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**SECOND SUBSTITUTE SENATE BILL 5073**

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

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

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

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

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

10 (c) Health care professionals shall also ((be excepted from  
11 liability and prosecution)) not be arrested, prosecuted, or subject to  
12 other criminal sanctions or civil consequences under state law for the  
13 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 person licensed to dispense  
4 cannabis for medical use to qualifying patients and designated  
5 providers by the department of health in accordance with rules adopted  
6 by the department of health pursuant to the terms of this chapter.

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

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

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

22 ((+4)) (13) "Nonresident" means a person who is temporarily in the  
23 state but is not a Washington state resident.

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

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

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

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

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

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

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

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

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

37       (23) "Qualifying patient" means a person who:

38       (a) Is a patient of a health care professional;

1 (b) Has been diagnosed by that health care professional as having  
2 a terminal or debilitating medical condition;

3 (c) Is a resident of the state of Washington at the time of such  
4 diagnosis;

5 (d) Has been advised by that health care professional about the  
6 risks and benefits of the medical use of (~~marijuana~~) cannabis; and

7 (e) Has been advised by that health care professional that (~~they~~)  
8 he or she may benefit from the medical use of (~~marijuana~~) cannabis.

9 ((+5)) (24) "Secretary" means the secretary of health.

10 (25) "Tamper-resistant paper" means paper that meets one or more of  
11 the following industry-recognized features:

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

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

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

17 ((+6)) (26) "Terminal or debilitating medical condition" means:

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

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

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

26 (d) Crohn's disease with debilitating symptoms (~~(unrelieved by~~  
27 ~~standard treatments or medications)~~); or

28 (e) Hepatitis C with debilitating nausea or intractable pain  
29 (~~(unrelieved by standard treatments or medications)~~); or

30 (f) Diseases, including anorexia, which result in nausea, vomiting,  
31 (~~wasting~~) cachexia, appetite loss, cramping, seizures, muscle spasms,  
32 or spasticity(~~(, when these symptoms are unrelieved by standard~~  
33 ~~treatments or medications)~~); or

34 (g) Any other medical condition duly approved by the Washington  
35 state medical quality assurance commission in consultation with the  
36 board of osteopathic medicine and surgery as directed in this chapter.

37 ((+7)) (27) "THC concentration" means percent of

1 tetrahydrocannabinol content per weight or volume of useable cannabis  
2 or cannabis product.

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

9 (29)(a) Until July 1, 2012, "valid documentation" means:  
10 ((~~a~~)) (i) A statement signed and dated by a qualifying patient's  
11 health care professional written on tamper-resistant paper, which  
12 states that, in the health care professional's professional opinion,  
13 the patient may benefit from the medical use of (~~marijuana~~) cannabis;  
14 ((~~and~~  
15 ~~b~~)) (ii) Proof of identity such as a Washington state driver's  
16 license or identicard, as defined in RCW 46.20.035; and  
17 (iii) In the case of a designated provider, the signed and dated  
18 document valid for one year from the date of signature executed by the  
19 qualifying patient who has designated the provider; and

20 (b) Beginning July 1, 2012, "valid documentation" means:  
21 (i) An original statement signed and dated by a qualifying  
22 patient's health care professional written on tamper-resistant paper  
23 and valid for up to one year from the date of the health care  
24 professional's signature, which states that, in the health care  
25 professional's professional opinion, the patient may benefit from the  
26 medical use of cannabis;  
27 (ii) Proof of identity such as a Washington state driver's license  
28 or identicard, as defined in RCW 46.20.035; and  
29 (iii) In the case of a designated provider, the signed and dated  
30 document valid for up to one year from the date of signature executed  
31 by the qualifying patient who has designated the provider.

32 **PART III**

33 **PROTECTIONS FOR HEALTH CARE PROFESSIONALS**

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

36 ~~((A health care professional shall be excepted from the state's~~



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

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

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

22 (2)(a) A health care professional may only provide a patient with  
23 valid documentation authorizing the medical use of cannabis or register  
24 the patient with the registry established in section 901 of this act if  
25 he or she has a documented relationship with the patient relating to  
26 the diagnosis and ongoing treatment or monitoring of the patient's  
27 terminal or debilitating medical condition, and only after:

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

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

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

36 (iv) Documenting other measures attempted to treat the terminal or  
37 debilitating medical condition that do not involve the medical use of  
38 cannabis.

1 (b) A health care professional shall not:

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

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

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

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

14 (v) Hold an economic interest in an enterprise that produces,  
15 processes, or dispenses cannabis if the health care professional  
16 authorizes the medical use of cannabis.

17 **PART IV**

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

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

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

27 ~~(2) If charged with a violation of state law relating to marijuana,~~  
28 ~~any qualifying patient who is engaged in the medical use of marijuana,~~  
29 ~~or any designated provider who assists a qualifying patient in the~~  
30 ~~medical use of marijuana, will be deemed to have established an~~  
31 ~~affirmative defense to such charges by proof of his or her compliance~~  
32 ~~with the requirements provided in this chapter. Any person meeting the~~  
33 ~~requirements appropriate to his or her status under this chapter shall~~  
34 ~~be considered to have engaged in activities permitted by this chapter~~  
35 ~~and shall not be penalized in any manner, or denied any right or~~  
36 ~~privilege, for such actions.~~

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

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

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

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

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

30       ~~(1)(a) The qualifying patient or designated provider possesses no~~  
31 ~~more than fifteen cannabis plants and:~~

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

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

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

1 (b) If a person is both a qualifying patient and a designated  
2 provider for another qualifying patient, the person may possess no more  
3 than twice the amounts described in (a) of this subsection, whether the  
4 plants, useable cannabis, and cannabis product are possessed  
5 individually or in combination between the qualifying patient and his  
6 or her designated provider;

7 (2) The qualifying patient or designated provider presents his or  
8 her proof of registration with the department of health, to any peace  
9 officer who questions the patient or provider regarding his or her  
10 medical use of cannabis;

11 (3) The qualifying patient or designated provider keeps a copy of  
12 his or her proof of registration with the registry established in  
13 section 901 of this act and the qualifying patient or designated  
14 provider's contact information posted prominently next to any cannabis  
15 plants, cannabis products, or useable cannabis located at his or her  
16 residence;

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

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

23 NEW SECTION. Sec. 402. A qualifying patient or designated  
24 provider who is not registered with the registry established in section  
25 901 of this act, but who possesses valid documentation that he or she  
26 is a qualifying patient may assert an affirmative defense at trial if  
27 he or she otherwise meets the requirements of section 401 of this act.

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

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

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

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

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

8 (e) No useable cannabis from the collective garden is delivered to  
9 anyone other than one of the qualifying patients participating in the  
10 collective garden.

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

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

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

28 (2) A person may stop serving as a designated provider to a given  
29 qualifying patient at any time. However, that person may not begin  
30 serving as a designated provider to a different qualifying patient  
31 until fifteen days have elapsed from the date the last qualifying  
32 patient designated him or her to serve as a provider.

33 NEW SECTION. **Sec. 405.** A qualifying patient or designated  
34 provider in possession of cannabis plants, useable cannabis, or  
35 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)  
36 but otherwise in compliance with all other terms and conditions of this

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

12 NEW SECTION. **Sec. 406.** A qualifying patient or designated  
13 provider who is not registered with the registry established in section  
14 901 of this act or does not present his or her valid documentation to  
15 a peace officer who questions the patient or provider regarding his or  
16 her medical use of cannabis but is in compliance with all other terms  
17 and conditions of this chapter may establish an affirmative defense to  
18 charges of violations of state law relating to cannabis through proof  
19 at trial, by a preponderance of the evidence, that he or she was a  
20 validly authorized qualifying patient or designated provider at the  
21 time of the officer's questioning. A qualifying patient or designated  
22 provider who establishes an affirmative defense under the terms of this  
23 section may also establish an affirmative defense under section 405 of  
24 this act.

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

30 (1) Possesses no more than fifteen cannabis plants and no more than  
31 twenty-four ounces of useable cannabis, no more cannabis product than  
32 reasonably could be produced with no more than twenty-four ounces of  
33 useable cannabis, or a combination of useable cannabis and cannabis  
34 product that does not exceed a combined total representing possession  
35 and processing of no more than twenty-four ounces of useable cannabis;

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

5 (3) Presents the documentation of authorization required under the  
6 nonresident's authorizing state or territory's law and proof of  
7 identity issued by the authorizing state or territory to any peace  
8 officer who questions the nonresident regarding his or her medical use  
9 of cannabis.

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

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

26 NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)  
27 of this section, a qualifying patient may not be refused housing or  
28 evicted from housing solely as a result of his or her possession or use  
29 of useable cannabis or cannabis products except that housing providers  
30 otherwise permitted to enact and enforce prohibitions against smoking  
31 in their housing may apply those prohibitions to smoking cannabis  
32 provided that such smoking prohibitions are applied and enforced  
33 equally as to the smoking of cannabis and the smoking of all other  
34 substances, including without limitation tobacco.

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

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

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

16 (1) The lawful possession, delivery, dispensing, production, or  
17 manufacture of ((~~medical marijuana~~)) cannabis for medical use as  
18 authorized by this chapter shall not result in the forfeiture or  
19 seizure of any real or personal property including, but not limited to,  
20 cannabis intended for medical use, items used to facilitate the medical  
21 use of cannabis or its production or dispensing for medical use, or  
22 proceeds of sales of cannabis for medical use made by licensed  
23 producers, licensed processors of cannabis products, or licensed  
24 dispensers.

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

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

32 NEW SECTION. **Sec. 413.** Nothing in this chapter or in the rules  
33 adopted to implement it precludes a qualifying patient or designated  
34 provider from engaging in the private, unlicensed, noncommercial



1 production, possession, transportation, delivery, or administration of  
2 cannabis for medical use as authorized under RCW 69.51A.040.

3 **PART V**  
4 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**  
5 **PATIENTS AND DESIGNATED PROVIDERS**

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

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

20 (2) Nothing in this chapter requires any health insurance provider  
21 to be liable for any claim for reimbursement for the medical use of  
22 ~~((marijuana))~~ cannabis.

23 (3) Nothing in this chapter requires any health care professional  
24 to authorize the medical use of ~~((medical marijuana))~~ cannabis for a  
25 patient.

26 (4) Nothing in this chapter requires any accommodation of any on-  
27 site medical use of ~~((marijuana))~~ cannabis in any place of employment,  
28 in any school bus or on any school grounds, in any youth center, in any  
29 correctional facility, or smoking ~~((medical marijuana))~~ cannabis in any  
30 public place as that term is defined in RCW 70.160.020.

31 (5) It is a class C felony to fraudulently produce any record  
32 purporting to be, or tamper with the content of any record for the  
33 purpose of having it accepted as, valid documentation under RCW  
34 69.51A.010~~((+7))~~ (29)(a), or to backdate such documentation to a time  
35 earlier than its actual date of execution.

1           (6) (~~No person shall be entitled to claim the affirmative defense~~  
2 ~~provided in RCW 69.51A.040 for engaging~~) The fact that a qualifying  
3 patient has been authorized to engage in the medical use of ((marijuana  
4 ~~in a way that endangers the health or well-being of any person through~~  
5 ~~the use of a motorized vehicle on a street, road, or highway)) cannabis  
6 does not constitute a defense against a charge of violating RCW  
7 46.61.502 or 46.61.504.~~

8   **PART VI**

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

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

25           NEW SECTION.     **Sec. 602.**     A person may not act as a licensed  
26 processor without a license for each processing facility issued by the  
27 department of agriculture and prominently displayed on the premises.  
28 Provided they are acting in compliance with the terms of this chapter  
29 and rules adopted to enforce and carry out its purposes, licensed  
30 processors of cannabis products and their employees, members, officers,  
31 and directors may possess useable cannabis and manufacture, produce,  
32 prepare, process, package, repackage, transport, transfer, deliver,  
33 label, relabel, wholesale, or possess cannabis products intended for  
34 medical use by qualifying patients, and may not be arrested, searched,  
35 prosecuted, or subject to other criminal sanctions or civil

1 consequences under state law, or have real or personal property  
2 searched, seized, or forfeited pursuant to state law, for such  
3 activities, notwithstanding any other provision of law.

4 NEW SECTION. **Sec. 603.** The director shall administer and carry  
5 out the provisions of this chapter relating to licensed producers and  
6 licensed processors of cannabis products, and rules adopted under this  
7 chapter.

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

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

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

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

29 NEW SECTION. **Sec. 606.** The department of agriculture may adopt  
30 rules on:

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

33 (2) Measurements for cannabis intended for medical use, including

1 grade, condition, cannabinoid profile, THC concentration, other  
2 qualitative measurements, and other inspection standards for cannabis  
3 intended for medical use; and

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

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

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

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

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

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

30 (i) The business or trade name and Washington state unified  
31 business identifier (UBI) number of the licensed producer of the  
32 cannabis;

33 (ii) THC concentration; and

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

1 (d) Establishing requirements for transportation of cannabis  
2 intended for medical use from production facilities to processing  
3 facilities and licensed dispensers;

4 (e) Establishing security requirements for the facilities of  
5 licensed producers and licensed processors of cannabis products. These  
6 security requirements must consider the safety of the licensed  
7 producers and licensed processors as well as the safety of the  
8 community surrounding the licensed producers and licensed processors;

9 (f) Establishing requirements for the licensure of producers, and  
10 processors of cannabis products, setting forth procedures to obtain  
11 licenses, and determining expiration dates and renewal requirements;  
12 and

13 (g) Establishing license application and renewal fees for the  
14 licensure of producers and processors of cannabis products in  
15 accordance with RCW 43.70.250.

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

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

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

29 (2) The property, books, records, accounts, papers, and proceedings  
30 of every licensed producer and licensed processor of cannabis products  
31 shall be subject to inspection by the department of agriculture at any  
32 time during ordinary business hours. Licensed producers and licensed  
33 processors of cannabis products shall maintain adequate records and  
34 systems for the filing and accounting of crop production, product  
35 manufacturing and processing, records of weights and measurements,  
36 product testing, receipts, canceled receipts, other documents, and  
37 transactions necessary or common to the medical cannabis industry.

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

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

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

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

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

22 (c) Furnish the department of agriculture with requested  
23 information.

24 (2) If the licensed producer or processor of cannabis products  
25 fails to comply with the terms of the notice within seventy-two hours  
26 from the date of its issuance, or within such further time as the  
27 department of agriculture may allow, the department of agriculture  
28 shall levy a fine of five hundred dollars per day from the final date  
29 for compliance allowed by this section or the department of  
30 agriculture. In those cases where the failure to comply continues for  
31 more than seven days or where the director determines the failure to  
32 comply creates a threat to public health, public safety, or a  
33 substantial risk of diversion of cannabis to unauthorized persons or  
34 purposes, the department of agriculture may, in lieu of levying further  
35 fines, petition the superior court of the county where the licensee's  
36 principal place of business in Washington is located, as shown by the  
37 license application, for an order:

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

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

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

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

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

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

28 **PART VII**  
29 **LICENSED DISPENSERS**

30 NEW SECTION. **Sec. 701.** A person may not act as a licensed  
31 dispenser without a license for each place of business issued by the  
32 department of health and prominently displayed on the premises.  
33 Provided they are acting in compliance with the terms of this chapter  
34 and rules adopted to enforce and carry out its purposes, licensed  
35 dispensers and their employees, members, officers, and directors may

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

9 NEW SECTION. **Sec. 702.** (1) By July 1, 2012, taking into  
10 consideration the security requirements described in 21 C.F.R. 1301.71-  
11 1301.76, the secretary shall adopt rules:

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

15 (b) Providing for mandatory inspection of licensed dispensers'  
16 locations;

17 (c) Establishing procedures governing the suspension and revocation  
18 of licenses of dispensers;

19 (d) Establishing recordkeeping requirements for licensed  
20 dispensers;

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

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

25 (g) Establishing cannabis storage requirements, including security  
26 requirements;

27 (h) Establishing cannabis labeling requirements, to include  
28 information on whether the cannabis was grown using organic, inorganic,  
29 or synthetic fertilizers;

30 (i) Establishing physical standards for cannabis dispensing  
31 facilities;

32 (j) Establishing physical standards for sanitary conditions for  
33 cannabis dispensing facilities;

34 (k) Establishing physical and sanitation standards for cannabis  
35 dispensing equipment;

36 (l) Enforcing and carrying out the provisions of this section and  
37 the rules adopted to carry out its purposes; and



1 (m) Establishing license application and renewal fees for the  
2 licensure of dispensers in accordance with RCW 43.70.250.

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

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

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

20 **PART VIII**

21 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**  
22 **LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

23 NEW SECTION. **Sec. 801.** All weighing and measuring instruments and  
24 devices used by licensed producers, processors of cannabis products,  
25 and dispensers shall comply with the requirements set forth in chapter  
26 19.94 RCW.

27 NEW SECTION. **Sec. 802.** (1) No licensed producer, processor of  
28 cannabis products, or dispenser may advertise cannabis for sale to the  
29 general public on broadcast television or radio or on a billboard in  
30 any manner that promotes or tends to promote the use or abuse of  
31 cannabis. For the purposes of this subsection, displaying cannabis,  
32 including artistic depictions of cannabis, is considered to promote or  
33 to tend to promote the use or abuse of cannabis.

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

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

10 (4) No broadcast television licensee, radio broadcast licensee,  
11 advertising agency, or agency or medium for the dissemination of an  
12 advertisement, except the licensed producer, processor of cannabis  
13 products, or dispenser to which the advertisement relates, is subject  
14 to the penalties of this section by reason of dissemination of  
15 advertising in good faith without knowledge that the advertising  
16 promotes or tends to promote the use or abuse of cannabis.

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

24 NEW SECTION. **Sec. 804.** A violation of any provision or section of  
25 this chapter that relates to the licensing and regulation of producers,  
26 processors, or dispensers, where no other penalty is provided for, and  
27 the violation of any rule adopted under this chapter constitutes a  
28 misdemeanor.

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

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

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

10 NEW SECTION. **Sec. 806.** The department of agriculture or the  
11 department of health, as the case may be, must immediately suspend any  
12 certification of licensure issued under this chapter if the holder of  
13 the certificate has been certified under RCW 74.20A.320 by the  
14 department of social and health services as a person who is not in  
15 compliance with a support order. If the person has continued to meet  
16 all other requirements for certification during the suspension,  
17 reissuance of the certificate of licensure shall be automatic upon the  
18 department's receipt of a release issued by the department of social  
19 and health services stating that the person is in compliance with the  
20 order.

21 NEW SECTION. **Sec. 807.** The department of agriculture or the  
22 department of health, as the case may be, must suspend the  
23 certification of licensure of any person who has been certified by a  
24 lending agency and reported to the appropriate department for  
25 nonpayment or default on a federally or state-guaranteed educational  
26 loan or service-conditional scholarship. Prior to the suspension, the  
27 department of agriculture or the department of health, as the case may  
28 be, must provide the person an opportunity for a brief adjudicative  
29 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of  
30 nonpayment or default on a federally or state-guaranteed educational  
31 loan or service-conditional scholarship. The person's license may not  
32 be reissued until the person provides the appropriate department a  
33 written release issued by the lending agency stating that the person is  
34 making payments on the loan in accordance with a repayment agreement  
35 approved by the lending agency. If the person has continued to meet

1 all other requirements for certification or registration during the  
2 suspension, reinstatement is automatic upon receipt of the notice and  
3 payment of any reinstatement fee.

4 **PART IX**

5 **SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS,**  
6 **AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

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

11 (a) A peace officer to verify at any time whether a health care  
12 professional has registered a person who has been contacted by that  
13 peace officer and has provided that peace officer information necessary  
14 to verify his or her registration as either a qualifying patient or a  
15 designated provider; and

16 (b) A peace officer to verify at any time during ordinary business  
17 hours of the department of health whether a health care professional  
18 has registered a person as either a qualifying patient or a designated  
19 provider, or an address as the primary residence of a qualifying  
20 patient or designated provider.

21 (2) Law enforcement shall comply with Article I, section 7 of the  
22 Washington state Constitution when accessing the registration system  
23 for criminal investigations, which, at a minimum, requires an  
24 articulated individualized suspicion of: (a) Criminal activity; or (b)  
25 the possession, use, manufacture, production, processing, delivery,  
26 transport, or distribution of cannabis, whether criminal or  
27 noncriminal.

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

34 (4) Fees, including renewal fees, for qualifying patients and  
35 designated providers participating in the registration system shall be

1 adequate to recapture the cost to the state of implementing,  
2 maintaining, and enforcing the provisions of this section and the rules  
3 adopted to carry out its purposes.

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

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

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

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

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

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

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

33 (a) Information contained in the registration system may be  
34 released in aggregate form, with all personally identifying information  
35 redacted, for the purpose of statistical analysis and oversight of  
36 agency performance and actions;

37 (b) The subject of a registration query may appear during ordinary

1 department of health business hours and inspect or copy log records  
2 relating to him or her upon adequate proof of identity; or

3 (c) The subject of a registration query may submit a written  
4 request to the department of health, along with adequate proof of  
5 identity, for copies of log records relating to him or her.

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

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

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

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

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

20 (i) Authorized employees of the department of agriculture as  
21 necessary to perform official duties of the department of agriculture;  
22 or

23 (ii) Authorized employees of state or local law enforcement  
24 agencies, only as necessary to verify that a person is a licensed  
25 producer or processor of cannabis products, or that a location is the  
26 recorded address of a production or processing facility owned or  
27 operated by a licensed producer or processor, and only after the  
28 inquiring state or local law enforcement employee has provided adequate  
29 identification;

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

36 (3) Maintain a log of all requests by employees of state and local  
37 law enforcement agencies, including the employee's name, agency, and

1 identification number, for information relating to whether a person is  
2 a licensed producer or processor of cannabis products, or that a  
3 location is the recorded address of a production or processing facility  
4 owned or operated by a licensed producer or processor, and the  
5 information supplied, for a period of no less than three years from the  
6 date of the request. Personally identifiable information of licensed  
7 producers and processors of cannabis products included in the log shall  
8 be confidential and exempt from public disclosure, inspection, or  
9 copying under chapter 42.56 RCW, provided that:

10 (a) Information contained in the list may be released in aggregate  
11 form, with all personally identifying information redacted, for the  
12 purpose of statistical analysis and oversight of agency performance and  
13 actions;

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

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

20 (4)(a) Establish and collect reasonable fees for the dissemination  
21 of information to employees of state and local law enforcement agencies  
22 relating to whether a person is a licensed producer or processor of  
23 cannabis products, or that a location is the recorded address of a  
24 production or processing facility owned or operated by a licensed  
25 producer or processor, and for the dissemination of log records  
26 relating to such requests for information to the subjects of those  
27 requests. Fees collected under this section must be deposited into the  
28 agricultural local fund created in RCW 43.23.230.

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

36 (5) This section does not prohibit a department of agriculture  
37 employee from contacting state or local law enforcement for assistance

1 during an emergency or while performing his or her duties under this  
2 chapter.

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

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

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

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

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

15 (ii) Authorized employees of state or local law enforcement  
16 agencies, only as necessary to verify that a person is a licensed  
17 dispenser, or that a location is the recorded address of a licensed  
18 dispenser, and only after the inquiring state or local law enforcement  
19 employee has provided adequate identification;

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

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

34 (a) Information contained in the list may be released in aggregate  
35 form, with all personally identifying information redacted, for the  
36 purpose of statistical analysis and oversight of agency performance and  
37 actions;



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

4 (c) The subject of a request for information may submit a written  
5 request to the department of health, along with adequate proof of  
6 identity, for copies of log records relating to him or her;

7 (4)(a) Establish and collect reasonable fees for the dissemination  
8 of information to employees of state and local law enforcement agencies  
9 relating to whether a person is a licensed dispenser, or that a  
10 location is the recorded address of a licensed dispenser, and for the  
11 dissemination of log records relating to such requests for information  
12 to the subjects of those requests. Fees collected under this section  
13 must be deposited into the health professions account created in RCW  
14 43.70.320.

15 (b) Authorized employees of state or local law enforcement agencies  
16 who obtain personally identifiable information from the list as  
17 authorized under this section may not release or use the information  
18 for any purpose other than verification that a person is a licensed  
19 dispenser, or that a location is the recorded address of a licensed  
20 dispenser.

21 NEW SECTION. **Sec. 904.** (1) Evidence of the presence or use of  
22 cannabis may not on its own constitute probable cause for a peace  
23 officer to obtain a search or arrest warrant or to conduct a  
24 warrantless search or arrest unless the peace officer:

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

27 (i) The department of health as a qualifying patient, designated  
28 provider, licensed dispenser, or the primary residence of a qualifying  
29 patient or designated provider; or

30 (ii) The department of agriculture as a licensed producer, licensed  
31 processor of cannabis products, physical address of a production  
32 facility, or physical address of a processing facility;

33 (b) After making efforts reasonable under the circumstances, is  
34 unable to ascertain whether the person or location under investigation  
35 is registered with:

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

1 provider, licensed dispenser, or 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 (c) Has probable cause to believe that the person or location is  
7 disqualified from the protections of this chapter or is not complying  
8 with the provisions of this chapter; or

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

11 (2) If a peace officer discovers cannabis at a location outside  
12 ordinary business hours of the department of health, and no person is  
13 present to provide information allowing the officer to ascertain  
14 whether the location is the primary residence of a registered  
15 qualifying patient or designated provider, the officer shall make  
16 reasonable efforts to contact the occupant of the location before  
17 seizing cannabis that falls within the limits described in RCW  
18 69.51A.040. For the purposes of this section, reasonable efforts  
19 include, at a minimum, attempting to contact the qualifying patient or  
20 designated provider using the contact information required by RCW  
21 69.51A.040(3).

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

24 Records containing names and other personally identifiable  
25 information relating to qualifying patients, designated providers, and  
26 persons licensed as producers or dispensers of cannabis for medical  
27 use, or as processors of cannabis products, under sections 901, 902,  
28 and 903 of this act are exempt from disclosure under this chapter.

29 **PART X**  
30 **EVALUATION**

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

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

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

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

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

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

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

14 (f) Diversion of cannabis intended for medical use to nonmedical  
15 uses;

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

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

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

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

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

31 NEW SECTION. **Sec. 1002.** A new section is added to chapter 28B.20  
32 RCW to read as follows:

33 The University of Washington and Washington State University may  
34 conduct scientific research on the efficacy and safety of administering  
35 cannabis as part of medical treatment. As part of this research, the  
36 University of Washington and Washington State University may develop

1 and conduct studies to ascertain the general medical safety and  
2 efficacy of cannabis and may develop medical guidelines for the  
3 appropriate administration and use of cannabis.

4 **PART XI**  
5 **CONSTRUCTION**

6 NEW SECTION. **Sec. 1101.** (1) No civil or criminal liability may be  
7 imposed by any court on the state or its officers and employees for  
8 actions taken under this chapter except upon proof of misconduct.

9 (2) No civil or criminal liability may be imposed by any court on  
10 cities, towns, and counties or other municipalities and their officers  
11 and employees for actions taken under this chapter except upon proof of  
12 misconduct.

13 NEW SECTION. **Sec. 1102.** Cities, towns, and counties or other  
14 municipalities may adopt reasonable zoning requirements, business  
15 licensing requirements, or business taxes pertaining to the production,  
16 processing, or dispensing of cannabis products that are adopted  
17 pursuant to their authority and duties under chapter 36.70A RCW.

18 NEW SECTION. **Sec. 1103.** If any provision of this act or the  
19 application thereof to any person or circumstance is held invalid, the  
20 invalidity does not affect other provisions or applications of the act  
21 that can be given effect without the invalid provision or application,  
22 and to this end the provisions of this act are severable.

23 **Sec. 1104.** RCW 69.51A.900 and 1999 c 2 s 1 are each amended to  
24 read as follows:

25 This chapter may be known and cited as the Washington state medical  
26 use of (~~marijuana~~) cannabis act.

27 **PART XII**  
28 **MISCELLANEOUS**

29 NEW SECTION. **Sec. 1201.** (1) The legislature recognizes that there  
30 are cannabis producers and cannabis dispensaries in operation as of the  
31 effective date of this section that are unregulated by the state and

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

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

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

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

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

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

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

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

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

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

7 NEW SECTION. **Sec. 1202.** RCW 69.51A.080 (Adoption of rules by the  
8 department of health--Sixty-day supply for qualifying patients) and  
9 2007 c 371 s 8 are each repealed.

10 NEW SECTION. **Sec. 1203.** Sections 402 through 411, 413, 601  
11 through 611, 701 through 703, 801 through 807, 901 through 904, 1001,  
12 1101 through 1103, and 1201 of this act are each added to chapter  
13 69.51A RCW.

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

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