
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073

State of Washington

62nd Legislature

2011 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe, and Chase)

READ FIRST TIME 02/25/11.

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~~ 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 proper 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 medical organization
4 licensed to dispense cannabis for medical use to qualifying patients
5 and designated providers by the department of health in accordance with
6 rules adopted by the department of health pursuant to the terms of this
7 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 ~~((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) A health care professional may only provide a patient with
24 valid documentation authorizing the medical use of cannabis or register
25 the patient with the registry established in section 901 of this act if
26 he or she has a documented relationship with the patient relating to
27 the diagnosis and ongoing treatment or monitoring of the patient's
28 terminal or debilitating medical condition, and only after:

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

31 (ii) Documenting the terminal or debilitating medical condition of
32 the patient in the patient's medical record and that the patient may
33 benefit from treatment of this condition or its symptoms with medical
34 use of cannabis;

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

37 (iv) Documenting other measures attempted to treat the terminal or

1 debilitating medical condition that do not involve the medical use of
2 cannabis.

3 (b) A health care professional shall not:

4 (i) Accept, solicit, or offer any form of pecuniary remuneration
5 from or to a licensed dispenser, licensed producer, or licensed
6 processor of cannabis products;

7 (ii) Offer a discount or any other thing of value to a qualifying
8 patient who is a customer of, or agrees to be a customer of, a
9 particular licensed dispenser, licensed producers, or licensed
10 processor of cannabis products;

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

14 (iv) Examine or offer to examine a patient solely or primarily for
15 the purpose of authorizing the medical use of cannabis;

16 (v) Have a business or practice which consists primarily of
17 examining patients for the purpose of authorizing the medical use of
18 cannabis;

19 (vi) Include any statement or reference, visual or otherwise, on
20 the medical use of cannabis in any advertisement for his or her
21 business or practice; or

22 (vii) Hold an economic interest in an enterprise that produces,
23 processes, or dispenses cannabis if the health care professional
24 authorizes the medical use of cannabis.

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

27 **PART IV**

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

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

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

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

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

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

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

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

21 ~~(4) A qualifying patient, if under eighteen years of age at the~~
22 ~~time he or she is alleged to have committed the offense, shall~~
23 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~
24 ~~However, any possession under subsection (3)(b) of this section, as~~
25 ~~well as any production, acquisition, and decision as to dosage and~~
26 ~~frequency of use, shall be the responsibility of the parent or legal~~
27 ~~guardian of the qualifying patient.)) The medical use of cannabis in~~
28 ~~accordance with the terms and conditions of this chapter does not~~
29 ~~constitute a crime and a qualifying patient or designated provider in~~
30 ~~compliance with the terms and conditions of this chapter may not be~~
31 ~~arrested, searched, prosecuted, or subject to other criminal sanctions~~
32 ~~or civil consequences for possession, manufacture, or delivery of, or~~
33 ~~for possession with intent to manufacture or deliver, cannabis under~~
34 ~~state law, or have real or personal property searched, seized, or~~
35 ~~forfeited for possession, manufacture, or delivery of, or for~~
36 ~~possession with intent to manufacture or deliver, cannabis under state~~
37 ~~law, and investigating peace officers and law enforcement agencies may~~

1 not be held civilly liable for failure to seize cannabis in this
2 circumstance, if:

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

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

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

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

11 (b) If a person is both a qualifying patient and a designated
12 provider for another qualifying patient, the person may possess no more
13 than twice the amounts described in (a) of this subsection, whether the
14 plants, useable cannabis, and cannabis product are possessed
15 individually or in combination between the qualifying patient and his
16 or her designated provider;

17 (2) The qualifying patient or designated provider presents his or
18 her proof of registration with the department of health, to any peace
19 officer who questions the patient or provider regarding his or her
20 medical use of cannabis;

21 (3) The qualifying patient or designated provider keeps a copy of
22 his or her proof of registration with the registry established in
23 section 901 of this act and the qualifying patient or designated
24 provider's contact information posted prominently next to any cannabis
25 plants, cannabis products, or useable cannabis located at his or her
26 residence;

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

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

33 NEW SECTION. Sec. 402. A qualifying patient or designated
34 provider who is not registered with the registry established in section
35 901 of this act, but who possesses valid documentation that he or she
36 is a qualifying patient may assert an affirmative defense at trial if
37 he or she otherwise meets the requirements of section 401 of this act.

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

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

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

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

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

16 (e) No useable cannabis from the collective garden is delivered to
17 anyone other than one of the qualifying patients participating in the
18 collective garden.

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

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

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

36 (2) A person may stop serving as a designated provider to a given
37 qualifying patient at any time. However, that person may not begin

1 serving as a designated provider to a different qualifying patient
2 until fifteen days have elapsed from the date the last qualifying
3 patient designated him or her to serve as a provider.

4 NEW SECTION. **Sec. 405.** A qualifying patient or designated
5 provider in possession of cannabis plants, useable cannabis, or
6 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)
7 but otherwise in compliance with all other terms and conditions of this
8 chapter may establish an affirmative defense to charges of violations
9 of state law relating to cannabis through proof at trial, by a
10 preponderance of the evidence, that the qualifying patient's necessary
11 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An
12 investigating peace officer may seize cannabis plants, useable
13 cannabis, or cannabis product exceeding the amounts set forth in RCW
14 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the
15 qualifying patient or designated provider shall be allowed to select
16 the plants that will remain at the location. The officer and his or
17 her law enforcement agency may not be held civilly liable for failure
18 to seize cannabis in this circumstance.

19 NEW SECTION. **Sec. 406.** A qualifying patient or designated
20 provider who is not registered with the registry established in section
21 901 of this act or does not present his or her valid documentation to
22 a peace officer who questions the patient or provider regarding his or
23 her medical use of cannabis but is in compliance with all other terms
24 and conditions of this chapter may establish an affirmative defense to
25 charges of violations of state law relating to cannabis through proof
26 at trial, by a preponderance of the evidence, that he or she was a
27 validly authorized qualifying patient or designated provider at the
28 time of the officer's questioning. A qualifying patient or designated
29 provider who establishes an affirmative defense under the terms of this
30 section may also establish an affirmative defense under section 405 of
31 this act.

32 NEW SECTION. **Sec. 407.** A nonresident who is duly authorized to
33 engage in the medical use of cannabis under the laws of another state
34 or territory of the United States may raise an affirmative defense to

1 charges of violations of Washington state law relating to cannabis,
2 provided that the nonresident:

3 (1) Possesses no more than fifteen cannabis plants and no more than
4 twenty-four ounces of useable cannabis, no more cannabis product than
5 reasonably could be produced with no more than twenty-four ounces of
6 useable cannabis, or a combination of useable cannabis and cannabis
7 product that does not exceed a combined total representing possession
8 and processing of no more than twenty-four ounces of useable cannabis;

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

13 (3) Presents the documentation of authorization required under the
14 nonresident's authorizing state or territory's law and proof of
15 identity issued by the authorizing state or territory to any peace
16 officer who questions the nonresident regarding his or her medical use
17 of cannabis.

18 NEW SECTION. **Sec. 408.** A qualifying patient's medical use of
19 cannabis as authorized by a health care professional may not be a sole
20 disqualifying factor in determining the patient's suitability for an
21 organ transplant, unless it is shown that this use poses a significant
22 risk of rejection or organ failure. This section does not preclude a
23 health care professional from requiring that a patient abstain from the
24 medical use of cannabis, for a period of time determined by the health
25 care professional, while waiting for a transplant organ or before the
26 patient undergoes an organ transplant.

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

34 NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)
35 of this section, a qualifying patient may not be refused housing or

1 evicted from housing solely as a result of his or her possession or use
2 of useable cannabis or cannabis products except that housing providers
3 otherwise permitted to enact and enforce prohibitions against smoking
4 in their housing may apply those prohibitions to smoking cannabis
5 provided that such smoking prohibitions are applied and enforced
6 equally as to the smoking of cannabis and the smoking of all other
7 substances, including without limitation tobacco.

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

11 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,
12 deferred prosecution, stipulated order of continuance, deferred
13 disposition, or dispositional order, any court organized under the laws
14 of Washington state may permit the medical use of cannabis in
15 compliance with the terms of this chapter and exclude it as a possible
16 ground for finding that the offender has violated the conditions or
17 requirements of the sentence, deferred prosecution, stipulated order of
18 continuance, deferred disposition, or dispositional order. This
19 section does not require the accommodation of any on-site medical use
20 of cannabis in any correctional facility.

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

23 (1) The lawful possession, delivery, dispensing, production, or
24 manufacture of ((~~medical-marijuana~~)) cannabis for medical use as
25 authorized by this chapter shall not result in the forfeiture or
26 seizure of any real or personal property including, but not limited to,
27 cannabis intended for medical use, items used to facilitate the medical
28 use of cannabis or its production or dispensing for medical use, or
29 proceeds of sales of cannabis for medical use made by licensed
30 producers, licensed processors of cannabis products, or licensed
31 dispensers.

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

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

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

9 **PART V**
10 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**
11 **PATIENTS AND DESIGNATED PROVIDERS**

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

14 (1) ~~((It shall be a misdemeanor to use or display medical marijuana~~
15 ~~in a manner or place which is open to the view of the general public.))~~
16 It is unlawful to open a package containing cannabis or consume
17 cannabis in a public place in a manner that presents a reasonably
18 foreseeable risk that another person would see and be able to identify
19 the substance contained in the package or being consumed as cannabis.
20 A person who violates a provision of this section commits a class 3
21 civil infraction under chapter 7.80 RCW. This subsection does not
22 apply to licensed dispensers or their employees, members, officers, or
23 directors displaying cannabis to customers on their licensed premises
24 as long as such displays are not visible to members of the public
25 standing or passing outside the premises.

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

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

32 (4) Nothing in this chapter requires any accommodation of any on-
33 site medical use of ((marijuana)) cannabis in any place of employment,
34 in any school bus or on any school grounds, in any youth center, in any

1 correctional facility, or smoking (~~(medical marijuana)~~) cannabis in any
2 public place as that term is defined in RCW 70.160.020.

3 (5) It is a class C felony to fraudulently produce any record
4 purporting to be, or tamper with the content of any record for the
5 purpose of having it accepted as, valid documentation under RCW
6 69.51A.010(~~(+7)~~) (29)(a), or to backdate such documentation to a time
7 earlier than its actual date of execution.

8 (6) (~~No person shall be entitled to claim the affirmative defense~~
9 ~~provided in RCW 69.51A.040 for engaging~~) The fact that a qualifying
10 patient has been authorized to engage in the medical use of (~~(marijuana~~
11 ~~in a way that endangers the health or well being of any person through~~
12 ~~the use of a motorized vehicle on a street, road, or highway)~~) cannabis
13 does not constitute a defense against a charge of violating RCW
14 46.61.502 or 46.61.504.

15 PART VI

16 LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS

17 NEW SECTION. Sec. 601. A person may not act as a licensed
18 producer without a license for each production facility issued by the
19 department of agriculture and prominently displayed on the premises.
20 Provided they are acting in compliance with the terms of this chapter
21 and rules adopted to enforce and carry out its purposes, licensed
22 producers and their employees, members, officers, and directors may
23 manufacture, plant, cultivate, grow, harvest, produce, prepare,
24 propagate, process, package, repackage, transport, transfer, deliver,
25 label, relabel, wholesale, or possess cannabis intended for medical use
26 by qualifying patients, including seeds, seedlings, cuttings, plants,
27 and useable cannabis, and may not be arrested, searched, prosecuted, or
28 subject to other criminal sanctions or civil consequences under state
29 law, or have real or personal property searched, seized, or forfeited
30 pursuant to state law, for such activities, notwithstanding any other
31 provision of law.

32 NEW SECTION. Sec. 602. A person may not act as a licensed
33 processor without a license for each processing facility issued by the
34 department of agriculture and prominently displayed on the premises.
35 Provided they are acting in compliance with the terms of this chapter

1 and rules adopted to enforce and carry out its purposes, licensed
2 processors of cannabis products and their employees, members, officers,
3 and directors may possess useable cannabis and manufacture, produce,
4 prepare, process, package, repackage, transport, transfer, deliver,
5 label, relabel, wholesale, or possess cannabis products intended for
6 medical use by qualifying patients, and may not be arrested, searched,
7 prosecuted, or subject to other criminal sanctions or civil
8 consequences under state law, or have real or personal property
9 searched, seized, or forfeited pursuant to state law, for such
10 activities, notwithstanding any other provision of law.

11 NEW SECTION. **Sec. 603.** The director shall administer and carry
12 out the provisions of this chapter relating to licensed producers and
13 licensed processors of cannabis products, and rules adopted under this
14 chapter.

15 NEW SECTION. **Sec. 604.** (1) On a schedule determined by the
16 department of agriculture, licensed producers and licensed processors
17 must submit representative samples of cannabis grown or processed to a
18 cannabis analysis laboratory for grade, condition, cannabinoid profile,
19 THC concentration, other qualitative measurements of cannabis intended
20 for medical use, and other inspection standards determined by the
21 department of agriculture. Any samples remaining after testing must be
22 destroyed by the laboratory or returned to the licensed producer or
23 licensed processor.

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

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

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

1 NEW SECTION. **Sec. 606.** The department of agriculture may adopt
2 rules on:

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

5 (2) Measurements for cannabis intended for medical use, including
6 grade, condition, cannabinoid profile, THC concentration, other
7 qualitative measurements, and other inspection standards for cannabis
8 intended for medical use; and

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

13 NEW SECTION. **Sec. 607.** The director is authorized to deny,
14 suspend, or revoke a producer's or processor's license after a hearing
15 in any case in which it is determined that there has been a violation
16 or refusal to comply with the requirements of this chapter or rules
17 adopted hereunder. All hearings for the denial, suspension, or
18 revocation of a producer's or processor's license are subject to
19 chapter 34.05 RCW, the administrative procedure act, as enacted or
20 hereafter amended.

21 NEW SECTION. **Sec. 608.** (1) By July 1, 2012, taking into
22 consideration, but not being limited by, the security requirements
23 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
24 rules:

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

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

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

35 (i) The business or trade name and Washington state unified

1 business identifier (UBI) number of the licensed producer of the
2 cannabis;

3 (ii) THC concentration; and

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

6 (d) Establishing requirements for transportation of cannabis
7 intended for medical use from production facilities to processing
8 facilities and licensed dispensers;

9 (e) Establishing security requirements for the facilities of
10 licensed producers and licensed processors of cannabis products. These
11 security requirements must consider the safety of the licensed
12 producers and licensed processors as well as the safety of the
13 community surrounding the licensed producers and licensed processors;

14 (f) Establishing requirements for the licensure of producers, and
15 processors of cannabis products, setting forth procedures to obtain
16 licenses, and determining expiration dates and renewal requirements;
17 and

18 (g) Establishing license application and renewal fees for the
19 licensure of producers and processors of cannabis products in
20 accordance with RCW 43.70.250.

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

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

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

34 (2) The property, books, records, accounts, papers, and proceedings
35 of every licensed producer and licensed processor of cannabis products
36 shall be subject to inspection by the department of agriculture at any
37 time during ordinary business hours. Licensed producers and licensed

1 processors of cannabis products shall maintain adequate records and
2 systems for the filing and accounting of crop production, product
3 manufacturing and processing, records of weights and measurements,
4 product testing, receipts, canceled receipts, other documents, and
5 transactions necessary or common to the medical cannabis industry.

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

11 (4) Each licensed producer and licensed processor of cannabis
12 products shall report information to the department of agriculture at
13 such times and as may be reasonably required by the director for the
14 necessary enforcement and supervision of a sound, reasonable, and
15 efficient cannabis inspection program for the protection of the health
16 and welfare of qualifying patients.

17 NEW SECTION. **Sec. 610.** (1) The department of agriculture may give
18 written notice to a licensed producer or processor of cannabis products
19 to furnish required reports, documents, or other requested information,
20 under such conditions and at such time as the department of agriculture
21 deems necessary if a licensed producer or processor of cannabis
22 products fails to:

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

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

27 (c) Furnish the department of agriculture with requested
28 information.

29 (2) If the licensed producer or processor of cannabis products
30 fails to comply with the terms of the notice within seventy-two hours
31 from the date of its issuance, or within such further time as the
32 department of agriculture may allow, the department of agriculture
33 shall levy a fine of five hundred dollars per day from the final date
34 for compliance allowed by this section or the department of
35 agriculture. In those cases where the failure to comply continues for
36 more than seven days or where the director determines the failure to
37 comply creates a threat to public health, public safety, or a

1 substantial risk of diversion of cannabis to unauthorized persons or
2 purposes, the department of agriculture may, in lieu of levying further
3 fines, petition the superior court of the county where the licensee's
4 principal place of business in Washington is located, as shown by the
5 license application, for an order:

6 (a) Authorizing the department of agriculture to seize and take
7 possession of all books, papers, and property of all kinds used in
8 connection with the conduct or the operation of the licensed producer
9 or processor's business, and the books, papers, records, and property
10 that pertain specifically, exclusively, and directly to that business;
11 and

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

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

19 (4) The department of agriculture may request the Washington state
20 patrol to assist it in enforcing this section if needed to ensure the
21 safety of its employees.

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

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

33 **PART VII**
34 **LICENSED DISPENSERS**

1 NEW SECTION. **Sec. 701.** A person may not act as a licensed
2 dispenser without a license for each place of business issued by the
3 department of health and prominently displayed on the premises.
4 Provided they are acting in compliance with the terms of this chapter
5 and rules adopted to enforce and carry out its purposes, licensed
6 dispensers and their employees, members, officers, and directors may
7 deliver, distribute, dispense, transfer, prepare, package, repackage,
8 label, relabel, sell at retail, or possess cannabis intended for
9 medical use by qualifying patients, including seeds, seedlings,
10 cuttings, plants, useable cannabis, and cannabis products, and may not
11 be arrested, searched, prosecuted, or subject to other criminal
12 sanctions or civil consequences under state law, or have real or
13 personal property searched, seized, or forfeited pursuant to state law,
14 for such activities, notwithstanding any other provision of law.

15 NEW SECTION. **Sec. 702.** (1) By July 1, 2012, taking into
16 consideration the security requirements described in 21 C.F.R. 1301.71-
17 1301.76, the secretary shall adopt rules:

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

21 (b) Providing for mandatory inspection of licensed dispensers'
22 locations;

23 (c) Establishing procedures governing the suspension and revocation
24 of licenses of dispensers;

25 (d) Establishing recordkeeping requirements for licensed
26 dispensers;

27 (e) Fixing the sizes and dimensions of containers to be used for
28 dispensing cannabis for medical use;

29 (f) Establishing safety standards for containers to be used for
30 dispensing cannabis for medical use;

31 (g) Establishing cannabis storage requirements, including security
32 requirements;

33 (h) Establishing cannabis labeling requirements, to include
34 information on whether the cannabis was grown using organic, inorganic,
35 or synthetic fertilizers;

36 (i) Establishing physical standards for cannabis dispensing
37 facilities;

1 (j) Establishing maximum amounts of cannabis and cannabis products
2 that may be kept at one time at a dispensary. In determining maximum
3 amounts, the secretary must consider the security of the dispensary and
4 the surrounding community;

5 (k) Establishing physical standards for sanitary conditions for
6 cannabis dispensing facilities;

7 (l) Establishing physical and sanitation standards for cannabis
8 dispensing equipment;

9 (m) Enforcing and carrying out the provisions of this section and
10 the rules adopted to carry out its purposes; and

11 (n) Establishing license application and renewal fees for the
12 licensure of dispensers in accordance with RCW 43.70.250.

13 (2) Fees collected under this section must be deposited into the
14 health professions account created in RCW 43.70.320.

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

20 NEW SECTION. **Sec. 703.** A licensed dispenser may not sell cannabis
21 received from any person other than a licensed producer or licensed
22 processor of cannabis products, or sell or deliver cannabis to any
23 person other than a qualifying patient, designated provider, or
24 licensed producer except as provided by court order. Before selling or
25 providing cannabis to a qualifying patient or designated provider, the
26 licensed dispenser must confirm that the patient qualifies for the
27 medical use of cannabis by contacting that patient's health care
28 professional. Violation of this section is a class C felony punishable
29 according to chapter 9A.20 RCW.

30 NEW SECTION. **Sec. 704.** Licensed dispensers must be licensed and
31 approved by the counties and cities in which they are located.

32 NEW SECTION. **Sec. 705.** A licensed dispenser may not sell cannabis
33 in any city, county, or town without first being authorized to do so by
34 the city, county, or town legislative authority.

1 NEW SECTION. **Sec. 804.** A violation of any provision or section of
2 this chapter that relates to the licensing and regulation of producers,
3 processors, or dispensers, where no other penalty is provided for, and
4 the violation of any rule adopted under this chapter constitutes a
5 misdemeanor.

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

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

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

21 NEW SECTION. **Sec. 806.** The department of agriculture or the
22 department of health, as the case may be, must immediately suspend any
23 certification of licensure issued under this chapter if the holder of
24 the certificate has been certified under RCW 74.20A.320 by the
25 department of social and health services as a person who is not in
26 compliance with a support order. If the person has continued to meet
27 all other requirements for certification during the suspension,
28 reissuance of the certificate of licensure shall be automatic upon the
29 department's receipt of a release issued by the department of social
30 and health services stating that the person is in compliance with the
31 order.

32 NEW SECTION. **Sec. 807.** The department of agriculture or the
33 department of health, as the case may be, must suspend the
34 certification of licensure of any person who has been certified by a
35 lending agency and reported to the appropriate department for

1 nonpayment or default on a federally or state-guaranteed educational
2 loan or service-conditional scholarship. Prior to the suspension, the
3 department of agriculture or the department of health, as the case may
4 be, must provide the person an opportunity for a brief adjudicative
5 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of
6 nonpayment or default on a federally or state-guaranteed educational
7 loan or service-conditional scholarship. The person's license may not
8 be reissued until the person provides the appropriate department a
9 written release issued by the lending agency stating that the person is
10 making payments on the loan in accordance with a repayment agreement
11 approved by the lending agency. If the person has continued to meet
12 all other requirements for certification or registration during the
13 suspension, reinstatement is automatic upon receipt of the notice and
14 payment of any reinstatement fee.

15 **PART IX**
16 **SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS,**
17 **AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

18 NEW SECTION. **Sec. 901.** (1) By July 1, 2012, the department of
19 health shall, in consultation with the department of agriculture, adopt
20 rules for the creation, implementation, maintenance, and timely
21 upgrading of a secure and confidential registration system that allows:

22 (a) A peace officer to verify at any time whether a health care
23 professional has registered a person who has been contacted by that
24 peace officer and has provided that peace officer information necessary
25 to verify his or her registration as either a qualifying patient or a
26 designated provider;

27 (b) A peace officer to verify at any time during ordinary business
28 hours of the department of health whether a health care professional
29 has registered a person as either a qualifying patient or a designated
30 provider, or an address as the primary residence of a qualifying
31 patient or designated provider; and

32 (c) A peace officer to verify at any time during ordinary business
33 hours of the department of health whether a person, location, or
34 business is licensed by the department of agriculture or the department
35 of health as a licensed producer, licensed processor of cannabis
36 products, or licensed dispenser.

1 (2) The department of agriculture must, in consultation with the
2 department of health, create and maintain a secure and confidential
3 list of persons to whom it has issued a license to produce cannabis for
4 medical use or a license to process cannabis products, and the physical
5 addresses of the licensees' production and processing facilities. The
6 list must meet the requirements of subsection (9) of this section and
7 be transmitted to the department of health to be included in the
8 registry established by this section.

9 (3) The department of health must, in consultation with the
10 department of agriculture, create and maintain a secure and
11 confidential list of the persons to whom it has issued a license to
12 dispense cannabis for medical use that meets the requirements of
13 subsection (9) of this section and must be included in the registry
14 established by this section.

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

22 (5) Registration in the system shall be optional for qualifying
23 patients and designated providers, not mandatory, and registrations are
24 valid for one year, except that qualifying patients must be able to
25 remove themselves from the registry at any time. For licensees,
26 registrations are valid for the term of the license and the
27 registration must be removed if the licensee's license is expired or
28 revoked. The department of health must adopt rules providing for
29 registration renewals and for removing expired registrations and
30 expired or revoked licenses from the registry.

31 (6) Fees, including renewal fees, for qualifying patients and
32 designated providers participating in the registration system shall be
33 limited to the cost to the state of implementing, maintaining, and
34 enforcing the provisions of this section and the rules adopted to carry
35 out its purposes.

36 (7) The department of health, in conjunction with the department of
37 agriculture, must establish and collect reasonable fees for the
38 dissemination of information to employees of state and local law

1 enforcement agencies relating to whether a person is a licensed
2 producer, processor of cannabis products, or dispenser, or that a
3 location is the recorded address of a license producer, processor of
4 cannabis products, or dispenser, and for the dissemination of log
5 records relating to such requests for information to the subjects of
6 those requests.

7 (8) During the rule-making process, the department of health shall
8 consult with stakeholders and persons with relevant expertise, to
9 include, but not be limited to, qualifying patients, designated
10 providers, health care professionals, state and local law enforcement
11 agencies, and the University of Washington computer science and
12 engineering security and privacy research lab.

13 (9) The registration system shall meet the following requirements:

14 (a) Any personally identifiable information included in the
15 registration system must be "nonreversible," pursuant to definitions
16 and standards set forth by the national institute of standards and
17 technology;

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

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

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

28 (10) The registration system shall maintain a log of each
29 verification query submitted by a peace officer, including the peace
30 officer's name, agency, and identification number, for a period of no
31 less than three years from the date of the query. Personally
32 identifiable information of qualifying patients and designated
33 providers included in the log shall be confidential and exempt from
34 public disclosure, inspection, or copying under chapter 42.56 RCW:
35 PROVIDED, That:

36 (a) Names and other personally identifiable information from the
37 list may be released only to:

1 (i) Authorized employees of the department of agriculture and the
2 department of health as necessary to perform official duties of either
3 department; or

4 (ii) Authorized employees of state or local law enforcement
5 agencies, only as necessary to verify that the person or location is a
6 qualified patient, designated provider, licensed producer, licensed
7 processor of cannabis products, or licensed dispenser, and only after
8 the inquiring employee has provided adequate identification.
9 Authorized employees who obtain personally identifiable information
10 under this subsection may not release or use the information for any
11 purpose other than verification that a person or location is a
12 qualified patient, designated provider, licensed producer, licensed
13 processor of cannabis products, or licensed dispenser;

14 (b) Information contained in the registration system may be
15 released in aggregate form, with all personally identifying information
16 redacted, for the purpose of statistical analysis and oversight of
17 agency performance and actions;

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

21 (d) The subject of a registration query may submit a written
22 request to the department of health, along with adequate proof of
23 identity, for copies of log records relating to him or her.

24 (11) This section does not prohibit a department of agriculture
25 employee or a department of health employee from contacting state or
26 local law enforcement for assistance during an emergency or while
27 performing his or her duties under this chapter.

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

30 NEW SECTION. **Sec. 902.** (1) Evidence of the presence or use of
31 cannabis may not on its own constitute probable cause for a peace
32 officer to obtain a search or arrest warrant or to conduct a
33 warrantless search or arrest unless the peace officer:

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

36 (i) The department of health as a qualifying patient, designated

1 provider, licensed dispenser, or the primary residence of a qualifying
2 patient or designated provider; or

3 (ii) The department of agriculture as a licensed producer, licensed
4 processor of cannabis products, physical address of a production
5 facility, or physical address of a processing facility;

6 (b) After making efforts reasonable under the circumstances, is
7 unable to ascertain whether the person or location under investigation
8 is registered with:

9 (i) The department of health as a qualifying patient, designated
10 provider, licensed dispenser, or primary residence of a qualifying
11 patient or designated provider; or

12 (ii) The department of agriculture as a licensed producer, licensed
13 processor of cannabis products, physical address of a production
14 facility, or physical address of a processing facility;

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

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

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

31 NEW SECTION. **Sec. 903.** A new section is added to chapter 42.56
32 RCW to read as follows:

33 Records containing names and other personally identifiable
34 information relating to qualifying patients, designated providers, and
35 persons licensed as producers or dispensers of cannabis for medical
36 use, or as processors of cannabis products, under section 901 of this
37 act are exempt from disclosure under this chapter.

PART X
EVALUATION

1
2
3 NEW SECTION. **Sec. 1001.** (1) By July 1, 2014, the Washington state
4 institute for public policy shall, within available funds, conduct a
5 cost-benefit evaluation of the implementation of this act and the rules
6 adopted to carry out its purposes.

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

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

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

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

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

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

20 (f) Diversion of cannabis intended for medical use to nonmedical
21 uses;

22 (g) Incidents of home invasion burglaries, robberies, and other
23 violent and property crimes associated with qualifying patients
24 accessing cannabis for medical use;

25 (h) Whether there are health care professionals who make a
26 disproportionately high amount of authorizations in comparison to the
27 health care professional community at large;

28 (i) Whether there are indications of health care professionals in
29 violation of RCW 69.51A.030; and

30 (j) Whether the health care professionals making authorizations
31 reside in this state or out of this state.

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

PART XII
MISCELLANEOUS

NEW SECTION. **Sec. 1201.** (1) The legislature recognizes that there are cannabis producers and cannabis dispensaries in operation as of the effective date of this section that are unregulated by the state and who produce and dispense cannabis for medical use by qualifying patients. The legislature intends that these producers and dispensaries become licensed in accordance with the requirements of this chapter and that this licensing provides them with arrest protection so long as they remain in compliance with the requirements of this chapter and the rules adopted under this chapter. The legislature further recognizes that cannabis producers and cannabis dispensaries in current operation are not able to become licensed until the department of agriculture and the department of health adopt rules and, consequently, it is likely they will remain unlicensed until at least July 1, 2012. These producers and dispensary owners and operators run the risk of arrest between the effective date of this section and the time they become licensed. Therefore, the legislature intends to provide them with an affirmative defense if they meet the requirements of this section.

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

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

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

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

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

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

1 (e) File a letter of intent with the city clerk if in an
2 incorporated area or to the county clerk if in an unincorporated area
3 stating they operate as a producer or dispensary and that they comply
4 with the provisions of this chapter and will comply with subsequent
5 department rule making.

6 (4) Upon receiving a letter of intent under subsection (3) of this
7 section, the department of agriculture, the department of health, and
8 the city clerk or county clerk must send a letter of acknowledgment to
9 the producer or dispenser. The producer and dispenser must display
10 this letter of acknowledgment in a prominent place in their facility.

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

12 NEW SECTION. **Sec. 1202.** RCW 69.51A.080 (Adoption of rules by the
13 department of health--Sixty-day supply for qualifying patients) and
14 2007 c 371 s 8 are each repealed.

15 NEW SECTION. **Sec. 1203.** Sections 402 through 411, 413, 601
16 through 611, 701 through 705, 801 through 807, 901, 902, 1001, 1101
17 through 1103, and 1201 of this act are each added to chapter 69.51A
18 RCW.

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

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