
SUBSTITUTE SENATE BILL 6032

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kohl-Welles, McCaslin, Kline, Regala and Keiser)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to medical use of marijuana; amending RCW
2 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.060, and
3 69.51A.070; and creating a new section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 By January 2008, the department of health shall adopt rules
11 defining the maximum quantity of medical marijuana necessary for an
12 individual qualified patient's sixty-day supply for personal medical
13 use.

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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