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**HOUSE BILL 2612**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Kloba, Dolan, Doglio, Morgan, Vick, Blake, and Peterson

Read first time 01/16/20. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to continuing to improve the regulated marijuana  
2 system; amending RCW 69.50.4013, 69.51A.040, 69.51A.055, and  
3 69.51A.060; reenacting and amending RCW 69.51A.010; and repealing RCW  
4 69.51A.043.

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

6 **Sec. 1.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to  
7 read as follows:

8 (1) It is unlawful for any person to possess a controlled  
9 substance unless the substance was obtained directly from, or  
10 pursuant to, a valid prescription or order of a practitioner while  
11 acting in the course of his or her professional practice, or except  
12 as otherwise authorized by this chapter.

13 (2) Except as provided in RCW 69.50.4014, any person who violates  
14 this section is guilty of a class C felony punishable under chapter  
15 9A.20 RCW.

16 (3)(a) The possession, by a person twenty-one years of age or  
17 older, of useable marijuana, marijuana concentrates, or marijuana-  
18 infused products in amounts that do not exceed those set forth in RCW  
19 69.50.360(3) is not a violation of this section, this chapter, or any  
20 other provision of Washington state law.

1 (b) The possession of marijuana, useable marijuana, marijuana  
2 concentrates, and marijuana-infused products being physically  
3 transported or delivered within the state, in amounts not exceeding  
4 those that may be established under RCW 69.50.385(3), by a licensed  
5 employee of a common carrier when performing the duties authorized in  
6 accordance with RCW 69.50.382 and 69.50.385, is not a violation of  
7 this section, this chapter, or any other provision of Washington  
8 state law.

9 (4)(a) The delivery by a person twenty-one years of age or older  
10 to one or more persons twenty-one years of age or older, during a  
11 single twenty-four hour period, for noncommercial purposes and not  
12 conditioned upon or done in connection with the provision or receipt  
13 of financial consideration, of any combination of (~~the following~~)  
14 marijuana products that an adult age twenty-one or over may lawfully  
15 possess under subsection (3)(a) of this section, is not a violation  
16 of this section, this chapter, or any other provisions of Washington  
17 state law(~~(~~

18 ~~(i) One-half ounce of useable marijuana;~~

19 ~~(ii) Eight ounces of marijuana-infused product in solid form;~~

20 ~~(iii) Thirty-six ounces of marijuana-infused product in liquid~~  
21 ~~form; or~~

22 ~~(iv) Three and one-half grams of marijuana concentrates)).~~

23 (b) The act of delivering marijuana or a marijuana product as  
24 authorized under this subsection (4) must meet one of the following  
25 requirements:

26 (i) The delivery must be done in a location outside of the view  
27 of general public and in a nonpublic place; or

28 (ii) The marijuana or marijuana product must be in the original  
29 packaging as purchased from the marijuana retailer.

30 (5) No person under twenty-one years of age may possess,  
31 manufacture, sell, or distribute marijuana, marijuana-infused  
32 products, or marijuana concentrates, regardless of THC concentration.  
33 This does not include qualifying patients with a valid authorization.

34 (6) The possession by a qualifying patient or designated provider  
35 of marijuana concentrates, useable marijuana, marijuana-infused  
36 products, or plants in accordance with chapter 69.51A RCW is not a  
37 violation of this section, this chapter, or any other provision of  
38 Washington state law.

1       **Sec. 2.** RCW 69.51A.010 and 2015 c 70 s 17 are each reenacted and  
2 amended to read as follows:

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

5       (1) (a) (~~Until July 1, 2016, "authorization" means:~~

6       ~~(i) A statement signed and dated by a qualifying patient's health  
7 care professional written on tamper-resistant paper, which states  
8 that, in the health care professional's professional opinion, the  
9 patient may benefit from the medical use of marijuana; and~~

10       ~~(ii) Proof of identity such as a Washington state driver's  
11 license or identicard, as defined in RCW 46.20.035.~~

12       ~~(b) Beginning July 1, 2016, "authorization")~~ "Authorization"  
13 means a form developed by the department that is completed and signed  
14 by a qualifying patient's health care professional and printed on  
15 tamper-resistant paper.

16       ~~((e))~~ (b) An authorization is not a prescription as defined in  
17 RCW 69.50.101.

18       (2) "CBD concentration" means the percent of cannabidiol content  
19 per dry weight of any part of the plant *Cannabis*, or per volume or  
20 weight of marijuana product.

21       (3) "Department" means the department of health.

22       (4) "Designated provider" means a person who is twenty-one years  
23 of age or older and:

24       (a) (i) Is the parent or guardian of a qualifying patient who is  
25 under the age of eighteen and (~~beginning July 1, 2016,~~) holds a  
26 recognition card; or

27       (ii) Has been designated in writing by a qualifying patient to  
28 serve as the designated provider for that patient;

29       (b) (i) Has an authorization from the qualifying patient's health  
30 care professional; or

31       (ii) (~~Beginning July 1, 2016:~~) (A) Has been entered into the  
32 medical marijuana authorization database as being the designated  
33 provider to a qualifying patient; and

34       (B) Has been provided a recognition card;

35       (c) Is prohibited from consuming marijuana obtained for the  
36 personal, medical use of the qualifying patient for whom the  
37 individual is acting as designated provider;

38       (d) Provides marijuana to only the qualifying patient that has  
39 designated him or her;

1 (e) Is in compliance with the terms and conditions of this  
2 chapter; and

3 (f) Is the designated provider to only one patient at any one  
4 time.

5 (5) "Health care professional," for purposes of this chapter  
6 only, means a physician licensed under chapter 18.71 RCW, a physician  
7 assistant licensed under chapter 18.71A RCW, an osteopathic physician  
8 licensed under chapter 18.57 RCW, an osteopathic physicians'  
9 assistant licensed under chapter 18.57A RCW, a naturopath licensed  
10 under chapter 18.36A RCW, or an advanced registered nurse  
11 practitioner licensed under chapter 18.79 RCW.

12 (6) "Housing unit" means a house, an apartment, a mobile home, a  
13 group of rooms, or a single room that is occupied as separate living  
14 quarters, in which the occupants live and eat separately from any  
15 other persons in the building, and which have direct access from the  
16 outside of the building or through a common hall.

17 (7) "Low THC, high CBD" means products determined by the  
18 department to have a low THC, high CBD ratio under RCW 69.50.375. Low  
19 THC, high CBD products must be inhalable, ingestible, or absorbable.

20 (8) "Marijuana" has the meaning provided in RCW 69.50.101.

21 (9) "Marijuana concentrates" has the meaning provided in RCW  
22 69.50.101.

23 (10) "Marijuana processor" has the meaning provided in RCW  
24 69.50.101.

25 (11) "Marijuana producer" has the meaning provided in RCW  
26 69.50.101.

27 (12) "Marijuana retailer" has the meaning provided in RCW  
28 69.50.101.

29 (13) "Marijuana retailer with a medical marijuana endorsement"  
30 means a marijuana retailer that has been issued a medical marijuana  
31 endorsement by the state liquor and cannabis board pursuant to RCW  
32 69.50.375.

33 (14) "Marijuana-infused products" has the meaning provided in RCW  
34 69.50.101.

35 (15) "Medical marijuana authorization database" means the secure  
36 and confidential database established in RCW 69.51A.230.

37 (16) "Medical use of marijuana" means the manufacture,  
38 production, possession, transportation, delivery, ingestion,  
39 application, or administration of marijuana for the exclusive benefit

1 of a qualifying patient in the treatment of his or her terminal or  
2 debilitating medical condition.

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

10 (18) "Public place" has the meaning provided in RCW 70.160.020.

11 (19) "Qualifying patient" means a person who:

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

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

15 (iii) Is a resident of the state of Washington at the time of  
16 such diagnosis;

17 (iv) Has been advised by that health care professional about the  
18 risks and benefits of the medical use of marijuana;

19 (v) Has been advised by that health care professional that they  
20 may benefit from the medical use of marijuana;

21 (vi) (A) Has an authorization from his or her health care  
22 professional; or

23 (B) (~~Beginning July 1, 2016, has~~) Has been entered into the  
24 medical marijuana authorization database and has been provided a  
25 recognition card; and

26 (vii) Is otherwise in compliance with the terms and conditions  
27 established in this chapter.

28 (b) "Qualifying patient" does not include a person who is  
29 actively being supervised for a criminal conviction by a corrections  
30 agency or department that has determined that the terms of this  
31 chapter are inconsistent with and contrary to his or her supervision  
32 and all related processes and procedures related to that supervision.

33 (20) "Recognition card" means a card issued to qualifying  
34 patients and designated providers by a marijuana retailer with a  
35 medical marijuana endorsement that has entered them into the medical  
36 marijuana authorization database.

37 (21) "Retail outlet" has the meaning provided in RCW 69.50.101.

38 (22) "Secretary" means the secretary of the department of health.

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

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

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

5 (c) One or more features designed to prevent the use of  
6 counterfeit authorization.

7 (24) "Terminal or debilitating medical condition" means a  
8 condition severe enough to significantly interfere with the patient's  
9 activities of daily living and ability to function, which can be  
10 objectively assessed and evaluated and limited to the following:

11 (a) Cancer, human immunodeficiency virus (HIV), multiple  
12 sclerosis, epilepsy or other seizure disorder, or spasticity  
13 disorders;

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

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

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

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

24 (f) Diseases, including anorexia, which result in nausea,  
25 vomiting, wasting, appetite loss, cramping, seizures, muscle spasms,  
26 or spasticity(~~(, when these symptoms are unrelieved by standard~~  
27 ~~treatments or medications))~~);

28 (g) Posttraumatic stress disorder; or

29 (h) Traumatic brain injury.

30 (25) "THC concentration" has the meaning provided in RCW  
31 69.50.101.

32 (26) "Useable marijuana" has the meaning provided in RCW  
33 69.50.101.

34 **Sec. 3.** RCW 69.51A.040 and 2015 c 70 s 24 are each amended to  
35 read as follows:

36 The medical use of marijuana in accordance with the terms and  
37 conditions of this chapter does not constitute a crime and a  
38 qualifying patient or designated provider in compliance with the  
39 terms and conditions of this chapter may not be arrested, prosecuted,

1 or subject to other criminal sanctions or civil consequences for  
2 possession, manufacture, or delivery of, or for possession with  
3 intent to manufacture or deliver, marijuana under state law, or have  
4 real or personal property seized or forfeited for possession,  
5 manufacture, or delivery of, or for possession with intent to  
6 manufacture or deliver, marijuana under state law, and investigating  
7 law enforcement officers and agencies may not be held civilly liable  
8 for failure to seize marijuana in this circumstance, if:

9 (1) (a) (i) The qualifying patient or designated provider has been  
10 entered into the medical marijuana authorization database and holds a  
11 valid recognition card, or the qualifying patient or designated  
12 provider holds a valid authorization if the qualifying patient or  
13 designated provider has not been entered into the medical marijuana  
14 authorization database and has not been issued a recognition card,  
15 and the qualifying patient or designated provider possesses no more  
16 than the amount of marijuana concentrates, useable marijuana, plants,  
17 or marijuana-infused products authorized under RCW 69.51A.210.

18 (ii) If a person is both a qualifying patient and a designated  
19 provider for another qualifying patient, the person may possess no  
20 more than twice the amounts described in RCW 69.51A.210 for the  
21 qualifying patient and designated provider, whether the plants,  
22 marijuana concentrates, useable marijuana, or marijuana-infused  
23 products are possessed individually or in combination between the  
24 qualifying patient and his or her designated provider;

25 (b) The qualifying patient or designated provider presents his or  
26 her recognition card or, if the qualifying patient or designated  
27 provider does not have a recognition card, then his or her  
28 authorization, to any law enforcement officer who questions the  
29 patient or provider regarding his or her medical use of marijuana;

30 (c) The qualifying patient or designated provider keeps a copy of  
31 his or her recognition card (~~and~~) if the qualifying patient or  
32 designated provider has a recognition card, or keeps a copy of his or  
33 her authorization if the qualifying patient or designated provider  
34 does not have a recognition card, and keeps a copy of the qualifying  
35 patient or designated provider's contact information posted  
36 prominently next to any plants, marijuana concentrates, marijuana-  
37 infused products, or useable marijuana located at his or her  
38 residence;

39 (d) The investigating law enforcement officer does not possess  
40 evidence that:

1 (i) The designated provider has converted marijuana produced or  
2 obtained for the qualifying patient for his or her own personal use  
3 or benefit; or

4 (ii) The qualifying patient sold, donated, or supplied marijuana  
5 to another person; and

6 (e) The designated provider has not served as a designated  
7 provider to more than one qualifying patient within a fifteen-day  
8 period; or

9 (2) The qualifying patient or designated provider participates in  
10 a cooperative as provided in RCW 69.51A.250.

11 **Sec. 4.** RCW 69.51A.055 and 2015 c 70 s 30 are each amended to  
12 read as follows:

13 (1)(a) The arrest and prosecution protections established in RCW  
14 69.51A.040 may not be asserted in a supervision revocation or  
15 violation hearing by a person who is supervised by a corrections  
16 agency or department, including local governments or jails, that has  
17 determined that the terms of this section are inconsistent with and  
18 contrary to his or her supervision.

19 (b) The affirmative defense(~~s~~) established in RCW (~~69.51A.043~~  
20 ~~and~~) 69.51A.045 may not be asserted in a supervision revocation or  
21 violation hearing by a person who is supervised by a corrections  
22 agency or department, including local governments or jails, that has  
23 determined that the terms of this section are inconsistent with and  
24 contrary to his or her supervision.

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

30 **Sec. 5.** RCW 69.51A.060 and 2019 c 204 s 3 are each amended to  
31 read as follows:

32 (1) It shall be a class 3 civil infraction to use or display  
33 medical marijuana in a manner or place which is open to the view of  
34 the general public.

35 (2) Nothing in this chapter establishes a right of care as a  
36 covered benefit or requires any state purchased health care as  
37 defined in RCW 41.05.011 or other health carrier or health plan as  
38 defined in Title 48 RCW to be liable for any claim for reimbursement

1 for the medical use of marijuana. Such entities may enact coverage or  
2 noncoverage criteria or related policies for payment or nonpayment of  
3 medical marijuana in their sole discretion.

4 (3) Nothing in this chapter requires any health care professional  
5 to authorize the medical use of marijuana for a patient.

6 (4) Nothing in this chapter requires any accommodation of any on-  
7 site medical use of marijuana in any place of employment, in any  
8 youth center, in any correctional facility, or smoking marijuana in  
9 any public place or hotel or motel.

10 (5) Nothing in this chapter authorizes the possession or use of  
11 marijuana, marijuana concentrates, useable marijuana, or marijuana-  
12 infused products on federal property.

13 (6) Nothing in this chapter authorizes the use of medical  
14 marijuana by any person who is subject to the Washington code of  
15 military justice in chapter 38.38 RCW.

16 (7) Employers may establish drug-free work policies. Nothing in  
17 this chapter requires an accommodation for the medical use of  
18 marijuana if an employer has a drug-free workplace.

19 (8) No person shall be entitled to claim the protection from  
20 arrest and prosecution under RCW 69.51A.040 (~~or the affirmative~~  
21 ~~defense under RCW 69.51A.043~~) for engaging in the medical use of  
22 marijuana in a way that endangers the health or well-being of any  
23 person through the use of a motorized vehicle on a street, road, or  
24 highway, including violations of RCW 46.61.502 or 46.61.504, or  
25 equivalent local ordinances.

26 NEW SECTION. **Sec. 6.** RCW 69.51A.043 (Failure to enter into the  
27 medical marijuana authorization database—Affirmative defense) and  
28 2015 c 70 s 25 & 2011 c 181 s 402 are each repealed.

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