

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073**

Chapter 181, Laws of 2011

(partial veto)

62nd Legislature  
2011 Regular Session

MEDICAL CANNABIS

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 21, 2011  
YEAS 27 NAYS 21

BRAD OWEN

**President of the Senate**

Passed by the House April 11, 2011  
YEAS 54 NAYS 43

FRANK CHOPP

**Speaker of the House of Representatives**

Approved April 29, 2011, 3:00 p.m., with the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, which are vetoed.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

**Secretary**

FILED

April 29, 2011

**Secretary of State  
State of Washington**



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 (3) This act is not intended to compromise community safety.  
8 State, county, or city correctional agencies or departments shall  
9 retain the authority to establish and enforce terms for those on active  
10 supervision.

\*Sec. 101 was vetoed. See message at end of chapter.

11 **Sec. 102.** RCW 69.51A.005 and 2010 c 284 s 1 are each amended to  
12 read as follows:

13 (1) The ~~((people of Washington state))~~ legislature finds that:

14 (a) There is medical evidence that some patients with terminal or  
15 debilitating ~~((illnesses))~~ medical conditions may, under their health  
16 care professional's care, ~~((may))~~ benefit from the medical use of  
17 ~~((marijuana))~~ cannabis. Some of the ~~((illnesses))~~ conditions for which  
18 ~~((marijuana))~~ cannabis appears to be beneficial include ~~((chemotherapy-~~  
19 related)), but are not limited to:

20 (i) Nausea ~~((and)),~~ vomiting ~~((in cancer patients; AIDS-wasting~~  
21 syndrome)), and cachexia associated with cancer, HIV-positive status,  
22 AIDS, hepatitis C, anorexia, and their treatments;

23 (ii) Severe muscle spasms associated with multiple sclerosis,  
24 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy;))~~

25 (iii) Acute or chronic glaucoma;

26 (iv) Crohn's disease; and

27 (v) Some forms of intractable pain.

28 ~~((The people find that))~~ (b) Humanitarian compassion necessitates  
29 that the decision to ~~((authorize the medical))~~ use ~~((of marijuana))~~  
30 cannabis by patients with terminal or debilitating ~~((illnesses))~~  
31 medical conditions is a personal, individual decision, based upon their  
32 health care professional's professional medical judgment and  
33 discretion.

34 (2) Therefore, the ~~((people of the state of Washington))~~  
35 legislature intends that:

36 (a) Qualifying patients with terminal or debilitating ~~((illnesses))~~  
37 medical conditions who, in the judgment of their health care

1 professionals, may benefit from the medical use of ((marijuana))  
2 cannabis, shall not be (~~found guilty of a crime under state law for~~  
3 ~~their possession and limited use of marijuana~~) arrested, prosecuted,  
4 or subject to other criminal sanctions or civil consequences under  
5 state law based solely on their medical use of cannabis,  
6 notwithstanding any other provision of law;

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

13 (c) Health care professionals shall also (~~be excepted from~~  
14 ~~liability and prosecution~~) not be arrested, prosecuted, or subject to  
15 other criminal sanctions or civil consequences under state law for the  
16 proper authorization of ((marijuana)) medical use ((to)) of cannabis by  
17 qualifying patients for whom, in the health care professional's  
18 professional judgment, the medical ((marijuana)) use of cannabis may  
19 prove beneficial.

20 (3) Nothing in this chapter establishes the medical necessity or  
21 medical appropriateness of cannabis for treating terminal or  
22 debilitating medical conditions as defined in RCW 69.51A.010.

23 (4) Nothing in this chapter diminishes the authority of  
24 correctional agencies and departments, including local governments or  
25 jails, to establish a procedure for determining when the use of  
26 cannabis would impact community safety or the effective supervision of  
27 those on active supervision for a criminal conviction, nor does it  
28 create the right to any accommodation of any medical use of cannabis in  
29 any correctional facility or jail.

30 **Sec. 103.** RCW 69.51A.020 and 1999 c 2 s 3 are each amended to read  
31 as follows:

32 Nothing in this chapter shall be construed to supersede Washington  
33 state law prohibiting the acquisition, possession, manufacture, sale,  
34 or use of ((marijuana)) cannabis for nonmedical purposes. Criminal  
35 penalties created under this act do not preclude the prosecution or  
36 punishment for other crimes, including other crimes involving the  
37 manufacture or delivery of cannabis for nonmedical purposes.

PART II  
DEFINITIONS

\*Sec. 201. RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read as follows:

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

(1) "Cannabis" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this chapter, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

(2) "Cannabis analysis laboratory" means a laboratory that performs chemical analysis and inspection of cannabis samples.

(3) "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

(4) "Correctional facility" has the same meaning as provided in RCW 72.09.015.

(5) "Corrections agency or department" means any agency or department in the state of Washington, including local governments or jails, that is vested with the responsibility to manage those individuals who are being supervised in the community for a criminal conviction and has established a written policy for determining when the medical use of cannabis, including possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, is inconsistent with and contrary to the person's supervision.

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

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

3 (b) Has been designated in ((writing)) a written document signed  
4 and dated by a qualifying patient to serve as a designated provider  
5 under this chapter; and

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

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

10 ~~(2)) in compliance with the terms and conditions set forth in RCW~~  
11 ~~69.51A.040.~~

12 A qualifying patient may be the designated provider for another  
13 qualifying patient and be in possession of both patients' cannabis at  
14 the same time.

15 (7) "Director" means the director of the department of agriculture.

16 (8) "Dispense" means the selection, measuring, packaging, labeling,  
17 delivery, or retail sale of cannabis by a licensed dispenser to a  
18 qualifying patient or designated provider.

19 (9) "Health care professional," for purposes of this chapter only,  
20 means a physician licensed under chapter 18.71 RCW, a physician  
21 assistant licensed under chapter 18.71A RCW, an osteopathic physician  
22 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant  
23 licensed under chapter 18.57A RCW, a naturopath licensed under chapter  
24 18.36A RCW, or an advanced registered nurse practitioner licensed under  
25 chapter 18.79 RCW.

26 ~~((3))~~ (10) "Jail" has the same meaning as provided in RCW  
27 70.48.020.

28 (11) "Labeling" means all labels and other written, printed, or  
29 graphic matter (a) upon any cannabis intended for medical use, or (b)  
30 accompanying such cannabis.

31 (12) "Licensed dispenser" means a person licensed to dispense  
32 cannabis for medical use to qualifying patients and designated  
33 providers by the department of health in accordance with rules adopted  
34 by the department of health pursuant to the terms of this chapter.

35 (13) "Licensed processor of cannabis products" means a person  
36 licensed by the department of agriculture to manufacture, process,  
37 handle, and label cannabis products for wholesale to licensed  
38 dispensers.

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

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

12        ((+4)) (16) "Nonresident" means a person who is temporarily in the  
13 state but is not a Washington state resident.

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

16        (18) "Person" means an individual or an entity.

17        (19) "Personally identifiable information" means any information  
18 that includes, but is not limited to, data that uniquely identify,  
19 distinguish, or trace a person's identity, such as the person's name,  
20 date of birth, or address, either alone or when combined with other  
21 sources, that establish the person is a qualifying patient, designated  
22 provider, licensed producer, or licensed processor of cannabis products  
23 for purposes of registration with the department of health or  
24 department of agriculture. The term "personally identifiable  
25 information" also means any information used by the department of  
26 health or department of agriculture to identify a person as a  
27 qualifying patient, designated provider, licensed producer, or licensed  
28 processor of cannabis products.

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

36        (21) "Process" means to handle or process cannabis in preparation  
37 for medical use.

1       (22) "Processing facility" means the premises and equipment where  
2 cannabis products are manufactured, processed, handled, and labeled for  
3 wholesale to licensed dispensers.

4       (23) "Produce" means to plant, grow, or harvest cannabis for  
5 medical use.

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

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

28       (26) "Qualifying patient" means a person who:

29       (a)(i) Is a patient of a health care professional;

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

32       ((c)) (iii) Is a resident of the state of Washington at the time  
33 of such diagnosis;

34       ((d)) (iv) Has been advised by that health care professional  
35 about the risks and benefits of the medical use of ((marijuana))  
36 cannabis; ((and

37       (e)) (v) Has been advised by that health care professional that



1 ((they)) he or she may benefit from the medical use of ((marijuana))  
2 cannabis; and

3 (vi) Is otherwise in compliance with the terms and conditions  
4 established in this chapter.

5 (b) The term "qualifying patient" does not include a person who is  
6 actively being supervised for a criminal conviction by a corrections  
7 agency or department that has determined that the terms of this chapter  
8 are inconsistent with and contrary to his or her supervision and all  
9 related processes and procedures related to that supervision.

10 ((+5)) (27) "Secretary" means the secretary of health.

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

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

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

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

18 ((+6)) (29) "Terminal or debilitating medical condition" means:

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

21 (b) Intractable pain, limited for the purpose of this chapter to  
22 mean pain unrelieved by standard medical treatments and medications; 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)) (30) "THC concentration" means percent of

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

3 (31) "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 (32)(a) Until January 1, 2013, "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.

\*Sec. 201 was vetoed. See message at end of chapter.

### PART III

#### 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(26) 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 newly initiated or existing documented relationship~~  
26 ~~with the patient, as a primary care provider or a specialist, relating~~  
27 ~~to the diagnosis and ongoing treatment or monitoring of the patient's~~  
28 ~~terminal or debilitating medical condition, and only after:~~

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

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

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

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

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

3 (b) A health care professional shall not:

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

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

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

14 (iv) Have a business or practice which consists solely of  
15 authorizing the medical use of cannabis;

16 (v) Include any statement or reference, visual or otherwise, on the  
17 medical use of cannabis in any advertisement for his or her business or  
18 practice; or

19 (vi) Hold an economic interest in an enterprise that produces,  
20 processes, or dispenses cannabis if the health care professional  
21 authorizes the medical use of cannabis.

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

24 **PART IV**

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

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

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

34 ~~(2) If charged with a violation of state law relating to marijuana,~~  
35 ~~any qualifying patient who is engaged in the medical use of marijuana,~~  
36 ~~or any designated provider who assists a qualifying patient in the~~

1 ~~medical use of marijuana, will be deemed to have established an~~  
2 ~~affirmative defense to such charges by proof of his or her compliance~~  
3 ~~with the requirements provided in this chapter. Any person meeting the~~  
4 ~~requirements appropriate to his or her status under this chapter shall~~  
5 ~~be considered to have engaged in activities permitted by this chapter~~  
6 ~~and shall not be penalized in any manner, or denied any right or~~  
7 ~~privilege, for such actions.~~

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

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

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

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

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

24 ~~guardian of the qualifying patient.)) The medical use of cannabis in~~  
25 ~~accordance with the terms and conditions of this chapter does not~~  
26 ~~constitute a crime and a qualifying patient or designated provider in~~  
27 ~~compliance with the terms and conditions of this chapter may not be~~  
28 ~~arrested, prosecuted, or subject to other criminal sanctions or civil~~  
29 ~~consequences, for possession, manufacture, or delivery of, or for~~  
30 ~~possession with intent to manufacture or deliver, cannabis under state~~  
31 ~~law, or have real or personal property seized or forfeited for~~  
32 ~~possession, manufacture, or delivery of, or for possession with intent~~  
33 ~~to manufacture or deliver, cannabis under state law, and investigating~~  
34 ~~peace officers and law enforcement agencies may not be held civilly~~  
35 ~~liable for failure to seize cannabis in this circumstance, if:~~

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

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

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

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

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

12 (2) The qualifying patient or designated provider presents his or  
13 her proof of registration with the department of health, to any peace  
14 officer who questions the patient or provider regarding his or her  
15 medical use of cannabis;

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

22 (4) The investigating peace officer does not possess evidence that:

23 (a) The designated provider has converted cannabis produced or  
24 obtained for the qualifying patient for his or her own personal use or  
25 benefit; or

26 (b) The qualifying patient has converted cannabis produced or  
27 obtained for his or her own medical use to the qualifying patient's  
28 personal, nonmedical use or benefit;

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

32 (6) The investigating peace officer has not observed evidence of  
33 any of the circumstances identified in section 901(4) of this act.

34 NEW SECTION. Sec. 402. (1) A qualifying patient or designated  
35 provider who is not registered with the registry established in section  
36 901 of this act may raise the affirmative defense set forth in  
37 subsection (2) of this section, if:

1 (a) The qualifying patient or designated provider presents his or  
2 her valid documentation to any peace officer who questions the patient  
3 or provider regarding his or her medical use of cannabis;

4 (b) The qualifying patient or designated provider possesses no more  
5 cannabis than the limits set forth in RCW 69.51A.040(1);

6 (c) The qualifying patient or designated provider is in compliance  
7 with all other terms and conditions of this chapter;

8 (d) The investigating peace officer does not have probable cause to  
9 believe that the qualifying patient or designated provider has  
10 committed a felony, or is committing a misdemeanor in the officer's  
11 presence, that does not relate to the medical use of cannabis;

12 (e) No outstanding warrant for arrest exists for the qualifying  
13 patient or designated provider; and

14 (f) The investigating peace officer has not observed evidence of  
15 any of the circumstances identified in section 901(4) of this act.

16 (2) A qualifying patient or designated provider who is not  
17 registered with the registry established in section 901 of this act,  
18 but who presents his or her valid documentation to any peace officer  
19 who questions the patient or provider regarding his or her medical use  
20 of cannabis, may assert an affirmative defense to charges of violations  
21 of state law relating to cannabis through proof at trial, by a  
22 preponderance of the evidence, that he or she otherwise meets the  
23 requirements of RCW 69.51A.040. A qualifying patient or designated  
24 provider meeting the conditions of this subsection but possessing more  
25 cannabis than the limits set forth in RCW 69.51A.040(1) may, in the  
26 investigating peace officer's discretion, be taken into custody and  
27 booked into jail in connection with the investigation of the incident.

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 ten 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;

36 (c) A collective garden may contain no more than twenty-four ounces

1 of useable cannabis per patient up to a total of seventy-two ounces of  
2 useable cannabis;

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

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

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

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

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

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

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



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

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

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

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

35 ***(2) Is in compliance with all provisions of this chapter other than***

1 requirements relating to being a Washington resident or possessing  
2 valid documentation issued by a licensed health care professional in  
3 Washington;

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

9 (4) Does not possess evidence that the nonresident has converted  
10 cannabis produced or obtained for his or her own medical use to the  
11 nonresident's personal, nonmedical use or benefit.

*\*Sec. 407 was vetoed. See message at end of chapter.*

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

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

28 \*NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)  
29 of this section, a qualifying patient may not be refused housing or  
30 evicted from housing solely as a result of his or her possession or use  
31 of useable cannabis or cannabis products except that housing providers  
32 otherwise permitted to enact and enforce prohibitions against smoking  
33 in their housing may apply those prohibitions to smoking cannabis  
34 provided that such smoking prohibitions are applied and enforced

1 equally as to the smoking of cannabis and the smoking of all other  
2 substances, including without limitation tobacco.

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

\*Sec. 410 was vetoed. See message at end of chapter.

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

\*Sec. 411 was vetoed. See message at end of chapter.

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

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

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

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

\*Sec. 412 was vetoed. See message at end of chapter.

34 NEW SECTION. Sec. 413. Nothing in this chapter or in the rules  
35 adopted to implement it precludes a qualifying patient or designated

1 provider from engaging in the private, unlicensed, noncommercial  
2 production, possession, transportation, delivery, or administration of  
3 cannabis for medical use as authorized under RCW 69.51A.040.

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

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

9 (1) It shall be a (~~misdemeanor~~) class 3 civil infraction to use  
10 or display medical (~~marijuana~~) cannabis in a manner or place which is  
11 open to the view of the general public.

12 (2) Nothing in this chapter (~~requires any health insurance~~  
13 ~~provider~~) establishes a right of care as a covered benefit or requires  
14 any state purchased health care as defined in RCW 41.05.011 or other  
15 health carrier or health plan as defined in Title 48 RCW to be liable  
16 for any claim for reimbursement for the medical use of (~~marijuana~~)  
17 cannabis. Such entities may enact coverage or noncoverage criteria or  
18 related policies for payment or nonpayment of medical cannabis in their  
19 sole discretion.

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

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

29 (5) Nothing in this chapter authorizes the use of medical cannabis  
30 by any person who is subject to the Washington code of military justice  
31 in chapter 38.38 RCW.

32 (6) Employers may establish drug-free work policies. Nothing in  
33 this chapter requires an accommodation for the medical use of cannabis  
34 if an employer has a drug-free work place.

35 (7) It is a class C felony to fraudulently produce any record  
36 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under RCW  
2 69.51A.010(~~((7))~~) (32)(a), or to backdate such documentation to a time  
3 earlier than its actual date of execution.

4 ~~((6))~~ (8) No person shall be entitled to claim the ~~((affirmative~~  
5 ~~defense—provided—in—RCW—69.51A.040))~~ protection from arrest and  
6 prosecution under RCW 69.51A.040 or the affirmative defense under  
7 section 402 of this act for engaging in the medical use of  
8 ~~((marijuana))~~ cannabis in a way that endangers the health or well-being  
9 of any person through the use of a motorized vehicle on a street, road,  
10 or highway, including violations of RCW 46.61.502 or 46.61.504, or  
11 equivalent local ordinances.

## 12 PART VI

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

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

*\*Sec. 601 was vetoed. See message at end of chapter.*

29 ***\*NEW SECTION. Sec. 602. A person may not act as a licensed***  
30 ***processor without a license for each processing facility issued by the***  
31 ***department of agriculture and prominently displayed on the premises.***  
32 ***Provided they are acting in compliance with the terms of this chapter***  
33 ***and rules adopted to enforce and carry out its purposes, licensed***  
34 ***processors of cannabis products and their employees, members, officers,***  
35 ***and directors may possess useable cannabis and manufacture, produce,***

1 prepare, process, package, repackage, transport, transfer, deliver,  
2 label, relabel, wholesale, or possess cannabis products intended for  
3 medical use by qualifying patients, and may not be arrested, searched,  
4 prosecuted, or subject to other criminal sanctions or civil  
5 consequences under state law, or have real or personal property  
6 searched, seized, or forfeited pursuant to state law, for such  
7 activities, notwithstanding any other provision of law.

*\*Sec. 602 was vetoed. See message at end of chapter.*

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

*\*Sec. 603 was vetoed. See message at end of chapter.*

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

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

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

*\*Sec. 604 was vetoed. See message at end of chapter.*

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

*\*Sec. 605 was vetoed. See message at end of chapter.*

33 **\*NEW SECTION.** Sec. 606. The department of agriculture may adopt  
34 rules on:

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

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

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

*\*Sec. 606 was vetoed. See message at end of chapter.*

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

*\*Sec. 607 was vetoed. See message at end of chapter.*

19 \*NEW SECTION. Sec. 608. (1) By January 1, 2013, taking into  
20 consideration, but not being limited by, the security requirements  
21 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt  
22 rules:

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

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

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

33 (i) The business or trade name and Washington state unified  
34 business identifier (UBI) number of the licensed producer of the  
35 cannabis;

36 (ii) THC concentration; and

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

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

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

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

15 (g) Establishing license application and renewal fees for the  
16 licensure of producers and processors of cannabis products.

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

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

\*Sec. 608 was vetoed. See message at end of chapter.

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

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



1 product testing, receipts, canceled receipts, other documents, and  
2 transactions necessary or common to the medical cannabis industry.

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

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

\*Sec. 609 was vetoed. See message at end of chapter.

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

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

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

24 (c) Furnish the department of agriculture with requested  
25 information.

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

1 fines, petition the superior court of the county where the licensee's  
2 principal place of business in Washington is located, as shown by the  
3 license application, for an order:

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

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

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

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

\*Sec. 610 was vetoed. See message at end of chapter.

20 \*NEW SECTION. Sec. 611. (1) A licensed producer may not sell or  
21 deliver cannabis to any person other than a cannabis analysis  
22 laboratory, licensed processor of cannabis products, licensed  
23 dispenser, or law enforcement officer except as provided by court  
24 order. A licensed producer may also sell or deliver cannabis to the  
25 University of Washington or Washington State University for research  
26 purposes, as identified in section 1002 of this act. Violation of this  
27 section is a class C felony punishable according to chapter 9A.20 RCW.

28 (2) A licensed processor of cannabis products may not sell or  
29 deliver cannabis to any person other than a cannabis analysis  
30 laboratory, licensed dispenser, or law enforcement officer except as  
31 provided by court order. A licensed processor of cannabis products may  
32 also sell or deliver cannabis to the University of Washington or  
33 Washington State University for research purposes, as identified in  
34 section 1002 of this act. Violation of this section is a class C  
35 felony punishable according to chapter 9A.20 RCW.

\*Sec. 611 was vetoed. See message at end of chapter.

1 PART VII  
2 LICENSED DISPENSERS

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

\*Sec. 701 was vetoed. See message at end of chapter.

17 \*NEW SECTION. Sec. 702. (1) By January 1, 2013, taking into  
18 consideration the security requirements described in 21 C.F.R. 1301.71-  
19 1301.76, the secretary of health shall adopt rules:

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

23 (b) Providing for mandatory inspection of licensed dispensers'  
24 locations;

25 (c) Establishing procedures governing the suspension and revocation  
26 of licenses of dispensers;

27 (d) Establishing recordkeeping requirements for licensed  
28 dispensers;

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

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

33 (g) Establishing cannabis storage requirements, including security  
34 requirements;

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

1           (i) Establishing physical standards for cannabis dispensing  
2 facilities. The physical standards must require a licensed dispenser  
3 to ensure that no cannabis or cannabis paraphernalia may be viewed from  
4 outside the facility;

5           (j) Establishing maximum amounts of cannabis and cannabis products  
6 that may be kept at one time at a dispensary. In determining maximum  
7 amounts, the secretary must consider the security of the dispensary and  
8 the surrounding community;

9           (k) Establishing physical standards for sanitary conditions for  
10 cannabis dispensing facilities;

11           (l) Establishing physical and sanitation standards for cannabis  
12 dispensing equipment;

13           (m) Establishing a maximum number of licensed dispensers that may  
14 be licensed in each county as provided in this section;

15           (n) Enforcing and carrying out the provisions of this section and  
16 the rules adopted to carry out its purposes; and

17           (o) Establishing license application and renewal fees for the  
18 licensure of dispensers in accordance with RCW 43.70.250.

19           (2)(a) The secretary shall establish a maximum number of licensed  
20 dispensers that may operate in each county. Prior to January 1, 2016,  
21 the maximum number of licensed dispensers shall be based upon a ratio  
22 of one licensed dispenser for every twenty thousand persons in a  
23 county. On or after January 1, 2016, the secretary may adopt rules to  
24 adjust the method of calculating the maximum number of dispensers to  
25 consider additional factors, such as the number of enrollees in the  
26 registry established in section 901 of this act and the secretary's  
27 experience in administering the program. The secretary may not issue  
28 more licenses than the maximum number of licenses established under  
29 this section.

30           (b) In the event that the number of applicants qualifying for the  
31 selection process exceeds the maximum number for a county, the  
32 secretary shall initiate a random selection process established by the  
33 secretary in rule.

34           (c) To qualify for the selection process, an applicant must  
35 demonstrate to the secretary that he or she meets initial screening  
36 criteria that represent the applicant's capacity to operate in  
37 compliance with this chapter. Initial screening criteria shall  
38 include, but not be limited to:

1 (i) Successful completion of a background check;  
2 (ii) A plan to systematically verify qualifying patient and  
3 designated provider status of clients;  
4 (iii) Evidence of compliance with functional standards, such as  
5 ventilation and security requirements; and  
6 (iv) Evidence of compliance with facility standards, such as zoning  
7 compliance and not using the facility as a residence.

8 (d) The secretary shall establish a schedule to:

9 (i) Update the maximum allowable number of licensed dispensers in  
10 each county; and

11 (ii) Issue approvals to operate within a county according to the  
12 random selection process.

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

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

*\*Sec. 702 was vetoed. See message at end of chapter.*

20 **\*NEW SECTION.** Sec. 703. A licensed dispenser may not sell cannabis  
21 received from any person other than a licensed producer or licensed  
22 processor of cannabis products, or sell or deliver cannabis to any  
23 person other than a qualifying patient, designated provider, or law  
24 enforcement officer except as provided by court order. A licensed  
25 dispenser may also sell or deliver cannabis to the University of  
26 Washington or Washington State University for research purposes, as  
27 identified in section 1002 of this act. Before selling or providing  
28 cannabis to a qualifying patient or designated provider, the licensed  
29 dispenser must confirm that the patient qualifies for the medical use  
30 of cannabis by contacting, at least once in a one-year period, that  
31 patient's health care professional. Violation of this section is a  
32 class C felony punishable according to chapter 9A.20 RCW.

*\*Sec. 703 was vetoed. See message at end of chapter.*

33 **\*NEW SECTION.** Sec. 704. A license to operate as a licensed  
34 dispenser is not transferrable.

*\*Sec. 704 was vetoed. See message at end of chapter.*



1           ***\*NEW SECTION.*** Sec. 803. (1) A prior conviction for a cannabis or  
2 marijuana offense shall not disqualify an applicant from receiving a  
3 license to produce, process, or dispense cannabis for medical use,  
4 provided the conviction did not include any sentencing enhancements  
5 under RCW 9.94A.533 or analogous laws in other jurisdictions. Any  
6 criminal conviction of a current licensee may be considered in  
7 proceedings to suspend or revoke a license.

8           (2) Nothing in this section prohibits either the department of  
9 health or the department of agriculture, as appropriate, from denying,  
10 suspending, or revoking the credential of a license holder for other  
11 drug-related offenses or any other criminal offenses.

12           (3) Nothing in this section prohibits a corrections agency or  
13 department from considering all prior and current convictions in  
14 determining whether the possession, manufacture, or delivery of, or for  
15 possession with intent to manufacture or deliver, is inconsistent with  
16 and contrary to the person's supervision.

*\*Sec. 803 was vetoed. See message at end of chapter.*

17           ***\*NEW SECTION.*** Sec. 804. A violation of any provision or section of  
18 this chapter that relates to the licensing and regulation of producers,  
19 processors, or dispensers, where no other penalty is provided for, and  
20 the violation of any rule adopted under this chapter constitutes a  
21 misdemeanor.

*\*Sec. 804 was vetoed. See message at end of chapter.*

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

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

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

*\*Sec. 805 was vetoed. See message at end of chapter.*

1        \*NEW SECTION. Sec. 806. The department of agriculture or the  
2 department of health, as the case may be, must immediately suspend any  
3 certification of licensure issued under this chapter if the holder of  
4 the certificate has been certified under RCW 74.20A.320 by the  
5 department of social and health services as a person who is not in  
6 compliance with a support order. If the person has continued to meet  
7 all other requirements for certification during the suspension,  
8 reissuance of the certificate of licensure shall be automatic upon the  
9 department's receipt of a release issued by the department of social  
10 and health services stating that the person is in compliance with the  
11 order.

\*Sec. 806 was vetoed. See message at end of chapter.

12        \*NEW SECTION. Sec. 807. The department of agriculture or the  
13 department of health, as the case may be, must suspend the  
14 certification of licensure of any person who has been certified by a  
15 lending agency and reported to the appropriate department for  
16 nonpayment or default on a federally or state-guaranteed educational  
17 loan or service-conditional scholarship. Prior to the suspension, the  
18 department of agriculture or the department of health, as the case may  
19 be, must provide the person an opportunity for a brief adjudicative  
20 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of  
21 nonpayment or default on a federally or state-guaranteed educational  
22 loan or service-conditional scholarship. The person's license may not  
23 be reissued until the person provides the appropriate department a  
24 written release issued by the lending agency stating that the person is  
25 making payments on the loan in accordance with a repayment agreement  
26 approved by the lending agency. If the person has continued to meet  
27 all other requirements for certification or registration during the  
28 suspension, reinstatement is automatic upon receipt of the notice and  
29 payment of any reinstatement fee.

\*Sec. 807 was vetoed. See message at end of chapter.

## PART IX

### SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS, AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS

33        \*NEW SECTION. Sec. 901. (1) By January 1, 2013, the department of  
34 health shall, in consultation with the department of agriculture, adopt



1 rules for the creation, implementation, maintenance, and timely  
2 upgrading of a secure and confidential registration system that allows:

3 (a) A peace officer to verify at any time whether a health care  
4 professional has registered a person as either a qualifying patient or  
5 a designated provider; and

6 (b) A peace officer to verify at any time whether a person,  
7 location, or business is licensed by the department of agriculture or  
8 the department of health as a licensed producer, licensed processor of  
9 cannabis products, or licensed dispenser.

10 (2) The department of agriculture must, in consultation with the  
11 department of health, create and maintain a secure and confidential  
12 list of persons to whom it has issued a license to produce cannabis for  
13 medical use or a license to process cannabis products, and the physical  
14 addresses of the licensees' production and processing facilities. The  
15 list must meet the requirements of subsection (9) of this section and  
16 be transmitted to the department of health to be included in the  
17 registry established by this section.

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

24 (4) Before seeking a nonvehicle search warrant or arrest warrant,  
25 a peace officer investigating a cannabis-related incident must make  
26 reasonable efforts to ascertain whether the location or person under  
27 investigation is registered in the registration system, and include the  
28 results of this inquiry in the affidavit submitted in support of the  
29 application for the warrant. This requirement does not apply to  
30 investigations in which:

31 (a) The peace officer has observed evidence of an apparent cannabis  
32 operation that is not a licensed producer, processor of cannabis  
33 products, or dispenser;

34 (b) The peace officer has observed evidence of theft of electrical  
35 power;

36 (c) The peace officer has observed evidence of illegal drugs other  
37 than cannabis at the premises;

1       (d) The peace officer has observed frequent and numerous short-term  
2 visits over an extended period that are consistent with commercial  
3 activity, if the subject of the investigation is not a licensed  
4 dispenser;

5       (e) The peace officer has observed violent crime or other  
6 demonstrated dangers to the community;

7       (f) The peace officer has probable cause to believe the subject of  
8 the investigation has committed a felony, or a misdemeanor in the  
9 officer's presence, that does not relate to cannabis; or

10       (g) The subject of the investigation has an outstanding arrest  
11 warrant.

12       (5) Law enforcement may access the registration system only in  
13 connection with a specific, legitimate criminal investigation regarding  
14 cannabis.

15       (6) Registration in the system shall be optional for qualifying  
16 patients and designated providers, not mandatory, and registrations are  
17 valid for one year, except that qualifying patients must be able to  
18 remove themselves from the registry at any time. For licensees,  
19 registrations are valid for the term of the license and the  
20 registration must be removed if the licensee's license is expired or  
21 revoked. The department of health must adopt rules providing for  
22 registration renewals and for removing expired registrations and  
23 expired or revoked licenses from the registry.

24       (7) Fees, including renewal fees, for qualifying patients and  
25 designated providers participating in the registration system shall be  
26 limited to the cost to the state of implementing, maintaining, and  
27 enforcing the provisions of this section and the rules adopted to carry  
28 out its purposes. The fee shall also include any costs for the  
29 department of health to disseminate information to employees of state  
30 and local law enforcement agencies relating to whether a person is a  
31 licensed producer, processor of cannabis products, or dispenser, or  
32 that a location is the recorded address of a license producer,  
33 processor of cannabis products, or dispenser, and for the dissemination  
34 of log records relating to such requests for information to the  
35 subjects of those requests. No fee may be charged to local law  
36 enforcement agencies for accessing the registry.

37       (8) During the rule-making process, the department of health shall  
38 consult with stakeholders and persons with relevant expertise, to

1 include, but not be limited to, qualifying patients, designated  
2 providers, health care professionals, state and local law enforcement  
3 agencies, and the University of Washington computer science and  
4 engineering security and privacy research lab.

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

6 (a) Any personally identifiable information included in the  
7 registration system must be "nonreversible," pursuant to definitions  
8 and standards set forth by the national institute of standards and  
9 technology;

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

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

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

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

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

30 (i) Authorized employees of the department of agriculture and the  
31 department of health as necessary to perform official duties of either  
32 department; or

33 (ii) Authorized employees of state or local law enforcement  
34 agencies, only as necessary to verify that the person or location is a  
35 qualified patient, designated provider, licensed producer, licensed  
36 processor of cannabis products, or licensed dispenser, and only after  
37 the inquiring employee has provided adequate identification.  
38 Authorized employees who obtain personally identifiable information

1 under this subsection may not release or use the information for any  
2 purpose other than verification that a person or location is a  
3 qualified patient, designated provider, licensed producer, licensed  
4 processor of cannabis products, or licensed dispenser;

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

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

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

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

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

*\*Sec. 901 was vetoed. See message at end of chapter.*

21 **\*NEW SECTION.** Sec. 902. A new section is added to chapter 42.56  
22 RCW to read as follows:

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

*\*Sec. 902 was vetoed. See message at end of chapter.*

28 PART X  
29 EVALUATION

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

34 (2) The evaluation of the implementation of this act and the rules

1 adopted to carry out its purposes shall include, but not necessarily be  
2 limited to, consideration of the following factors:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 efficacy of cannabis and may develop medical guidelines for the  
2 appropriate administration and use of cannabis.

3 **PART XI**  
4 **CONSTRUCTION**

5 NEW SECTION. **Sec. 1101.** (1) No civil or criminal liability may be  
6 imposed by any court on the state or its officers and employees for  
7 actions taken in good faith under this chapter and within the scope of  
8 their assigned duties.

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 in good faith under this chapter and  
12 within the scope of their assigned duties.

13 NEW SECTION. **Sec. 1102.** (1) Cities and towns may adopt and  
14 enforce any of the following pertaining to the production, processing,  
15 or dispensing of cannabis or cannabis products within their  
16 jurisdiction: Zoning requirements, business licensing requirements,  
17 health and safety requirements, and business taxes. Nothing in this  
18 act is intended to limit the authority of cities and towns to impose  
19 zoning requirements or other conditions upon licensed dispensers, so  
20 long as such requirements do not preclude the possibility of siting  
21 licensed dispensers within the jurisdiction. If the jurisdiction has  
22 no commercial zones, the jurisdiction is not required to adopt zoning  
23 to accommodate licensed dispensers.

24 (2) Counties may adopt and enforce any of the following pertaining  
25 to the production, processing, or dispensing of cannabis or cannabis  
26 products within their jurisdiction in locations outside of the  
27 corporate limits of any city or town: Zoning requirements, business  
28 licensing requirements, and health and safety requirements. Nothing in  
29 this act is intended to limit the authority of counties to impose  
30 zoning requirements or other conditions upon licensed dispensers, so  
31 long as such requirements do not preclude the possibility of siting  
32 licensed dispensers within the jurisdiction. If the jurisdiction has  
33 no commercial zones, the jurisdiction is not required to adopt zoning  
34 to accommodate licensed dispensers.

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

6        ***\*NEW SECTION. Sec. 1104. In the event that the federal government***  
7 ***authorizes the use of cannabis for medical purposes, within a year of***  
8 ***such action, the joint legislative audit and review committee shall***  
9 ***conduct a program and fiscal review of the cannabis production and***  
10 ***dispensing programs established in this chapter. The review shall***  
11 ***consider whether a distinct cannabis production and dispensing system***  
12 ***continues to be necessary when considered in light of the federal***  
13 ***action and make recommendations to the legislature.***

*\*Sec. 1104 was vetoed. See message at end of chapter.*

14        NEW SECTION.    **Sec. 1105.** (1)(a) The arrest and prosecution  
15 protections established in section 401 of this act may not be asserted  
16 in a supervision revocation or violation hearing by a person who is  
17 supervised by a corrections agency or department, including local  
18 governments or jails, that has determined that the terms of this  
19 section are inconsistent with and contrary to his or her supervision.

20        (b) The affirmative defenses established in sections 402, 405, 406,  
21 and 407 of this act may not be asserted in a supervision revocation or  
22 violation hearing by a person who is supervised by a corrections agency  
23 or department, including local governments or jails, that has  
24 determined that the terms of this section are inconsistent with and  
25 contrary to his or her supervision.

26        (2) The provisions of RCW 69.51A.040 and sections 403 and 413 of  
27 this act do not apply to a person who is supervised for a criminal  
28 conviction by a corrections agency or department, including local  
29 governments or jails, that has determined that the terms of this  
30 chapter are inconsistent with and contrary to his or her supervision.

31        (3) A person may not be licensed as a licensed producer, licensed  
32 processor of cannabis products, or a licensed dispenser under section  
33 601, 602, or 701 of this act if he or she is supervised for a criminal  
34 conviction by a corrections agency or department, including local  
35 governments or jails, that has determined that licensure is  
36 inconsistent with and contrary to his or her supervision.

1       **Sec. 1106.** RCW 69.51A.900 and 1999 c 2 s 1 are each amended to  
2 read as follows:

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

5   PART XII  
6   MISCELLANEOUS

7       **\*NEW SECTION. Sec. 1201.** *(1) The legislature recognizes that there*  
8 *are cannabis producers and cannabis dispensaries in operation as of the*  
9 *effective date of this section that are unregulated by the state and*  
10 *who produce and dispense cannabis for medical use by qualifying*  
11 *patients. The legislature intends that these producers and*  
12 *dispensaries become licensed in accordance with the requirements of*  
13 *this chapter and that this licensing provides them with arrest*  
14 *protection so long as they remain in compliance with the requirements*  
15 *of this chapter and the rules adopted under this chapter. The*  
16 *legislature further recognizes that cannabis producers and cannabis*  
17 *dispensaries in current operation are not able to become licensed until*  
18 *the department of agriculture and the department of health adopt rules*  
19 *and, consequently, it is likely they will remain unlicensed until at*  
20 *least January 1, 2013. These producers and dispensary owners and*  
21 *operators run the risk of arrest between the effective date of this*  
22 *section and the time they become licensed. Therefore, the legislature*  
23 *intends to provide them with an affirmative defense if they meet the*  
24 *requirements of this section.*

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

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

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

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



1 (c) Be registered with the secretary of state as of May 1, 2011;  
2 (d) File a letter of intent with the department of agriculture or  
3 the department of health, as the case may be, asserting that the  
4 producer or dispenser intends to become licensed in accordance with  
5 this chapter and rules adopted by the appropriate department; and

6 (e) File a letter of intent with the city clerk if in an  
7 incorporated area or to the county clerk if in an unincorporated area  
8 stating they operate as a producer or dispensary and that they comply  
9 with the provisions of this chapter and will comply with subsequent  
10 department rule making.

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

16 (5) Letters of intent filed with a public agency, letters of  
17 acknowledgement sent from those agencies, and other materials related  
18 to such letters are exempt from public disclosure under chapter 42.56  
19 RCW.

20 (6) This section expires upon the establishment of the licensing  
21 programs of the department of agriculture and the department of health  
22 and the commencement of the issuance of licenses for dispensers and  
23 producers as provided in this chapter. The department of health and  
24 the department of agriculture shall notify the code reviser when the  
25 establishment of the licensing programs has occurred.

*\*Sec. 1201 was vetoed. See message at end of chapter.*

26 **\*NEW SECTION.** Sec. 1202. A new section is added to chapter 42.56  
27 RCW to read as follows:

28 The following information related to cannabis producers and  
29 cannabis dispensers are exempt from disclosure under this section:

30 (1) Letters of intent filed with a public agency under section 1201  
31 of this act;

32 (2) Letters of acknowledgement sent from a public agency under  
33 section 1201 of this act;

34 (3) Materials related to letters of intent and acknowledgement  
35 under section 1201 of this act.

*\*Sec. 1202 was vetoed. See message at end of chapter.*

1        **\*NEW SECTION.**    **Sec. 1203.**    (1)(a) On July 1, 2015, the department of  
2 health shall report the following information to the state treasurer:

3        (i) The expenditures from the health professions account related to  
4 the administration of chapter 69.51A RCW between the effective date of  
5 this section and June 30, 2015; and

6        (ii) The amounts deposited into the health professions account  
7 under sections 702, 802, and 901 of this act between the effective date  
8 of this section and June 30, 2015.

9        (b) If the amount in (a)(i) of this subsection exceeds the amount  
10 in (a)(ii) of this subsection, the state treasurer shall transfer an  
11 amount equal to the difference from the general fund to the health  
12 professions account.

13        (2)(a) Annually, beginning July 1, 2016, the department of health  
14 shall report the following information to the state treasurer:

15        (i) The expenditures from the health professions account related to  
16 the administration of chapter 69.51A RCW for the preceding fiscal year;  
17 and

18        (ii) The amounts deposited into the health professions account  
19 under sections 702, 802, and 901 of this act during the preceding  
20 fiscal year.

21        (b) If the amount in (a)(i) of this subsection exceeds the amount  
22 in (a)(ii) of this subsection, the state treasurer shall transfer an  
23 amount equal to the difference from the general fund to the health  
24 professions account.

*\*Sec. 1203 was vetoed. See message at end of chapter.*

25        **NEW SECTION.**    **Sec. 1204.**    RCW 69.51A.080 (Adoption of rules by the  
26 department of health--Sixty-day supply for qualifying patients) and  
27 2007 c 371 s 8 are each repealed.

28        **NEW SECTION.**    **Sec. 1205.**    Sections 402 through 411, 413, 601  
29 through 611, 701 through 705, 801 through 807, 901, 1001, 1101 through  
30 1105, and 1201 of this act are each added to chapter 69.51A RCW.

31        **\*NEW SECTION.**    **Sec. 1206.**    **Section 1002 of this act takes effect**  
32 **January 1, 2013.**

*\*Sec. 1206 was vetoed. See message at end of chapter.*

Passed by the Senate April 21, 2011.

Passed by the House April 11, 2011.

Approved by the Governor April 29, 2011, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State April 29, 2011.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

"AN ACT Relating to medical use of cannabis."

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients' physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient's use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers,

processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition or dispositional order. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for

registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved."