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HOUSE BILL 2434

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State of Washington

61st Legislature

2010 Regular Session

By Representative Haler

Prefiled 12/07/09. Read first time 01/11/10. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to prohibiting a defendant from asserting an  
2 affirmative defense for medical marijuana if marijuana is listed as a  
3 Schedule I controlled substance or the marijuana was not produced in  
4 compliance with all applicable state and federal product safety laws;  
5 and amending RCW 69.51A.040.

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

7 **Sec. 1.** RCW 69.51A.040 and 2007 c 371 s 5 are each amended to read  
8 as follows:

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

15 (2) If charged with a violation of state law relating to marijuana,  
16 any qualifying patient who is engaged in the medical use of marijuana,  
17 or any designated provider who assists a qualifying patient in the  
18 medical use of marijuana, will be deemed to have established an  
19 affirmative defense to such charges by proof of his or her compliance

1 with the requirements provided in this chapter. Any person meeting the  
2 requirements appropriate to his or her status under this chapter shall  
3 be considered to have engaged in activities permitted by this chapter  
4 and shall not be penalized in any manner, or denied any right or  
5 privilege, for such actions.

6 (3) A qualifying patient, if eighteen years of age or older, or a  
7 designated provider shall:

8 (a) Meet all criteria for status as a qualifying patient or  
9 designated provider;

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

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

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

23 (5) The affirmative defense established in subsection (2) of this  
24 section shall not be available to a qualifying patient if:

25 (a) Marijuana is listed as a Schedule I controlled substance under  
26 state or federal law; or

27 (b) The marijuana in question was not produced in compliance with  
28 all applicable state and federal product safety laws.

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