
SUBSTITUTE SENATE BILL 6265

State of Washington

62nd Legislature

2012 Regular Session

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

READ FIRST TIME 02/01/12.

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

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

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

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

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

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

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

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

31 (5)(a) "Designated provider" means a person who:
32 ~~((a))~~ (i) Is eighteen years of age or older;
33 ~~((b))~~ (ii) Has been designated in ~~((writing))~~ a written document
34 signed and dated by a qualifying patient to serve as a designated
35 provider under this chapter;

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

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

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

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

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

12 ~~((2))~~ (7) "Health care professional," for purposes of this
13 chapter only, means a physician licensed under chapter 18.71 RCW, a
14 physician assistant licensed under chapter 18.71A RCW, an osteopathic
15 physician licensed under chapter 18.57 RCW, an osteopathic physicians'
16 assistant licensed under chapter 18.57A RCW, a naturopath licensed
17 under chapter 18.36A RCW, or an advanced registered nurse practitioner
18 licensed under chapter 18.79 RCW.

19 ~~((3))~~ (8) "Jail" has the meaning provided in RCW 70.48.020.

20 (9) "Labeling" means all labels and other written, printed, or
21 graphic matter upon any cannabis intended for medical use or
22 accompanying such cannabis.

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

28 ~~((4))~~ (11) "Nonprofit patient cooperative" means a member run
29 nonprofit corporation registered with the secretary of state under
30 chapter 24.03 or 24.06 RCW but which is not required to be recognized
31 as an organization under 26 U.S.C. Sec. 501(c)(3) by the federal
32 internal revenue service. Nonprofit patient cooperatives dispense
33 cannabis for the medical use of their members if not prohibited by
34 counties, cities, or towns under section 2 of this act and must meet
35 all requirements of this chapter. Members of a nonprofit patient
36 cooperative must only be qualifying patients or their designated
37 providers.

38 (12) "Peace officer" has the meaning provided in RCW 43.101.010.

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

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

19 (15)(a) "Qualifying patient" means a person who:

20 ~~((+a))~~ (i) Is a patient of a health care professional;

21 ~~((+b))~~ (ii) Is eighteen years of age or older or who is under
22 eighteen years of age and whose parent or guardian has provided written
23 consent for the medical use of cannabis by the minor to a health care
24 professional;

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

27 ~~((+c))~~ (iv) Is a resident of the state of Washington at the time
28 of such diagnosis;

29 ~~((+d))~~ (v) Has been advised by that health care professional about
30 the risks and benefits of the medical use of (~~marijuana~~) cannabis;
31 (~~and~~

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

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

37 (b) The term "qualifying patient" does not include a person who is
38 actively being supervised for a criminal conviction by a corrections

1 agency or department that has determined that the terms of this chapter
2 are inconsistent with and contrary to his or her supervision and all
3 related processes and procedures related to that supervision.

4 (16) "Registration card" means a card issued by the department of
5 health or its designee under section 16 of this act that demonstrates
6 registration with the registry.

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

13 ~~((+5))~~ (18) "Tamper-resistant paper" means paper that meets one or
14 more of the following industry-recognized features:

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

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

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

20 ~~((+6))~~ (19) "Terminal or debilitating medical condition" means:

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

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

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

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

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

32 (f) Diseases, including anorexia, which result in nausea, vomiting,
33 ~~((wasting))~~ 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))~~ (20) "Useable cannabis" means dried flowers of the Cannabis
2 plant. Useable cannabis excludes stems, stalks, leaves, seeds, and
3 roots. "Useable cannabis" does not include cannabis products.

4 (21)(a) "Valid documentation" means:

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

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

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

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

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

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

31 (2) A county, city, or town that does not prohibit nonprofit
32 patient cooperatives under subsection (1) of this section may adopt and
33 enforce requirements for nonprofit patient cooperatives that include
34 but are not limited to: Security requirements; inspection standards,
35 including policies on verifying qualified patient records; limits on
36 square footage; and limits on number of plants and amounts of useable

1 cannabis so long as such limits do not exceed the maximum amount
2 allowed under RCW 69.51A.043.

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

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

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

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

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

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

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

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

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

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

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

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

7 (g) No useable cannabis from the nonprofit patient cooperative may
8 be delivered to anyone other than one of the members of the nonprofit
9 patient cooperative;

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

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

19 (j) A nonprofit patient cooperative may hire staff to assist in the
20 operation of the nonprofit patient cooperative or use member
21 volunteers;

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

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

29 (m) A nonprofit patient cooperative must exclude from its premises
30 people who are not members or employees of the nonprofit patient
31 cooperative. However, a nonprofit patient cooperative may allow
32 tradespersons and service personnel onto its premises for the purpose
33 of repair or maintenance and may periodically allow prospective
34 members, government officials, acting in their official capacity, media
35 representatives, neighborhood watch groups, and proprietors of nearby
36 businesses onto its premises for the purpose of observing the operation
37 of the nonprofit patient cooperative;

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

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

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

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

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

24 (1) Nothing in this chapter is intended to preempt the authority of
25 cities and towns ((may adopt and enforce any of the following
26 pertaining to the production, processing, or dispensing of cannabis or
27 cannabis products within their jurisdiction*)) to impose zoning
28 requirements, ((business)) licensing requirements, permitting
29 requirements, health and safety requirements, ((and business)) taxes,
30 fees, or other conditions upon any nonprofit patient cooperative or
31 collective garden producing, processing, or dispensing cannabis within
32 its jurisdiction. ((Nothing in chapter 181, Laws of 2011 is intended
33 to limit the authority of cities and towns to impose zoning
34 requirements or other conditions upon licensed dispensers, so long as))
35 However, such requirements ((do)) may not preclude the possibility of
36 siting ((licensed dispensers)) collective gardens within the

1 jurisdiction. (~~If the jurisdiction has no commercial zones, the~~
2 ~~jurisdiction is not required to adopt zoning to accommodate licensed~~
3 ~~dispensers.))~~

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

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

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

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

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

35 (~~((b))~~) (c) A collective garden may contain no more than fifteen
36 plants per (~~(patient))~~ member up to a total of forty-five plants;

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

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

9 ~~((e))~~ (f) No useable cannabis from the collective garden ~~((is))~~
10 may be delivered to anyone other than one of the ~~((qualifying patients~~
11 ~~participating in))~~ members of the collective garden or a nonprofit
12 patient cooperative.

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

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

23 (3) Cities, towns, and counties may adopt and enforce requirements
24 for collective gardens including but not limited to: Security
25 requirements; size of membership; duration of membership; restrictions
26 on proximity to other collective gardens or nonprofit patient
27 cooperatives; and restriction on proximity to community centers, child
28 care centers, elementary or secondary schools, and colleges or
29 universities. However, such requirements shall allow collective
30 gardens to have at the minimum three members.

31 (4) This section takes effect if section 3 of this act is enacted
32 into law.

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

35 (1) Useable cannabis exceeding twenty-four ounces, cannabis product
36 exceeding what one could reasonably produce with twenty-four ounces of
37 useable cannabis, or a combination of useable cannabis and cannabis

1 product that represents possession and processing of more than twenty-
2 four ounces of useable cannabis must be transported in a locked metal
3 box that is bolted to the transporting vehicle.

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

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

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

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

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

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

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

26 (a) Advising a patient about the risks and benefits of medical use
27 of cannabis or that the patient may benefit from the medical use of
28 cannabis; or

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

35 (2)(a) A health care professional may only provide a patient with
36 valid documentation authorizing the medical use of cannabis or register
37 the patient with the registry established in section (~~901~~) 16 of this

1 act if he or she has a newly initiated or existing documented
2 relationship with the patient, as a primary care provider or a
3 specialist, relating to the diagnosis and ongoing treatment or
4 monitoring of the patient's terminal or debilitating medical condition,
5 and only after:

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

8 (ii) Documenting the terminal or debilitating medical condition of
9 the patient in the patient's medical record and that the patient may
10 benefit from treatment of this condition or its symptoms with medical
11 use of cannabis;

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

14 (iv) Documenting other measures attempted to treat the terminal or
15 debilitating medical condition that do not involve the medical use of
16 cannabis.

17 (b) A health care professional shall not:

18 (i) Accept, solicit, or offer any form of pecuniary remuneration
19 from or to a (~~licensed dispenser, licensed producer, or licensed~~
20 ~~processor of cannabis products~~) collective garden or nonprofit patient
21 cooperative;

22 (ii) Offer a discount or any other thing of value to a qualifying
23 patient who is a (~~customer~~) member of, or agrees to be a (~~customer~~)
24 member of, a particular (~~licensed dispenser, licensed producer, or~~
25 ~~licensed processor of cannabis products~~) collective garden or
26 nonprofit patient cooperative;

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

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

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

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

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

3 NEW SECTION. **Sec. 8.** The medical use of cannabis in accordance
4 with the terms and conditions of this chapter does not constitute a
5 crime and a qualifying patient or designated provider in compliance
6 with the terms and conditions of this chapter may not be arrested,
7 prosecuted, or subject to other criminal sanctions or civil
8 consequences, for possession, manufacture, or delivery of, or for
9 possession with intent to manufacture or deliver, cannabis under state
10 law, or have real or personal property seized or forfeited for
11 possession, manufacture, or delivery of, or for possession with intent
12 to manufacture or deliver, cannabis under state law, and investigating
13 peace officers and law enforcement agencies may not be held civilly
14 liable for failure to seize cannabis in this circumstance, if:

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

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

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

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

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

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

33 (3) The qualifying patient or designated provider keeps a copy of
34 his or her registration card with the registry established in section
35 16 of this act and the qualifying patient or designated provider's
36 contact information posted prominently next to any cannabis plants,
37 cannabis products, or useable cannabis located at his or her residence;

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

2 (a) The designated provider has converted cannabis produced or
3 obtained for the qualifying patient for his or her own personal use or
4 benefit; or

5 (b) The qualifying patient has converted cannabis produced or
6 obtained for his or her own medical use to the qualifying patient's
7 personal, nonmedical use or benefit;

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

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

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

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

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

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

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

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

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

34 (b) Possess no more than twice the amounts described in (a) of this
35 subsection if the person is both a qualifying patient or designated
36 provider for another qualifying patient, whether the plants, useable

1 cannabis, and cannabis products are possessed individually or in
2 combination between the qualifying patient and his or her designated
3 provider;

4 ~~((c))~~ (2) The qualifying patient or designated provider is in
5 compliance with all other terms and conditions of this chapter; and

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

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

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

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

27 his or her valid documentation to any peace officer who questions the
28 patient or provider regarding his or her medical use of cannabis or is
29 able to demonstrate that he or she had valid documentation in effect at
30 the time of questioning.

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

33 A qualifying patient or designated provider in possession of
34 cannabis plants, useable cannabis, or cannabis product exceeding the
35 limits set forth in RCW ~~((69.51A.040))~~ 69.51A.043(1) but otherwise in
36 compliance with all other terms and conditions of this chapter may
37 establish an affirmative defense to charges of violations of state law

1 relating to cannabis through proof at trial, by a preponderance of the
2 evidence, that the qualifying patient's necessary medical use exceeds
3 the amounts set forth in RCW ((69.51A.040)) 69.51A.043(1). An
4 investigating peace officer may seize cannabis plants, useable
5 cannabis, or cannabis product exceeding the amounts set forth in RCW
6 ((69.51A.040)) 69.51A.043(1): PROVIDED, That in the case of cannabis
7 plants, the qualifying patient or designated provider shall be allowed
8 to select the plants that will remain at the location. The officer and
9 his or her law enforcement agency may not be held civilly liable for
10 failure to seize cannabis in this circumstance.

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

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

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

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

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

29 (1)(a) The arrest and prosecution protections established in ((~~RCW~~
30 ~~69.51A.040~~)) section 8 of this act may not be asserted in a supervision
31 revocation or violation hearing by a person who is supervised by a
32 corrections agency or department, including local governments or jails,
33 that has determined that the terms of this section are inconsistent
34 with and contrary to his or her supervision.

35 (b) The affirmative defenses established in RCW 69.51A.043((~~7~~)) and
36 69.51A.045((~~7~~, ~~69.51A.047~~, and ~~section 407 of this act~~)) may not be

1 asserted in a supervision revocation or violation hearing by a person
2 who is supervised by a corrections agency or department, including
3 local governments or jails, that has determined that the terms of this
4 section are inconsistent with and contrary to his or her supervision.

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

10 (~~(3) A person may not be licensed as a licensed producer, licensed
11 processor of cannabis products, or a licensed dispenser under section
12 601, 602, or 701 of this act if he or she is supervised for a criminal
13 conviction by a corrections agency or department, including local
14 governments or jails, that has determined that licensure is
15 inconsistent with and contrary to his or her supervision.~~)

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

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

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

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

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

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

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

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

9 (8) No person shall be entitled to claim the protection from arrest
10 and prosecution under (~~RCW 69.51A.040~~) section 8 of this act or the
11 affirmative defense under RCW 69.51A.043 for engaging in the medical
12 use of cannabis in a way that endangers the health or well-being of any
13 person through the use of a motorized vehicle on a street, road, or
14 highway, including violations of RCW 46.61.502 or 46.61.504, or
15 equivalent local ordinances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

--- END ---