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**SENATE BILL 5073**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe, and Chase

Read first time 01/12/11. Referred to Committee on Health & Long-Term Care.

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 82.08 RCW; adding a new section to  
5 chapter 42.56 RCW; adding a new section to chapter 28B.20 RCW; creating  
6 a new section; repealing RCW 69.51A.080; prescribing penalties;  
7 providing an effective date; and providing an 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 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 products" means products that contain cannabis or  
5 cannabis extracts, have a measurable THC concentration greater than  
6 three-tenths of one percent, and are intended for human consumption or  
7 application, including, but not limited to, edible products, tinctures,  
8 and lotions. The term "cannabis products" does not include useable  
9 cannabis.

10 (3) "Designated provider" means a person who:

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

12 (b) Has been designated in ~~((writing))~~ a written document signed  
13 and dated by a qualifying patient to serve as a designated provider  
14 under this chapter; and

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

18 ~~(d) Is the designated provider to only one patient at any one time.~~

19 ~~(2))~~ in compliance with the terms and conditions set forth in RCW  
20 69.51A.040.

21 A qualifying patient may be the designated provider for another  
22 qualifying patient and be in possession of both patients' cannabis at  
23 the same time.

24 (4) "Director" means the director of the department of agriculture.

25 (5) "Dispense" means the selection, measuring, packaging, labeling,  
26 delivery, or retail sale of cannabis by a licensed dispenser to a  
27 qualifying patient or designated provider.

28 (6) "Health care professional," for purposes of this chapter only,  
29 means a physician licensed under chapter 18.71 RCW, a physician  
30 assistant licensed under chapter 18.71A RCW, an osteopathic physician  
31 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant  
32 licensed under chapter 18.57A RCW, a naturopath licensed under chapter  
33 18.36A RCW, or an advanced registered nurse practitioner licensed under  
34 chapter 18.79 RCW.

35 ~~((3))~~ (7) "Labeling" means all labels and other written, printed,  
36 or graphic matter (a) upon any cannabis intended for medical use, or  
37 (b) accompanying such cannabis.

1       (8) "Licensed dispenser" means a nonprofit corporation organized  
2 under chapter 24.03 RCW and licensed to dispense cannabis for medical  
3 use to qualifying patients and designated providers by the department  
4 of health in accordance with rules adopted by the department of health  
5 pursuant to the terms of this chapter.

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

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

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

21       (~~(+4)~~) (12) "Nonresident" means a person who is temporarily in the  
22 state but is not a Washington state resident.

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

25       (14) "Person" means an individual or an entity.

26       (15) "Plant" means an organism having at least three  
27 distinguishable and distinct leaves, each leaf being at least three  
28 centimeters in diameter, and a readily observable root formation  
29 consisting of at least two separate and distinct roots, each being at  
30 least two centimeters in length. Multiple stalks emanating from the  
31 same root ball or root system shall be considered part of the same  
32 single plant.

33       (16) "Process" means to handle or process cannabis in preparation  
34 for medical use.

35       (17) "Processing facility" means the premises and equipment where  
36 cannabis products are manufactured, processed, handled, and labeled for  
37 wholesale to licensed dispensers.

1       (18) "Produce" means to plant, grow, or harvest cannabis for  
2 medical use.

3       (19) "Production facility" means the premises and equipment where  
4 cannabis is planted, grown, harvested, processed, stored, handled,  
5 packaged, or labeled by a licensed producer for wholesale, delivery, or  
6 transportation to a licensed dispenser or licensed processor of  
7 cannabis products, and all vehicles and equipment used to transport  
8 cannabis from a licensed producer to a licensed dispenser or licensed  
9 processor of cannabis products.

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

25       (21) "Qualifying patient" means a person who:

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

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

29       (c) Is a resident of the state of Washington at the time of such  
30 diagnosis;

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

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

35       ~~((+5))~~ (22) "Secretary" means the secretary of health.

36       (23) "Tamper-resistant paper" means paper that meets one or more of  
37 the following industry-recognized features:

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

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

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

5 ~~((+6))~~ (24) "Terminal or debilitating medical condition" means:

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

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

10 or

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

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

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

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

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

25 ~~((+7))~~ (25) "THC concentration" means percent of  
26 tetrahydrocannabinol content per weight or volume of useable cannabis  
27 or cannabis product.

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

34 (27)(a) Until July 1, 2012, "valid documentation" means:

35 ~~((+a))~~ (i) A statement signed and dated by a qualifying patient's  
36 health care professional written on tamper-resistant paper, which  
37 states that, in the health care professional's professional opinion,

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

### 20 PART III

#### 21 PROTECTIONS FOR HEALTH CARE PROFESSIONALS

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

24 ~~((A health care professional shall be excepted from the state's~~  
25 ~~criminal laws and shall not be penalized in any manner, or denied any~~  
26 ~~right or privilege, for)) The following acts do not constitute crimes  
27 under state law or unprofessional conduct under chapter 18.130 RCW, and  
28 a health care professional may not be arrested, searched, prosecuted,  
29 disciplined, or subject to other criminal sanctions or civil  
30 consequences or liability under state law, or have real or personal  
31 property searched, seized, or forfeited pursuant to state law,  
32 notwithstanding any other provision of law:~~

33 (1) Advising a ((~~qualifying~~)) patient about the risks and benefits  
34 of medical use of ((~~marijuana~~)) cannabis or that the ((~~qualifying~~))  
35 patient may benefit from the medical use of ((~~marijuana where such use~~



1 ~~is within a professional standard of care or in the individual health~~  
2 ~~care professional's medical judgment)) cannabis; or~~

3 (2) Providing a ~~((qualifying))~~ patient meeting the criteria  
4 established under RCW 69.51A.010(21) with valid documentation, based  
5 upon the health care professional's assessment of the ~~((qualifying))~~  
6 patient's medical history and current medical condition, ~~((that the~~  
7 ~~medical use of marijuana may benefit a particular qualifying patient))~~  
8 where such use is within a professional standard of care or in the  
9 individual health care professional's medical judgment.

10 **PART IV**

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

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

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

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

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

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

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

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

4       ~~(4) A qualifying patient, if under eighteen years of age at the~~  
5 ~~time he or she is alleged to have committed the offense, shall~~  
6 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~  
7 ~~However, any possession under subsection (3)(b) of this section, as~~  
8 ~~well as any production, acquisition, and decision as to dosage and~~  
9 ~~frequency of use, shall be the responsibility of the parent or legal~~  
10 ~~guardian of the qualifying patient.)~~

11 The medical use of cannabis in  
12 accordance with the terms and conditions of this chapter does not  
13 constitute a crime and a qualifying patient or designated provider in  
14 compliance with the terms and conditions of this chapter may not be  
15 arrested, searched, prosecuted, or subject to other criminal sanctions  
16 or civil consequences under state law, or have real or personal  
17 property searched, seized, or forfeited pursuant to state law, and  
18 investigating peace officers and law enforcement agencies may not be  
19 held civilly liable for failure to seize cannabis in this circumstance:  
PROVIDED, That:

20       (1) The qualifying patient or designated provider possesses no more  
21 than fifteen cannabis plants and no more than twenty-four ounces of  
22 useable cannabis, no more cannabis product than reasonably could be  
23 produced with no more than twenty-four ounces of useable cannabis, or  
24 a combination of useable cannabis and cannabis product that does not  
25 exceed a combined total representing possession and processing of no  
26 more than twenty-four ounces of useable cannabis, or if a person is  
27 both a qualifying patient and a designated provider for another  
28 qualifying patient, no more than twice these amounts, whether the  
29 plants, useable cannabis, and cannabis product are possessed  
30 individually or in combination between the qualifying patient and his  
31 or her designated provider;

32       (2) The qualifying patient or designated provider presents his or  
33 her valid documentation, or proof of registration with the department  
34 of health, to any peace officer who questions the patient or provider  
35 regarding his or her medical use of cannabis;

36       (3) The qualifying patient or designated provider keeps a copy of  
37 his or her health care professional's authorizing statement and the

1 qualifying patient or designated provider's contact information posted  
2 prominently next to any cannabis plants, cannabis products, or useable  
3 cannabis located at his or her residence;

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

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

10 NEW SECTION. Sec. 402. (1) Qualifying patients may create and  
11 participate in collective gardens for the purpose of producing,  
12 processing, transporting, and delivering cannabis for medical use  
13 subject to the following conditions:

14 (a) No more than twenty-five qualifying patients may participate in  
15 a single collective garden at any time;

16 (b) A collective garden may contain no more than fifteen plants per  
17 patient up to a total of ninety plants for six patients, and no more  
18 than a total of ninety-nine plants if seven or more patients are  
19 participating in the collective garden;

20 (c) No more than ninety-six ounces of useable cannabis may be on  
21 the premises of a collective garden at any time;

22 (d) A copy of each qualifying patient's valid documentation,  
23 including a copy of the patient's proof of identity, must be available  
24 at all times on the premises of the collective garden; and

25 (e) No useable cannabis from the collective garden is delivered to  
26 anyone other than one of the qualifying patients participating in the  
27 collective garden.

28 (2) For purposes of this section, the creation of a "collective  
29 garden" means qualifying patients sharing responsibility for acquiring  
30 and supplying the resources required to produce and process cannabis  
31 for medical use such as, for example, a location for a collective  
32 garden; equipment, supplies, and labor necessary to plant, grow, and  
33 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,  
34 supplies, and labor necessary for proper construction, plumbing,  
35 wiring, and ventilation of a garden of cannabis plants.

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

1        NEW SECTION.    **Sec. 403.**    (1) A qualifying patient may revoke his or  
2 her designation of a specific provider and designate a different  
3 provider at any time. A revocation of designation must be in writing,  
4 signed and dated. The protections of this chapter cease to apply to a  
5 person who has served as a designated provider to a qualifying patient  
6 seventy-two hours after receipt of that patient's revocation of his or  
7 her designation.

8        (2) A person may stop serving as a designated provider to a given  
9 qualifying patient at any time. However, that person may not begin  
10 serving as a designated provider to a different qualifying patient  
11 until fifteen days have elapsed from the date the last qualifying  
12 patient designated him or her to serve as a provider.

13        NEW SECTION.    **Sec. 404.**    A qualifying patient or designated  
14 provider in possession of cannabis plants, useable cannabis, or  
15 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)  
16 but otherwise in compliance with all other terms and conditions of this  
17 chapter may establish an affirmative defense to charges of violations  
18 of state law relating to cannabis through proof at trial, by a  
19 preponderance of the evidence, that the qualifying patient's necessary  
20 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An  
21 investigating peace officer may seize cannabis plants, useable  
22 cannabis, or cannabis product exceeding the amounts set forth in RCW  
23 69.51A.040(1):    PROVIDED, That in the case of cannabis plants, the  
24 qualifying patient or designated provider shall be allowed to select  
25 the plants that will remain at the location. The officer and his or  
26 her law enforcement agency may not be held civilly liable for failure  
27 to seize cannabis in this circumstance.

28        NEW SECTION.    **Sec. 405.**    A qualifying patient or designated  
29 provider who does not present his or her valid documentation, or proof  
30 of registration with the department of health, to a peace officer who  
31 questions the patient or provider regarding his or her medical use of  
32 cannabis but is in compliance with all other terms and conditions of  
33 this chapter may establish an affirmative defense to charges of  
34 violations of state law relating to cannabis through proof at trial, by  
35 a preponderance of the evidence, that he or she was a validly  
36 authorized qualifying patient or designated provider at the time of the

1 officer's questioning. A qualifying patient or designated provider who  
2 establishes an affirmative defense under the terms of this section may  
3 also establish an affirmative defense under section 404 of this act.

4 NEW SECTION. **Sec. 406.** A nonresident who is duly authorized to  
5 engage in the medical use of cannabis under the laws of another state  
6 or territory of the United States may raise an affirmative defense to  
7 charges of violations of Washington state law relating to cannabis,  
8 provided that the nonresident:

9 (1) Possesses no more than fifteen cannabis plants and no more than  
10 twenty-four ounces of useable cannabis, no more cannabis product than  
11 reasonably could be produced with no more than twenty-four ounces of  
12 useable cannabis, or a combination of useable cannabis and cannabis  
13 product that does not exceed a combined total representing possession  
14 and processing of no more than twenty-four ounces of useable cannabis;

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

19 (3) Presents the documentation of authorization required under the  
20 nonresident's authorizing state or territory's law and proof of  
21 identity issued by the authorizing state or territory to any peace  
22 officer who questions the nonresident regarding his or her medical use  
23 of cannabis.

24 NEW SECTION. **Sec. 407.** A qualifying patient's medical use of  
25 cannabis as authorized by a health care professional may not be a sole  
26 disqualifying factor in determining the patient's suitability for an  
27 organ transplant, unless it is shown that this use poses a significant  
28 risk of rejection or organ failure. This section does not preclude a  
29 health care professional from requiring that a patient abstain from the  
30 medical use of cannabis, for a period of time determined by the health  
31 care professional, while waiting for a transplant organ or before the  
32 patient undergoes an organ transplant.

33 NEW SECTION. **Sec. 408.** A qualifying patient or designated  
34 provider may not have his or her parental rights or residential time  
35 with a child restricted solely due to his or her medical use of

1 cannabis in compliance with the terms of this chapter absent written  
2 findings supported by evidence that such use has resulted in a long-  
3 term impairment that interferes with the performance of parenting  
4 functions as defined under RCW 26.09.004.

5 NEW SECTION. **Sec. 409.** (1) A qualifying patient may not be  
6 refused employment, discharged from employment, or discriminated  
7 against in compensation or in other terms or conditions of employment  
8 solely as a result of his or her off-site medical use of cannabis:  
9 PROVIDED, That:

10 (a) The employer is not a federal contractor or grant recipient  
11 under the drug-free workplace act (41 U.S.C. 701 et seq.);

12 (b) The particular employment does not involve:

13 (i) Public safety responsibilities;

14 (ii) Handling dangerous substances;

15 (iii) Hazardous physical activities;

16 (iv) Routine operation of motor vehicles, heavy equipment, or  
17 portable power tools falling within the scope of chapter 296-807 WAC;  
18 or

19 (v) Routine performance of other safety-sensitive activities; or

20 (c) The off-site medical use of cannabis by a particular employee  
21 does not prevent the proper performance of his or her work.

22 (2) A qualifying patient deeming himself or herself injured by any  
23 act in violation of this section is entitled to pursue the remedies and  
24 enforcement procedures provided under chapter 49.60 RCW.

25 NEW SECTION. **Sec. 410.** A qualifying patient may not be refused or  
26 evicted from housing solely as a result of his or her possession or use  
27 of useable cannabis or cannabis products.

28 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,  
29 deferred prosecution, stipulated order of continuance, deferred  
30 disposition, or dispositional order, any court organized under the laws  
31 of Washington state may permit the medical use of cannabis in  
32 compliance with the terms of this chapter and exclude it as a possible  
33 ground for finding that the offender has violated the conditions or  
34 requirements of the sentence, deferred prosecution, stipulated order of

1 continuance, deferred disposition, or dispositional order. This  
2 section does not require the accommodation of any on-site medical use  
3 of cannabis in any correctional facility.

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

6 (1) The lawful possession, delivery, dispensing, production, or  
7 manufacture of ~~((medical-marijuana))~~ cannabis for medical use as  
8 authorized by this chapter shall not result in the forfeiture or  
9 seizure of any real or personal property including, but not limited to,  
10 cannabis intended for medical use, items used to facilitate the medical  
11 use of cannabis or its production or dispensing for medical use, or  
12 proceeds of sales of cannabis for medical use made by licensed  
13 producers, licensed processors of cannabis products, or licensed  
14 dispensers.

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

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

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

27 **PART V**  
28 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**  
29 **PATIENTS AND DESIGNATED PROVIDERS**

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

32 (1) ~~((It shall be a misdemeanor to use or display medical marijuana~~  
33 ~~in a manner or place which is open to the view of the general public.))~~  
34 It is unlawful to open a package containing cannabis or consume

1 cannabis in a public place in a manner that presents a reasonably  
2 foreseeable risk that another person would see and be able to identify  
3 the substance contained in the package or being consumed as cannabis.  
4 A person who violates a provision of this section is guilty of a class  
5 3 civil infraction under chapter 7.80 RCW. This subsection does not  
6 apply to licensed dispensers or their employees, members, officers, or  
7 directors displaying cannabis to customers on their licensed premises  
8 as long as such displays are not visible to members of the public  
9 standing or passing outside the premises.

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

13 (3) Nothing in this chapter requires any health care professional  
14 to authorize the medical use of ((medical-marijuana)) cannabis for a  
15 patient.

16 (4) Nothing in this chapter requires any accommodation of any on-  
17 site medical use of ((marijuana)) cannabis in any place of employment,  
18 in any school bus or on any school grounds, in any youth center, in any  
19 correctional facility, or smoking ((medical-marijuana)) cannabis in any  
20 public place as that term is defined in RCW 70.160.020.

21 (5) It is a class C felony to fraudulently produce any record  
22 purporting to be, or tamper with the content of any record for the  
23 purpose of having it accepted as, valid documentation under RCW  
24 69.51A.010((+7)) (27)(a), or to backdate such documentation to a time  
25 earlier than its actual date of execution.

26 (6) ((No person shall be entitled to claim the affirmative defense  
27 provided in RCW 69.51A.040 for engaging)) The fact that a qualifying  
28 patient has been authorized to engage in the medical use of ((marijuana  
29 in a way that endangers the health or well-being of any person through  
30 the use of a motorized vehicle on a street, road, or highway)) cannabis  
31 does not constitute a defense against a charge of violating RCW  
32 46.61.502 or 46.61.504.

## 33 PART VI

### 34 LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS

35 NEW SECTION. Sec. 601. A person may not act as a licensed  
36 producer without a license for each production facility issued by the



1 department of agriculture. Provided they are acting in compliance with  
2 the terms of this chapter and rules adopted to enforce and carry out  
3 its purposes, licensed producers and their employees, members,  
4 officers, and directors may manufacture, plant, cultivate, grow,  
5 harvest, produce, prepare, propagate, process, package, repackage,  
6 transport, transfer, deliver, label, relabel, wholesale, or possess  
7 cannabis intended for medical use by qualifying patients, including  
8 seeds, seedlings, cuttings, plants, and useable cannabis, and may not  
9 be arrested, searched, prosecuted, or subject to other criminal  
10 sanctions or civil consequences under state law, or have real or  
11 personal property searched, seized, or forfeited pursuant to state law,  
12 for such activities, notwithstanding any other provision of law.

13 NEW SECTION. **Sec. 602.** A person may not act as a licensed  
14 processor without a license for each processing facility issued by the  
15 department of agriculture. Provided they are acting in compliance with  
16 the terms of this chapter and rules adopted to enforce and carry out  
17 its purposes, licensed processors of cannabis products and their  
18 employees, members, officers, and directors may possess useable  
19 cannabis and manufacture, produce, prepare, process, package,  
20 repackage, transport, transfer, deliver, label, relabel, wholesale, or  
21 possess cannabis products intended for medical use by qualifying  
22 patients, and may not be arrested, searched, prosecuted, or subject to  
23 other criminal sanctions or civil consequences under state law, or have  
24 real or personal property searched, seized, or forfeited pursuant to  
25 state law, for such activities, notwithstanding any other provision of  
26 law.

27 NEW SECTION. **Sec. 603.** The director shall administer and carry  
28 out the provisions of this chapter relating to licensed producers and  
29 licensed processors of cannabis products, and rules adopted hereunder,  
30 and he or she may:

- 31 (1) Inspect the production, processing, weighing, packaging,  
32 labeling, storage, and shipping of cannabis produced and processed by  
33 licensees;
- 34 (2) Inspect and grade cannabis produced and processed by licensees;
- 35 (3) Approve or disapprove the facilities, including scales, of all  
36 licensed producers and licensed processors of cannabis products;

1 (4) Investigate all complaints of fraud in the operation of any  
2 licensed producer, licensed processor of cannabis products, production  
3 facility, or processing facility;

4 (5) Examine, inspect, and audit, during ordinary business hours,  
5 any producer or processor licensed under this chapter, including all  
6 production facilities, processing facilities, and all cannabis therein  
7 and examine, inspect, audit, or record all books, documents, and  
8 records;

9 (6) Administer oaths and issue subpoenas to compel the attendance  
10 of witnesses, or the production of books, documents, and records  
11 anywhere in the state pursuant to a hearing relative to the purposes  
12 and provisions of this chapter. Witnesses shall be entitled to fees  
13 for attendance and travel, as provided in chapter 2.40 RCW;

14 (7) Adopt rules establishing inspection standards and procedures  
15 for cannabis intended for medical use;

16 (8) Adopt rules regarding the identification of cannabis intended  
17 for medical use so that such cannabis may be readily identified if  
18 stolen or removed in violation of the provisions of this chapter from  
19 a production or processing facility, or if otherwise unlawfully  
20 transported;

21 (9) Adopt all the necessary rules for carrying out the purposes and  
22 provisions of this chapter.

23 NEW SECTION. **Sec. 604.** The director is authorized to deny,  
24 suspend, or revoke a producer's or processor's license after a hearing  
25 in any case in which it is determined that there has been a violation  
26 or refusal to comply with the requirements of this chapter or rules  
27 adopted hereunder. All hearings for the denial, suspension, or  
28 revocation of a producer's or processor's license are subject to  
29 chapter 34.05 RCW, the administrative procedure act, as enacted or  
30 hereafter amended.

31 NEW SECTION. **Sec. 605.** (1) By July 1, 2012, taking into  
32 consideration, but not being limited by, the security requirements  
33 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt  
34 rules:

35 (a) Prescribing grades and standards which he or she deems suitable

1 for inspection of cannabis intended for medical use in the state of  
2 Washington;

3 (b) Providing for inspection or grading and certification of grade,  
4 grading factors, condition, cannabinoid profile, THC concentration, or  
5 other qualitative measurement of cannabis intended for medical use;

6 (c) Fixing the sizes, dimensions, and safety and security features  
7 required of containers to be used for packing, handling, or storing  
8 cannabis intended for medical use;

9 (d) Establishing labeling requirements for cannabis intended for  
10 medical use including information on whether the cannabis was grown  
11 using organic, inorganic, or synthetic fertilizers;

12 (e) Establishing requirements for the licensure of producers, and  
13 processors of cannabis products, setting forth procedures to obtain  
14 licenses, and determining expiration dates and renewal requirements;

15 (f) Providing for mandatory inspection of production and processing  
16 facilities;

17 (g) Establishing requirements for transportation of cannabis  
18 intended for medical use from production facilities to processing  
19 facilities and licensed dispensers;

20 (h) Enforcing and carrying out the provisions of this section and  
21 the rules adopted to carry out its purposes; and

22 (i) Establishing license application and renewal fees adequate to  
23 recapture the cost to the state of implementing, maintaining, and  
24 enforcing the provisions of this section and section 902 of this act  
25 and the rules adopted to carry out their purposes. Such fees shall  
26 reflect a range of classes of licenses, varying in proportion to  
27 revenues received by the licensees.

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

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

35 NEW SECTION. **Sec. 606.** (1) Each licensed producer and licensed  
36 processor of cannabis products shall maintain complete records at all  
37 times with respect to all cannabis produced, processed, weighed,

1 tested, stored, shipped, or sold. The director shall adopt rules  
2 specifying the minimum recordkeeping requirements necessary to comply  
3 with this section.

4 (2) The property, books, records, accounts, papers, and proceedings  
5 of every licensed producer and licensed processor of cannabis products  
6 shall be subject to inspection by the department of agriculture at any  
7 time during ordinary business hours. Licensed producers and licensed  
8 processors of cannabis products shall maintain adequate records and  
9 systems for the filing and accounting of crop production, product  
10 manufacturing and processing, records of weights and measurements,  
11 product testing, receipts, canceled receipts, other documents, and  
12 transactions necessary or common to the medical cannabis industry.

13 NEW SECTION. **Sec. 607.** Each licensed producer and licensed  
14 processor of cannabis products shall report information to the  
15 department of agriculture at such times and as may be reasonably  
16 required by the director for the necessary enforcement and supervision  
17 of a sound, reasonable, and efficient cannabis inspection program for  
18 the protection of the health and welfare of qualifying patients.

19 NEW SECTION. **Sec. 608.** The production facilities of a licensed  
20 producer, and processing facilities of a licensed processor of cannabis  
21 products, shall be maintained in a manner that will provide a  
22 reasonable means of ingress and egress to all areas and equipment, and  
23 an adequate facility to complete the inspections shall be provided.

24 NEW SECTION. **Sec. 609.** (1) The department of agriculture may give  
25 written notice to a licensed producer or processor of cannabis products  
26 to submit to inspection, or furnish required reports, documents, or  
27 other requested information, under such conditions and at such time as  
28 the department of agriculture may deem necessary whenever a licensed  
29 producer or processor of cannabis products fails to:

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

32 (b) Submit required reports or documents to the department of  
33 agriculture by their due date; or

34 (c) Furnish the department of agriculture with requested  
35 information.

1 (2) If the licensed producer or processor of cannabis products  
2 fails to comply with the terms of the notice within seventy-two hours  
3 from the date of its issuance, or within such further time as the  
4 department of agriculture may allow, the department of agriculture  
5 shall levy a fine of five hundred dollars per day from the final date  
6 for compliance allowed by this section or the department of  
7 agriculture. In those cases where the failure to comply continues for  
8 more than seven days or where the director determines the failure to  
9 comply creates a threat to public health, public safety, or a  
10 substantial risk of diversion of cannabis to unauthorized persons or  
11 purposes, the department of agriculture may, in lieu of levying further  
12 fines, petition the superior court of the county where the licensee's  
13 principal place of business in Washington is located, as shown by the  
14 license application, for an order:

15 (a) Authorizing the department of agriculture to seize and take  
16 possession of all books, papers, cannabis, and property of all kinds  
17 used in connection with the conduct or the operation of the licensed  
18 producer or processor's business, and the books, papers, records, and  
19 property that pertain specifically, exclusively, and directly to that  
20 business; and

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

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

28 NEW SECTION. **Sec. 610.** Samples of cannabis drawn by department of  
29 agriculture inspectors, unless returned by agreement to the producer or  
30 applicant for a license to produce, or to the processor or applicant  
31 for a license to process cannabis products, shall become the property  
32 of the state and subject to disposition by the department of  
33 agriculture. The department of agriculture must adopt rules relating  
34 to sample retention and disposal.

35 NEW SECTION. **Sec. 611.** (1) A licensed producer may not sell or  
36 deliver cannabis to any person other than a department of agriculture

1 inspector, licensed processor of cannabis products, licensed dispenser,  
2 or law enforcement officer except as provided by court order.  
3 Violation of this section is a class C felony punishable according to  
4 chapter 9A.20 RCW.

5 (2) A licensed processor of cannabis products may not sell or  
6 deliver cannabis to any person other than a department of agriculture  
7 inspector, licensed dispenser, or law enforcement officer except as  
8 provided by court order. Violation of this section is a class C felony  
9 punishable according to chapter 9A.20 RCW.

10  
11

**PART VII**  
**LICENSED DISPENSERS**

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

25 NEW SECTION. **Sec. 702.** (1) By July 1, 2012, taking into  
26 consideration the security requirements described in 21 C.F.R. 1301.71-  
27 1301.76, the secretary shall adopt rules:

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

31 (b) Providing for mandatory inspection of licensed dispensers'  
32 locations;

33 (c) Establishing procedures governing the suspension and revocation  
34 of licenses of dispensers;

1 (d) Establishing recordkeeping requirements for licensed  
2 dispensers;

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

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

7 (g) Establishing cannabis storage requirements, including security  
8 requirements;

9 (h) Establishing cannabis labeling requirements, to include  
10 information on whether the cannabis was grown using organic, inorganic,  
11 or synthetic fertilizers;

12 (i) Establishing physical standards for cannabis dispensing  
13 facilities;

14 (j) Establishing physical standards for sanitary conditions for  
15 cannabis dispensing facilities;

16 (k) Establishing physical and sanitation standards for cannabis  
17 dispensing equipment;

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

20 (m) Establishing license application and renewal fees adequate to  
21 recapture the cost to the state of implementing, maintaining, and  
22 enforcing the provisions of this section and section 903 of this act  
23 and the rules adopted to carry out their purposes, pursuant to the  
24 secretary's authority under RCW 43.70.250. Such fees shall reflect a  
25 range of classes of licenses, varying in proportion to revenues  
26 received by the licensees.

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

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

34 NEW SECTION. **Sec. 703.** A new section is added to chapter 82.08  
35 RCW to read as follows:

36 The tax levied by RCW 82.08.020 does not apply to sales of useable  
37 cannabis or cannabis products intended for medical use that are

1 dispensed to qualifying patients or designated providers by dispensers  
2 licensed under chapter 69.51A RCW and the rules adopted to carry out  
3 its purposes.

4 NEW SECTION. **Sec. 704.** A licensed dispenser may not sell cannabis  
5 received from any person other than a licensed producer or licensed  
6 processor of cannabis products, or sell or deliver cannabis to any  
7 person other than a qualifying patient, designated provider, or  
8 licensed producer except as provided by court order. Violation of this  
9 section is a class C felony punishable according to chapter 9A.20 RCW.

10 **PART VIII**

11 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**  
12 **LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

13 NEW SECTION. **Sec. 801.** All weighing and measuring instruments and  
14 devices used by licensed producers, processors of cannabis products,  
15 and dispensers shall comply with the requirements set forth in chapter  
16 19.94 RCW.

17 NEW SECTION. **Sec. 802.** (1) No licensed producer, processor of  
18 cannabis products, or dispenser may advertise cannabis for sale to the  
19 general public on broadcast television or radio or on a billboard in  
20 any manner that promotes or tends to promote the use or abuse of  
21 cannabis. For the purposes of this subsection, displaying cannabis,  
22 including artistic depictions of cannabis, is considered to promote or  
23 to tend to promote the use or abuse of cannabis.

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

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





1 (a) A peace officer to verify at any time whether a health care  
2 professional has registered a person who has been contacted by that  
3 peace officer and has provided that peace officer information necessary  
4 to verify his or her registration as either a qualifying patient or a  
5 designated provider; and

6 (b) A peace officer to verify at any time during ordinary business  
7 hours of the department of health whether a health care professional  
8 has registered a person as either a qualifying patient or a designated  
9 provider, or an address as the primary residence of a qualifying  
10 patient or designated provider.

11 (2) Law enforcement shall comply with Article I, section 7 of the  
12 Washington state Constitution when accessing the registration system  
13 for criminal investigations, which, at a minimum, requires an  
14 articulated individualized suspicion of criminal activity.

15 (3) Registration in the system shall be optional for qualifying  
16 patients and designated providers, not mandatory. Registrations are  
17 valid for one year. The department of health must adopt rules  
18 providing for registration renewals and for removing expired  
19 registrations from the registry.

20 (4) Fees, including renewal fees, for qualifying patients and  
21 designated providers participating in the registration system shall be  
22 adequate to recapture the cost to the state of implementing,  
23 maintaining, and enforcing the provisions of this section and the rules  
24 adopted to carry out its purposes. Reduced fees shall be offered on an  
25 income-based sliding scale.

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

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

33 (a) Any personally identifiable information included in the  
34 registration system must be "nonreversible," pursuant to definitions  
35 and standards set forth by the national institute of standards and  
36 technology;

37 (b) Any personally identifiable information included in the

1 registration system must not be susceptible to linkage by use of data  
2 external to the registration system;

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

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

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

18 (a) 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; or

21 (b) 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 (8) Fees collected under this section must be deposited into the  
25 health professions account under RCW 43.70.320.

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

28 (1) Create and maintain a secure and confidential list of the  
29 persons to whom it has issued a license to produce cannabis for medical  
30 use or a license to process cannabis products that meets the  
31 requirements set forth in section 901(6) of this act.

32 (a) Except as provided in (b) of this subsection, the list shall be  
33 confidential and exempt from public disclosure, inspection, or copying  
34 under chapter 42.56 RCW.

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

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

4 (ii) Authorized employees of state or local law enforcement  
5 agencies, only as necessary to verify that a person is a licensed  
6 producer or processor of cannabis products, or that a location is the  
7 recorded address of a production or processing facility owned or  
8 operated by a licensed producer or processor, and only after the  
9 inquiring state or local law enforcement employee has provided adequate  
10 identification;

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

17 (3) Maintain a log of all requests by employees of state and local  
18 law enforcement agencies, including the employee's name, agency, and  
19 identification number, for information relating to whether a person is  
20 a licensed producer or processor of cannabis products, or that a  
21 location is the recorded address of a production or processing facility  
22 owned or operated by a licensed producer or processor, and the  
23 information supplied, for a period of no less than three years from the  
24 date of the request. Personally identifiable information of licensed  
25 producers and processors of cannabis products included in the log shall  
26 be confidential and exempt from public disclosure, inspection, or  
27 copying under chapter 42.56 RCW, provided that:

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

31 (b) The subject of a request for information may submit a written  
32 request to the department of agriculture, along with adequate proof of  
33 identity, for copies of log records relating to him or her;

34 (4)(a) Establish and collect reasonable fees for the dissemination  
35 of information to employees of state and local law enforcement agencies  
36 relating to whether a person is a licensed producer or processor of  
37 cannabis products, or that a location is the recorded address of a  
38 production or processing facility owned or operated by a licensed

1 producer or processor, and for the dissemination of log records  
2 relating to such requests for information to the subjects of those  
3 requests. Fees collected under this section must be deposited into the  
4 agricultural local fund created in RCW 43.23.230.

5 (b) Authorized employees of state or local law enforcement agencies  
6 who obtain personally identifiable information from the list as  
7 authorized under this section may not release or use the information  
8 for any purpose other than verification that a person is a licensed  
9 producer or processor of cannabis products, or that a location is the  
10 recorded address of a production or processing facility owned or  
11 operated by a licensed producer or processor.

12 (5) This section does not prohibit a department of agriculture  
13 employee from contacting state or local law enforcement for assistance  
14 during an emergency or while performing his or her duties under this  
15 chapter.

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

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

21 (a) Except as provided in (b) of this subsection, the list shall be  
22 confidential and exempt from public disclosure, inspection, or copying  
23 under chapter 42.56 RCW.

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

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

28 (ii) Authorized employees of state or local law enforcement  
29 agencies, only as necessary to verify that a person is a licensed  
30 dispenser, or that a location is the recorded address of a licensed  
31 dispenser, and only after the inquiring state or local law enforcement  
32 employee has provided adequate identification;

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

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

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

13 (b) The subject of a request for information may submit a written  
14 request to the department of health, along with adequate proof of  
15 identity, for copies of log records relating to him or her;

16 (4)(a) Establish and collect reasonable fees for the dissemination  
17 of information to employees of state and local law enforcement agencies  
18 relating to whether a person is a licensed dispenser, or that a  
19 location is the recorded address of a licensed dispenser, and for the  
20 dissemination of log records relating to such requests for information  
21 to the subjects of those requests. Fees collected under this section  
22 must be deposited into the health professions account created in RCW  
23 43.70.320.

24 (b) Authorized employees of state or local law enforcement agencies  
25 who obtain personally identifiable information from the list as  
26 authorized under this section may not release or use the information  
27 for any purpose other than verification that a person is a licensed  
28 dispenser, or that a location is the recorded address of a licensed  
29 dispenser.

30 NEW SECTION. **Sec. 904.** (1) Before making a warrantless arrest or  
31 warrantless search or seizure based on probable cause, a peace officer  
32 investigating a cannabis-related incident shall ascertain whether the  
33 person or location under investigation is registered with: The  
34 department of health as a qualifying patient, designated provider,  
35 licensed dispenser, or primary residence of a qualifying patient or  
36 designated provider; or the department of agriculture as a licensed  
37 producer, processor of cannabis products, production facility, or

1 processing facility. Registered persons may not be arrested or  
2 searched, or have personal property searched or seized, and registered  
3 locations may not be searched or seized, unless evidence exists of  
4 conduct that would disqualify the person from the protections of this  
5 chapter, or probable cause exists that another criminal offense has  
6 been or is being committed.

7 (2) Before seeking a search warrant or arrest warrant, a peace  
8 officer investigating a cannabis-related incident shall ascertain  
9 whether the location or person under investigation is registered with:  
10 The department of health as a qualifying patient, designated provider  
11 or licensed dispenser, or primary residence of a qualifying patient or  
12 designated provider; or the department of agriculture as a licensed  
13 producer, processor of cannabis products, production facility, or  
14 processing facility. If either department reports that the location or  
15 person is registered, the peace officer may not seek a warrant, unless  
16 evidence exists of conduct that would disqualify the location or person  
17 from the protections of this chapter, or probable cause exists that  
18 another criminal offense has been or is being committed. If the  
19 officer seeks a warrant, the affidavit submitted in support of the  
20 application for the warrant shall include that registration checks were  
21 conducted with the appropriate department, and the results of such  
22 checks.

23 (3) If a peace officer discovers cannabis at a location outside  
24 ordinary business hours of the department of health, and no person is  
25 present to provide information allowing the officer to ascertain  
26 whether the location is the primary residence of a registered  
27 qualifying patient or designated provider, the officer shall make  
28 reasonable efforts to contact the occupant of the location before  
29 seizing cannabis that falls within the limits described in RCW  
30 69.51A.040. For the purposes of this section, reasonable efforts  
31 include, at a minimum, attempting to contact the qualifying patient or  
32 designated provider using the contact information required by RCW  
33 69.51A.040(3).

34 NEW SECTION. **Sec. 905.** (1) Any person who discloses,  
35 disseminates, or allows to be inspected or copied personally  
36 identifiable information of a qualifying patient, designated provider,  
37 licensed producer, licensed processor of cannabis products, or licensed

1 dispenser contained in a registry or licensing record, except as  
2 authorized by this chapter, shall pay a civil penalty of five hundred  
3 dollars to the subject of the record containing the personally  
4 identifiable information. This penalty applies separately to each such  
5 disclosure, dissemination, inspection, or copying of the record.

6 (2) Any peace officer who fails to comply with the requirements of  
7 section 904 of this act shall pay a civil penalty of five hundred  
8 dollars to any qualifying patient, designated provider, licensed  
9 producer, licensed processor of cannabis products, or licensed  
10 dispenser who is arrested or searched, or who has real or personal  
11 property searched or seized, if such person was currently registered at  
12 the time of the arrest, search, or seizure, no evidence existed at the  
13 time of conduct that would disqualify the person from the protections  
14 of this chapter, and no probable cause existed at the time that another  
15 criminal offense had been or was being committed.

16 (3) A qualifying patient, designated provider, licensed producer,  
17 licensed processor of cannabis products, or licensed dispenser deeming  
18 himself or herself injured by any act subject to the penalties of this  
19 section shall be entitled to bring a civil action to pursue the  
20 remedies provided by this section. A plaintiff who prevails on a claim  
21 brought under this section shall be entitled to recover reasonable  
22 attorneys' fees and costs. A defendant who prevails is not allowed to  
23 recover fees or costs unless the defendant proves, by a preponderance  
24 of the evidence, that the plaintiff initiated the action in bad faith  
25 or without any evidence whatsoever that would support a reasonable  
26 belief that he or she was entitled to the remedies provided in this  
27 section.

28 NEW SECTION. **Sec. 906.** A new section is added to chapter 42.56  
29 RCW to read as follows:

30 Records containing names and other personally identifiable  
31 information relating to qualifying patients, designated providers, and  
32 persons licensed as producers or dispensers of cannabis for medical  
33 use, or as processors of cannabis products, under chapter 69.51A RCW  
34 and rules adopted to carry out its purposes are exempt from disclosure  
35 under this chapter.







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

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

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

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

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

26 (c) Be registered with the secretary of state as of January 1,  
27 2011;

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

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

37 (4) Upon receiving a letter of intent under subsection (3) of this  
38 section, the department of agriculture, the department of health, and

1 the city clerk or county clerk must send a letter of acknowledgment to  
2 the producer or dispenser. The producer and dispenser must display  
3 this letter of acknowledgment in a prominent place in their facility.

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

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

8 NEW SECTION. **Sec. 1203.** Sections 402 through 411, 413, 601  
9 through 611, 701, 702, 704, 801 through 805, 901 through 905, 1001,  
10 1101, 1102, and 1201 of this act are each added to chapter 69.51A RCW.

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

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