

SSB 6032 - S AMD 220

By Senators Kohl-Welles, Pflug

PULLED 03/14/2007

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

14 The people of Washington state find that some patients with  
15 terminal or debilitating illnesses, under their physician's care, may  
16 benefit from the medical use of marijuana. Some of the illnesses for  
17 which marijuana appears to be beneficial include chemotherapy-related  
18 nausea and vomiting in cancer patients; AIDS wasting syndrome; severe  
19 muscle spasms associated with multiple sclerosis and other spasticity  
20 disorders; epilepsy; acute or chronic glaucoma; and some forms of  
21 intractable pain.

22 The people find that humanitarian compassion necessitates that the  
23 decision to authorize the medical use of marijuana by patients with  
24 terminal or debilitating illnesses is a personal, individual decision,  
25 based upon their physician's professional medical judgment and  
26 discretion.

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

28 Qualifying patients with terminal or debilitating illnesses who, in

1 the judgment of their physicians, (~~would~~) may benefit from the  
2 medical use of marijuana, shall not be found guilty of a crime under  
3 state law for their possession and limited use of marijuana;

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

7 Physicians also be excepted from liability and prosecution for the  
8 authorization of marijuana use to qualifying patients for whom, in the  
9 physician's professional judgment, medical marijuana may prove  
10 beneficial.

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

13 The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15 (1) "Designated provider" means a person who:

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

17 (b) Has been designated in writing by a patient to serve as a  
18 designated provider under this chapter; and

19 (c) Is the designated provider to only one patient at any one time.

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

24 (~~(2) "Primary caregiver" means a person who:~~

25 ~~(a) Is eighteen years of age or older;~~

26 ~~(b) Is responsible for the housing, health, or care of the patient;~~

27 ~~(c) Has been designated in writing by a patient to perform the~~  
28 ~~duties of primary caregiver under this chapter.)~~

29 (3) "Production" means the manufacturing, planting, cultivating,  
30 growing, harvesting, and other steps reasonably related to the  
31 provision of medical marijuana individually by one patient, or by or  
32 with the assistance of his or her designated provider, for the  
33 exclusive benefit of the qualifying patient in the treatment of  
34 terminal or debilitating medical conditions.

35 (a) By January 1, 2008, the department of health shall adopt rules  
36 defining the presumptive quantity of marijuana that could reasonably be

1 said to be a sixty-day supply for any qualifying patient; this  
2 presumption may be overcome with evidence of the qualifying patient's  
3 actual use.

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

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

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

15 (a) Is a patient of a physician licensed under chapter 18.71 or  
16 18.57 RCW;

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

19 (c) Is a resident of the state of Washington at the time of such  
20 diagnosis;

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

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

25 ~~((4))~~ (5) "Terminal or debilitating medical condition" means:

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

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

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

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

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

37 (f) Diseases, including anorexia, which result in nausea, vomiting,

1 wasting, appetite loss, cramping, seizures, muscle spasms, or  
2 spasticity, when these symptoms are unrelieved by standard treatments  
3 or medications; or

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

8 ((+5)) (6) "Valid documentation" means:

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

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

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

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

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

24 (1) Advising a qualifying patient about the risks and benefits of  
25 medical use of marijuana or that the qualifying patient may benefit  
26 from the medical use of marijuana where such use is within a  
27 professional standard of care or in the individual physician's medical  
28 judgment; or

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

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

36 (1) If a law enforcement officer determines that marijuana is being

1 possessed lawfully under the medical marijuana law, the officer may  
2 document the amount of marijuana, take a representative sample that is  
3 large enough to test, but not seize the marijuana. A law enforcement  
4 officer or agency shall not be held civilly liable for failure to seize  
5 marijuana in this circumstance.

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

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

18 (a) Meet all criteria for status as a qualifying patient or  
19 designated provider;

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

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

26 (~~(3) The~~) (4) A qualifying patient, if under eighteen years of  
27 age at the time he or she is alleged to have committed the offense,  
28 shall (~~comply~~) demonstrate compliance with subsection (~~(2)~~) (3)(a)  
29 and (c) of this section. However, any possession under subsection  
30 (~~(2)~~) (3)(b) of this section, as well as any production, acquisition,  
31 and decision as to dosage and frequency of use, shall be the  
32 responsibility of the parent or legal guardian of the qualifying  
33 patient, who shall not be arrested, prosecuted, or penalized in any  
34 manner for meeting such responsibilities.

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

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

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

5 ~~(c) Present a copy of the qualifying patient's valid documentation~~  
6 ~~required by this chapter, as well as evidence of designation to act as~~  
7 ~~primary caregiver by the patient, to any law enforcement official~~  
8 ~~requesting such information;~~

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

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

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

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

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

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

22 (4) Nothing in this chapter requires any accommodation of any on-  
23 site medical use of marijuana in any place of employment, in any school  
24 bus or on any school grounds, ~~((or))~~ or in any  
25 correctional facility.

26 (5) It is a class C felony to fraudulently produce any record  
27 purporting to be, or tamper with the content of any record for the  
28 purpose of having it accepted as, valid documentation under RCW  
29 69.51A.010~~((+5))~~ (6)(a).

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

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

36 The Washington state medical quality assurance ~~((board~~

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

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15 On page 1, line 1 of the title, after "marijuana;" strike the  
16 remainder of the title and insert "amending RCW 69.51A.005, 69.51A.010,  
17 69.51A.030, 69.51A.040, 69.51A.060, and 69.51A.070; and creating a new  
18 section."

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