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**HOUSE BILL 1105**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Kloba, Simmons, Fitzgibbon, Dolan, Ortiz-Self, Goodman, Vick, Ormsby, Riccelli, Santos, Macri, and Davis

AN ACT Relating to arrest protections for the medical use of cannabis; amending RCW 69.51A.040, 69.51A.055, and 69.51A.060; and repealing RCW 69.51A.043.

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

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

The medical use of marijuana in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, marijuana under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, marijuana under state law, and investigating law enforcement officers and agencies may not be held civilly liable for failure to seize marijuana in this circumstance, if:

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

(ii) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in RCW 69.51A.210 for the qualifying patient and designated provider, whether the plants, marijuana concentrates, useable marijuana, or marijuana-infused products are possessed individually or in combination between the qualifying patient and his or her designated provider. However, in accordance with RCW 69.51A.260, no more than fifteen plants may be grown or located in any one housing unit other than a cooperative established pursuant to RCW 69.51A.250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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