created in RCW 43.70.320.

34 (4) No broadcast television licensee, radio broadcast licensee,
35 advertising agency, or agency or medium for the dissemination of an

1 advertisement, except the licensed producer, processor of cannabis
2 products, or dispenser to which the advertisement relates, is subject
3 to the penalties of this section by reason of dissemination of
4 advertising in good faith without knowledge that the advertising
5 promotes or tends to promote the use or abuse of cannabis.

6 NEW SECTION. **Sec. 803.** A prior conviction for a cannabis or
7 marijuana offense shall not disqualify an applicant from receiving a
8 license to produce, process, or dispense cannabis for medical use,
9 provided the conviction did not include any sentencing enhancements
10 under RCW 9.94A.533 or analogous laws in other jurisdictions. Any
11 criminal conviction of a current licensee may be considered in
12 proceedings to suspend or revoke a license.

13 NEW SECTION. **Sec. 804.** A violation of any provision or section of
14 this chapter that relates to the licensing and regulation of producers,
15 processors, or dispensers, where no other penalty is provided for, and
16 the violation of any rule adopted under this chapter constitutes a
17 misdemeanor.

18 NEW SECTION. **Sec. 805.** (1) Every licensed producer or processor
19 of cannabis products who fails to comply with this chapter, or any rule
20 adopted under it, may be subjected to a civil penalty, as determined by
21 the director, in an amount of not more than one thousand dollars for
22 every such violation. Each violation shall be a separate and distinct
23 offense.

24 (2) Every licensed dispenser who fails to comply with this chapter,
25 or any rule adopted under it, may be subjected to a civil penalty, as
26 determined by the secretary, in an amount of not more than one thousand
27 dollars for every such violation. Each violation shall be a separate
28 and distinct offense.

29 (3) Every person who, through an act of commission or omission,
30 procures, aids, or abets in the violation shall be considered to have
31 violated this chapter and may be subject to the penalty provided for in
32 this section.

33 NEW SECTION. **Sec. 806.** The department of agriculture or the
34 department of health, as the case may be, must immediately suspend any

1 certification of licensure issued under this chapter if the holder of
2 the certificate has been certified under RCW 74.20A.320 by the
3 department of social and health services as a person who is not in
4 compliance with a support order. If the person has continued to meet
5 all other requirements for certification during the suspension,
6 reissuance of the certificate of licensure shall be automatic upon the
7 department's receipt of a release issued by the department of social
8 and health services stating that the person is in compliance with the
9 order.

10 NEW SECTION. **Sec. 807.** The department of agriculture or the
11 department of licensing, as the case may be, must suspend the
12 certification of licensure of any person who has been certified by a
13 lending agency and reported to the appropriate department for
14 nonpayment or default on a federally or state-guaranteed educational
15 loan or service-conditional scholarship. Prior to the suspension, the
16 department of agriculture or the department of health, as the case may
17 be, must provide the person an opportunity for a brief adjudicative
18 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of
19 nonpayment or default on a federally or state-guaranteed educational
20 loan or service-conditional scholarship. The person's license may not
21 be reissued until the person provides the appropriate department a
22 written release issued by the lending agency stating that the person is
23 making payments on the loan in accordance with a repayment agreement
24 approved by the lending agency. If the person has continued to meet
25 all other requirements for certification or registration during the
26 suspension, reinstatement is automatic upon receipt of the notice and
27 payment of any reinstatement fee.

28 **PART IX**

29 **SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS,**
30 **AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

31 NEW SECTION. **Sec. 901.** (1) By July 1, 2012, the department of
32 health shall adopt rules for the creation, implementation, maintenance,
33 and timely upgrading of a secure and confidential registration system
34 that allows:

1 (a) A peace officer to verify at any time whether a health care
2 professional has registered a person who has been contacted by that
3 peace officer and has provided that peace officer information necessary
4 to verify his or her registration as either a qualifying patient or a
5 designated provider; and

6 (b) A peace officer to verify at any time during ordinary business
7 hours of the department of health whether a health care professional
8 has registered a person as either a qualifying patient or a designated
9 provider, or an address as the primary residence of a qualifying
10 patient or designated provider.

11 (2) Law enforcement shall comply with Article I, section 7 of the
12 Washington state Constitution when accessing the registration system
13 for criminal investigations, which, at a minimum, requires an
14 articulated individualized suspicion of: (a) Criminal activity; or (b)
15 the possession, use, manufacture, production, processing, delivery,
16 transport, or distribution of cannabis, whether criminal or
17 noncriminal.

18 (3) Registration in the system shall be optional for qualifying
19 patients and designated providers, not mandatory. Registrations are
20 valid for one year, except that qualifying patients must be able to
21 remove themselves from the registry at any time. The department of
22 health must adopt rules providing for registration renewals and for
23 removing expired registrations from the registry.

24 (4) Fees, including renewal fees, for qualifying patients and
25 designated providers participating in the registration system shall be
26 adequate to recapture the cost to the state of implementing,
27 maintaining, and enforcing the provisions of this section and the rules
28 adopted to carry out its purposes. Reduced fees shall be offered on an
29 income-based sliding scale.

30 (5) During the rule-making process, the department of health shall
31 consult with stakeholders and persons with relevant expertise, to
32 include but not be limited to qualifying patients, designated
33 providers, health care professionals, state and local law enforcement
34 agencies, and the University of Washington computer science and
35 engineering security and privacy research lab.

36 (6) The registration system shall meet the following requirements:

37 (a) Any personally identifiable information included in the

1 registration system must be "nonreversible," pursuant to definitions
2 and standards set forth by the national institute of standards and
3 technology;

4 (b) Any personally identifiable information included in the
5 registration system must not be susceptible to linkage by use of data
6 external to the registration system;

7 (c) The registration system must incorporate current best
8 differential privacy practices, allowing for maximum accuracy of
9 registration system queries while minimizing the chances of identifying
10 the personally identifiable information included therein; and

11 (d) The registration system must be upgradable and updated in a
12 timely fashion to keep current with state of the art privacy and
13 security standards and practices.

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

22 (a) The subject of a registration query may appear during ordinary
23 department of health business hours and inspect or copy log records
24 relating to him or her upon adequate proof of identity; or

25 (b) The subject of a registration query may submit a written
26 request to the department of health, along with adequate proof of
27 identity, for copies of log records relating to him or her.

28 (8) Fees collected under this section must be deposited into the
29 health professions account under RCW 43.70.320.

30 NEW SECTION. **Sec. 902.** The department of agriculture shall, in
31 consultation with the department of health:

32 (1) Create and maintain a secure and confidential list of the
33 persons to whom it has issued a license to produce cannabis for medical
34 use or a license to process cannabis products, and the physical
35 addresses of the licensees' production and processing facilities, that
36 meets the requirements set forth in section 901(6) of this act.

1 (a) Except as provided in (b) of this subsection, the list shall be
2 confidential and exempt from public disclosure, inspection, or copying
3 under chapter 42.56 RCW.

4 (b) Names and other personally identifiable information from the
5 list may be released only to:

6 (i) Authorized employees of the department of agriculture as
7 necessary to perform official duties of the department of agriculture;
8 or

9 (ii) Authorized employees of state or local law enforcement
10 agencies, only as necessary to verify that a person is a licensed
11 producer or processor of cannabis products, or that a location is the
12 recorded address of a production or processing facility owned or
13 operated by a licensed producer or processor, and only after the
14 inquiring state or local law enforcement employee has provided adequate
15 identification;

16 (2) Develop a secure and confidential system by which authorized
17 employees of state and local law enforcement agencies may verify at all
18 times, after providing adequate identification, that a person is a
19 licensed producer or processor of cannabis products, or that a location
20 is the recorded address of a production or processing facility owned or
21 operated by a licensed producer or processor;

22 (3) Maintain a log of all requests by employees of state and local
23 law enforcement agencies, including the employee's name, agency, and
24 identification number, for information relating to whether a person is
25 a licensed producer or processor of cannabis products, or that a
26 location is the recorded address of a production or processing facility
27 owned or operated by a licensed producer or processor, and the
28 information supplied, for a period of no less than three years from the
29 date of the request. Personally identifiable information of licensed
30 producers and processors of cannabis products included in the log shall
31 be confidential and exempt from public disclosure, inspection, or
32 copying under chapter 42.56 RCW, provided that:

33 (a) The subject of a request for information may appear during
34 ordinary department of agriculture business hours and inspect or copy
35 log records relating to him or her upon adequate proof of identity; or

36 (b) The subject of a request for information may submit a written
37 request to the department of agriculture, along with adequate proof of
38 identity, for copies of log records relating to him or her;

1 (4)(a) Establish and collect reasonable fees for the dissemination
2 of information to employees of state and local law enforcement agencies
3 relating to whether a person is a licensed producer or processor of
4 cannabis products, or that a location is the recorded address of a
5 production or processing facility owned or operated by a licensed
6 producer or processor, and for the dissemination of log records
7 relating to such requests for information to the subjects of those
8 requests. Fees collected under this section must be deposited into the
9 agricultural local fund created in RCW 43.23.230.

10 (b) Authorized employees of state or local law enforcement agencies
11 who obtain personally identifiable information from the list as
12 authorized under this section may not release or use the information
13 for any purpose other than verification that a person is a licensed
14 producer or processor of cannabis products, or that a location is the
15 recorded address of a production or processing facility owned or
16 operated by a licensed producer or processor.

17 (5) This section does not prohibit a department of agriculture
18 employee from contacting state or local law enforcement for assistance
19 during an emergency or while performing his or her duties under this
20 chapter.

21 NEW SECTION. **Sec. 903.** The department of health shall:

22 (1) Create and maintain a secure and confidential list of the
23 persons to whom it has issued a license to dispense cannabis for
24 medical use that meets the requirements set forth in section 901(6) of
25 this act.

26 (a) Except as provided in (b) of this subsection, the list shall be
27 confidential and exempt from public disclosure, inspection, or copying
28 under chapter 42.56 RCW.

29 (b) Names and other personally identifiable information from the
30 list may be released only to:

31 (i) Authorized employees of the department of health as necessary
32 to perform official duties of the department of health; or

33 (ii) Authorized employees of state or local law enforcement
34 agencies, only as necessary to verify that a person is a licensed
35 dispenser, or that a location is the recorded address of a licensed
36 dispenser, and only after the inquiring state or local law enforcement
37 employee has provided adequate identification;

1 (2) Develop a secure and confidential system by which authorized
2 employees of state and local law enforcement agencies may verify at all
3 times, after providing adequate identification, that a person is a
4 licensed dispenser, or that a location is the recorded address of a
5 licensed dispenser;

6 (3) Maintain a log of all requests by employees of state and local
7 law enforcement agencies, including the employee's name, agency, and
8 identification number, for information relating to whether a person is
9 a licensed dispenser, or that a location is the recorded address of a
10 licensed dispenser, and the information supplied, for a period of no
11 less than three years from the date of the request. Personally
12 identifiable information of licensed dispensers included in the log
13 shall be confidential and exempt from public disclosure, inspection, or
14 copying under chapter 42.56 RCW: PROVIDED, That:

15 (a) The subject of a request for information may appear during
16 ordinary department of health business hours and inspect or copy log
17 records relating to him or her upon adequate proof of identity; or

18 (b) The subject of a request for information may submit a written
19 request to the department of health, along with adequate proof of
20 identity, for copies of log records relating to him or her;

21 (4)(a) Establish and collect reasonable fees for the dissemination
22 of information to employees of state and local law enforcement agencies
23 relating to whether a person is a licensed dispenser, or that a
24 location is the recorded address of a licensed dispenser, and for the
25 dissemination of log records relating to such requests for information
26 to the subjects of those requests. Fees collected under this section
27 must be deposited into the health professions account created in RCW
28 43.70.320.

29 (b) Authorized employees of state or local law enforcement agencies
30 who obtain personally identifiable information from the list as
31 authorized under this section may not release or use the information
32 for any purpose other than verification that a person is a licensed
33 dispenser, or that a location is the recorded address of a licensed
34 dispenser.

35 NEW SECTION. **Sec. 904.** (1) Evidence of the presence or use of
36 cannabis may not on its own constitute probable cause for a peace

1 officer to obtain a search or arrest warrant or to conduct a
2 warrantless search or arrest unless the peace officer:

3 (a) Ascertains that the person or location under investigation is
4 not registered with:

5 (i) The department of health as a qualifying patient, designated
6 provider, licensed dispenser, or the primary residence of a qualifying
7 patient or designated provider; or

8 (ii) The department of agriculture as a licensed producer, licensed
9 processor of cannabis products, physical address of a production
10 facility, or physical address of a processing facility;

11 (b) After making efforts reasonable under the circumstances, is
12 unable to ascertain whether the person or location under investigation
13 is registered with:

14 (i) The department of health as a qualifying patient, designated
15 provider, licensed dispenser, or primary residence of a qualifying
16 patient or designated provider; or

17 (ii) The department of agriculture as a licensed producer, licensed
18 processor of cannabis products, physical address of a production
19 facility, or physical address of a processing facility;

20 (c) Has probable cause to believe that the person or location is
21 disqualified from the protections of this chapter or is not complying
22 with the provisions of this chapter; or

23 (d) Has probable cause to believe that a cannabis-related traffic
24 offense is being committed.

25 (2) If a peace officer discovers cannabis at a location outside
26 ordinary business hours of the department of health, and no person is
27 present to provide information allowing the officer to ascertain
28 whether the location is the primary residence of a registered
29 qualifying patient or designated provider, the officer shall make
30 reasonable efforts to contact the occupant of the location before
31 seizing cannabis that falls within the limits described in RCW
32 69.51A.040. For the purposes of this section, reasonable efforts
33 include, at a minimum, attempting to contact the qualifying patient or
34 designated provider using the contact information required by RCW
35 69.51A.040(3).

36 NEW SECTION. **Sec. 905.** A new section is added to chapter 42.56
37 RCW to read as follows:

1 Records containing names and other personally identifiable
2 information relating to qualifying patients, designated providers, and
3 persons licensed as producers or dispensers of cannabis for medical
4 use, or as processors of cannabis products, under chapter 69.51A RCW
5 and rules adopted to carry out its purposes are exempt from disclosure
6 under this chapter.

7 **PART X**
8 **EVALUATION**

9 NEW SECTION. **Sec. 1001.** (1) By July 1, 2014, the Washington state
10 institute for public policy shall, within available funds, conduct a
11 cost-benefit evaluation of the implementation of this act and the rules
12 adopted to carry out its purposes.

13 (2) The evaluation of the implementation of this act and the rules
14 adopted to carry out its purposes shall include, but not necessarily be
15 limited to, consideration of the following factors:

16 (a) Qualifying patients' access to an adequate source of cannabis
17 for medical use;

18 (b) Qualifying patients' access to a safe source of cannabis for
19 medical use;

20 (c) Qualifying patients' access to a consistent source of cannabis
21 for medical use;

22 (d) Qualifying patients' access to a secure source of cannabis for
23 medical use;

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

26 (f) Diversion of cannabis intended for medical use to nonmedical
27 uses; and

28 (g) Incidents of home invasion burglaries, robberies, and other
29 violent and property crimes associated with qualifying patients
30 accessing cannabis for medical use.

31 (3) For purposes of facilitating this evaluation, the departments
32 of health and agriculture will make available to the Washington state
33 institute for public policy requested data, and any other data either
34 department may consider relevant, from which all personally
35 identifiable information has been redacted.

1 dispensaries become licensed in accordance with the requirements of
2 this chapter and that this licensing provides them with arrest
3 protection so long as they remain in compliance with the requirements
4 of this chapter and the rules adopted under this chapter. The
5 legislature further recognizes that cannabis producers and cannabis
6 dispensaries in current operation are not able to become licensed until
7 the department of agriculture and the department of health adopt rules
8 and, consequently, it is likely they will remain unlicensed until at
9 least July 1, 2012. These producers and dispensary owners and
10 operators run the risk of arrest between the effective date of this
11 section and the time they become licensed. Therefore, the legislature
12 intends to provide them with an affirmative defense if they meet the
13 requirements of this section.

14 (2) If charged with a violation of state law relating to cannabis,
15 a producer of cannabis or a dispensary and its owners and operators
16 that are engaged in the production or dispensing of cannabis to a
17 qualifying patient or who assists a qualifying patient in the medical
18 use of cannabis is deemed to have established an affirmative defense to
19 such charges by proof of compliance with this section.

20 (3) In order to assert an affirmative defense under this section,
21 a cannabis producer or cannabis dispensary must:

22 (a) In the case of producers, solely provide cannabis to cannabis
23 dispensaries for the medical use of cannabis by qualified patients;

24 (b) In the case of dispensaries, solely provide cannabis to
25 qualified patients for their medical use;

26 (c) Be registered with the secretary of state as of May 1, 2011;

27 (d) File a letter of intent with the department of agriculture or
28 the department of health, as the case may be, asserting that the
29 producer or dispenser intends to become licensed in accordance with
30 this chapter and rules adopted by the appropriate department; and

31 (e) File a letter of intent with the city clerk if in an
32 incorporated area or to the county clerk if in an unincorporated area
33 stating they operate as a producer or dispensary and that they comply
34 with the provisions of this chapter and will comply with subsequent
35 department rule making.

36 (4) Upon receiving a letter of intent under subsection (3) of this
37 section, the department of agriculture, the department of health, and

1 the city clerk or county clerk must send a letter of acknowledgment to
2 the producer or dispenser. The producer and dispenser must display
3 this letter of acknowledgment in a prominent place in their facility.

4 (5) This section expires July 1, 2012.

5 NEW SECTION. **Sec. 1202.** RCW 69.51A.080 (Adoption of rules by the
6 department of health--Sixty-day supply for qualifying patients) and
7 2007 c 371 s 8 are each repealed.

8 NEW SECTION. **Sec. 1203.** Sections 402 through 411, 413, 601
9 through 611, 701 through 703, 801 through 807, 901 through 904, 1001,
10 1101, 1102, and 1201 of this act are each added to chapter 69.51A RCW.

11 NEW SECTION. **Sec. 1204.** Section 1002 of this act takes effect
12 July 1, 2012.

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