
SENATE BILL 5955

State of Washington 62nd Legislature 2011 1st Special Session

By Senators Kohl-Welles, Delvin, Keiser, Pflug, Regala, Brown, Prentice, Murray, Tom, and Kline

Read first time 05/10/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to medical use of cannabis; amending RCW
2 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.---, 69.51A.---, 69.51A.050,
3 69.51A.---, 69.51A.---, 82.08.0281, and 82.12.0275; adding new sections
4 to chapter 69.51A RCW; adding a new section to chapter 42.56 RCW; and
5 repealing RCW 69.51A.---

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

7 **Sec. 1.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read
8 as follows:

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

11 (1) "Cannabis" means all parts of the plant Cannabis, whether
12 growing or not; the seeds thereof; the resin extracted from any part of
13 the plant; and every compound, manufacture, salt, derivative, mixture,
14 or preparation of the plant, its seeds, or resin. For the purposes of
15 this chapter, "cannabis" does not include the mature stalks of the
16 plant, fiber produced from the stalks, oil, or cake made from the seeds
17 of the plant, any other compound, manufacture, salt, derivative,
18 mixture, or preparation of the mature stalks, except the resin

1 extracted therefrom, fiber, oil, or cake, or the sterilized seed of the
2 plant which is incapable of germination. The term "cannabis" includes
3 cannabis products and useable cannabis.

4 (2) "Collective garden" means qualifying patients or their
5 designated providers sharing responsibility for acquiring and supplying
6 the resources required to produce and process cannabis for medical use
7 such as: A location for a collective garden; equipment, supplies, and
8 labor necessary to plant, grow, and harvest cannabis; cannabis plants,
9 seeds, and cuttings; and equipment, supplies, and labor necessary for
10 proper construction, plumbing, wiring, and ventilation of a garden of
11 cannabis plants.

12 (3) "Correctional facility" has the meaning provided in RCW
13 72.09.015.

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

22 (5)(a) "Designated provider" means a person who:

23 ((+a)) (i) Is eighteen years of age or older;

24 ((+b)) (ii) Has been designated in ((writing)) a written document
25 signed and dated by a qualifying patient to serve as a designated
26 provider under this chapter;

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

30 ~~(d)) (iii) Is the designated provider to only one qualifying~~
31 ~~patient ((at any one time)); and~~

32 (iv) Is in compliance with the terms and conditions set forth in
33 RCW 69.51A.040.

34 (b) "Designated provider" includes a qualifying patient who serves
35 as the designated provider for another qualifying patient and who may
36 be in possession of both patients' cannabis at the same time.

37 (6) "Dispense" means the selection, measuring, packaging, labeling,

1 delivery, or sale of cannabis by a collective garden or nonprofit
2 patient cooperative to a qualifying patient or designated provider who
3 is a member of that collective garden or nonprofit patient cooperative.

4 ((+2)) (7) "Health care professional," for purposes of this
5 chapter only, means a physician licensed under chapter 18.71 RCW, a
6 physician assistant licensed under chapter 18.71A RCW, an osteopathic
7 physician licensed under chapter 18.57 RCW, an osteopathic physicians'
8 assistant licensed under chapter 18.57A RCW, a naturopath licensed
9 under chapter 18.36A RCW, or an advanced registered nurse practitioner
10 licensed under chapter 18.79 RCW.

11 ((+3)) (8) "Jail" has the meaning provided in RCW 70.48.020.

12 (9) "Labeling" means all labels and other written, printed, or
13 graphic matter upon any cannabis intended for medical use or
14 accompanying such cannabis.

15 (10) "Medical cannabis registry" means the registry established in
16 section 8 of this act and administered by and within the department of
17 health.

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

23 ((+4)) (12) "Nonprofit patient cooperative" means a member run
24 nonprofit corporation registered with the secretary of state under
25 chapter 24.03 or 24.06 RCW but which is not required to be recognized
26 as an organization under 26 U.S.C. Sec. 501(c)(3) by the federal
27 internal revenue service. Nonprofit patient cooperatives must meet the
28 requirements of sections 6 and 10 of this act in order to dispense
29 cannabis for the medical use of its members. Members of a nonprofit
30 patient cooperative must be qualifying patients or their designated
31 providers.

32 (13) "Peace officer" has the meaning provided in RCW 43.101.010.

33 (14) "Personally identifiable information" means any information
34 that:

35 (a) Includes data that uniquely identify, distinguish, or trace a
36 person's identity, such as the person's name, date of birth, or
37 address, either alone or when combined with other sources, that

1 establish the person is a qualifying patient or designated provider for
2 purposes of registration with the department of health;

3 (b) Is used by the department of health to identify a person as a
4 qualifying patient or designated provider;

5 (c) Identifies a location as being the location of a collective
6 garden, nonprofit patient cooperative, qualifying patient, or
7 designated provider; or

8 (d) Identifies the qualifying patients or designated providers who
9 are members of the collective garden or nonprofit patient cooperative.

10 (15) "Plant" means an organism having at least three
11 distinguishable and distinct leaves, each leaf being at least three
12 centimeters in diameter, and a readily observable root formation
13 consisting of at least two separate and distinct roots, each being at
14 least two centimeters in length. Multiple stalks emanating from the
15 same root ball or root system shall be considered part of the same
16 single plant.

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

32 (17)(a) "Qualifying patient" means a person who:

33 ((+a)) (i) Is a patient of a health care professional;

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

36 ((+c)) (iii) Is a resident of the state of Washington at the time
37 of such diagnosis;

1 ~~((d))~~ (iv) Has been advised by that health care professional
2 about the risks and benefits of the medical use of ~~((marijuana))~~
3 cannabis; ~~((and~~

4 ~~((e))~~ (v) Has been advised by that health care professional that
5 ~~((they))~~ he or she may benefit from the medical use of ~~((marijuana))~~
6 cannabis; and

7 (vi) Is otherwise in compliance with the terms and conditions of
8 this chapter.

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

14 ~~((5))~~ (18) "Tamper-resistant paper" means paper that meets one or
15 more of the following industry-recognized features:

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

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

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

21 ~~((6))~~ (19) "Terminal or debilitating medical condition" means:

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

24 (b) Intractable pain, limited for the purpose of this chapter to
25 mean pain unrelieved by standard medical treatments and medications; or

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

29 (d) Crohn's disease with debilitating symptoms unrelieved by
30 standard treatments or medications; or

31 (e) Hepatitis C with debilitating nausea or intractable pain
32 unrelieved by standard treatments or medications; or

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

37 (g) Any other medical condition duly approved by the Washington

1 state medical quality assurance commission in consultation with the
2 board of osteopathic medicine and surgery as directed in this chapter.

3 ~~((7))~~ (20) "Useable cannabis" means dried flowers of the Cannabis
4 plant. Useable cannabis excludes stems, stalks, leaves, seeds, and
5 roots. The term "useable cannabis" does not include cannabis products.

6 (21)(a) "Valid documentation" means:

7 ~~((a)A)~~ (i) An original statement signed and dated by a
8 qualifying patient's health care professional written on tamper-
9 resistant paper and valid for up to one year from the date of the
10 health care professional's signature, which states that, in the health
11 care professional's professional opinion, the patient may benefit from
12 the medical use of ~~((marijuana))~~ cannabis; and

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

15 (b) In the case of a designated provider, "valid documentation"
16 means the signed and dated document valid for up to one year from the
17 date of signature executed by the qualifying patient who has designated
18 the provider.

19 **Sec. 2.** RCW 69.51A.030 and 2011 c 181 s 301 are each amended to
20 read as follows:

21 (1) The following acts do not constitute crimes under state law or
22 unprofessional conduct under chapter 18.130 RCW, and a health care
23 professional may not be arrested, searched, prosecuted, disciplined, or
24 subject to other criminal sanctions or civil consequences or liability
25 under state law, or have real or personal property searched, seized, or
26 forfeited pursuant to state law, notwithstanding any other provision of
27 law as long as the health care professional complies with subsection
28 (2) of this section:

29 (a) Advising a patient about the risks and benefits of medical use
30 of cannabis or that the patient may benefit from the medical use of
31 cannabis; or

32 (b) Providing a patient meeting the criteria established under RCW
33 69.51A.010~~((26))~~ (17) with valid documentation, based upon the health
34 care professional's assessment of the patient's medical history and
35 current medical condition, where such use is within a professional
36 standard of care or in the individual health care professional's
37 medical judgment.

1 (2)(a) A health care professional may only provide a patient with
2 valid documentation authorizing the medical use of cannabis or register
3 the patient with the medical cannabis registry (~~established in section~~
4 ~~901 of this act~~) if he or she has a newly initiated or existing
5 documented relationship with the patient, as a primary care provider or
6 a specialist, relating to the diagnosis and ongoing treatment or
7 monitoring of the patient's terminal or debilitating medical condition,
8 and only after:

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

11 (ii) Documenting the terminal or debilitating medical condition of
12 the patient in the patient's medical record and that the patient may
13 benefit from treatment of this condition or its symptoms with medical
14 use of cannabis;

15 (iii) Informing the patient of other options for treating the
16 terminal or debilitating medical condition; and

17 (iv) Documenting other measures attempted to treat the terminal or
18 debilitating medical condition that do not involve the medical use of
19 cannabis.

20 (b) A health care professional shall not:

21 (i) Accept, solicit, or offer any form of pecuniary remuneration
22 from or to a (~~licensed dispenser, licensed producer, or licensed~~
23 ~~processor of cannabis products~~) collective garden or nonprofit patient
24 cooperative;

25 (ii) Offer a discount or any other thing of value to a qualifying
26 patient who is a (~~customer~~) member of, or agrees to be a (~~customer~~)
27 member of, a particular (~~licensed dispenser, licensed producer, or~~
28 ~~licensed processor of cannabis products~~) collective garden or
29 nonprofit patient cooperative;

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

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

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

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

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

6 **Sec. 3.** RCW 69.51A.040 and 2011 c 181 s 401 are each amended to
7 read as follows:

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

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

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

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

25 (iii) A combination of useable cannabis and cannabis product that
26 does not exceed a combined total representing possession and processing
27 of no more than twenty-four ounces of useable cannabis~~((-))~~;

28 ~~((If a))~~ The person is both a qualifying patient and a
29 designated provider for another qualifying patient, ~~((the person may))~~
30 and possesses no more than twice the amounts described in (a) of this
31 subsection, whether the plants, useable cannabis, and cannabis product
32 are possessed individually or in combination between the qualifying
33 patient and his or her designated provider;

34 ~~((2))~~ (c) The qualifying patient or designated provider is
35 registered with the medical cannabis registry and presents his or her
36 proof of registration with the ~~((department of health,))~~ medical

1 cannabis registry to any peace officer who questions the patient or
2 provider regarding his or her medical use of cannabis;

3 ~~((+3))~~ (d) The qualifying patient or designated provider keeps a
4 copy of his or her proof of registration with the medical cannabis
5 registry ~~((established in section 901 of this act))~~ and the qualifying
6 patient or designated provider's contact information posted prominently
7 next to any cannabis plants, cannabis products, or useable cannabis
8 located at his or her residence;

9 ~~((+4))~~ (e) The investigating peace officer does not possess
10 evidence that ~~((+~~

11 ~~(a))~~ (a) the designated provider has converted cannabis produced or
12 obtained for the qualifying patient for his or her own personal use or
13 benefit; ~~((or~~

14 ~~(b) The qualifying patient has converted cannabis produced or~~
15 ~~obtained for his or her own medical use to the qualifying patient's~~
16 ~~personal, nonmedical use or benefit;))~~ and

17 ~~((+5))~~ (f) The investigating peace officer does not possess
18 evidence that the designated provider has ~~((served))~~ violated RCW
19 69.51A.--- ~~(section 404, chapter 181, Laws of 2011)~~ by serving as a
20 designated provider to more than one qualifying patient ~~((within a~~
21 ~~fifteen day period; and))~~ until fifteen days have elapsed.

22 ~~((+6))~~ (2) A qualifying patient or designated provider is not
23 provided protection from arrest under subsection (1) of this section if
24 the investigating peace officer has ~~((not))~~ observed evidence of any of
25 the circumstances identified in section ~~((901(4))~~ 8(3) ~~of this act.~~

26 **Sec. 4.** RCW 69.51A.--- and 2011 c 181 s 402 are each amended to
27 read as follows:

28 (1) A qualifying patient or designated provider who is not
29 registered with the medical cannabis registry ~~((established in section~~
30 ~~901 of this act))~~ may raise the affirmative defense set forth in
31 subsection (2) of this section, if:

32 (a) ~~((The qualifying patient or designated provider presents his or~~
33 ~~her valid documentation to any peace officer who questions the patient~~
34 ~~or provider regarding his or her medical use of cannabis;~~

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

1 ~~((e))~~ (b) The qualifying patient or designated provider is in
2 compliance with all other terms and conditions of this chapter(~~(+~~

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

7 ~~(e) No outstanding warrant for arrest exists for the qualifying~~
8 ~~patient or designated provider; and~~

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

11 (2) A qualifying patient or designated provider who is not
12 registered with the medical cannabis registry (~~(established in section~~
13 ~~901 of this act, but who presents his or her valid documentation to any~~
14 ~~peace officer who questions the patient or provider regarding his or~~
15 ~~her medical use of cannabis,)) may assert an affirmative defense to
16 charges of violations of state law relating to cannabis through proof
17 at trial, by a preponderance of the evidence, that he or she otherwise
18 meets the requirements of RCW 69.51A.040. (~~(A qualifying patient or~~
19 ~~designated provider meeting the conditions of this subsection but~~
20 ~~possessing more cannabis than the limits set forth in RCW 69.51A.040(1)~~
21 ~~may, in the investigating peace officer's discretion, be taken into~~
22 ~~custody and booked into jail in connection with the investigation of~~
23 ~~the incident.))~~~~

24 **Sec. 5.** RCW 69.51A.--- and 2011 c 181 s 403 are each amended to
25 read as follows:

26 (1) It is not a violation of state criminal or civil law if
27 qualifying patients ((may)) or their designated providers create and
28 participate in collective gardens (~~(for the purpose of producing,~~
29 ~~processing, transporting, and delivering)) to produce, process,~~
30 transport, or deliver cannabis for the medical use of its members or,
31 in the case of designated providers, the qualifying patients they
32 serve, or nonprofit patient cooperatives under section 6 of this act,
33 subject to the following conditions:

34 (a) Qualifying patients and designated providers may only be
35 members of one collective garden and one nonprofit patient cooperative;

36 (b) A collective garden may have no more than ten ((qualifying

1 ~~patients may participate in a single collective garden at any time))~~
2 members;

3 ~~((b))~~ (c) Contributions by members may not be solely monetary;

4 (d) No more than one collective garden is permitted per property
5 tax parcel;

6 (e) Beginning January 1, 2013, collective gardens must register
7 their locations with the medical cannabis registry;

8 (f) A collective garden may contain no more than fifteen plants per
9 ~~((patient))~~ member up to a total of forty-five plants;

10 ~~((e))~~ (g) A collective garden may contain no more than twenty-
11 four ounces of useable cannabis per ((patient)) member up to a total of
12 seventy-two ounces of useable cannabis;

13 ~~((d))~~ (h) A copy of each ((qualifying patient's)) member's valid
14 documentation or proof of registration with the medical cannabis
15 registry ((established in section 901 of this act, including)) and a
16 copy of the ((patient's)) member's proof of identity, must be available
17 at all times on the premises of the collective garden; and

18 ~~((e))~~ (i) No useable cannabis from the collective garden ((is))
19 may be delivered to anyone other than one of the ((qualifying patients
20 participating in)) members of the collective garden or a nonprofit
21 patient cooperative.

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

30 ~~(3))~~ A person who knowingly violates a provision of ~~((subsection~~
31 ~~(1) of))~~ this section is not entitled to the protections of this
32 chapter.

33 NEW SECTION. Sec. 6. A new section is added to chapter 69.51A RCW
34 to read as follows:

35 (1) It is not a violation of state criminal or civil law for a
36 nonprofit patient cooperative to distribute cannabis for the medical
37 use of its members if a city, town, or county in which the nonprofit

1 patient cooperative is located has enacted an ordinance stating that
2 nonprofit patient cooperatives are not prohibited by local ordinance
3 from operation within its jurisdiction. A nonprofit patient
4 cooperative must comply with all city, town, or county requirements
5 adopted under RCW 69.51A.--- (section 1102, chapter 181, Laws of 2011)
6 and the following criteria:

7 (a) A nonprofit patient cooperative must be registered as a
8 nonprofit corporation with the secretary of state under chapter 24.03
9 or 24.06 RCW;

10 (b) Only qualifying patients or their designated providers may
11 become members of the nonprofit patient cooperative. Before accepting
12 a member, the nonprofit patient cooperative must contact that patient's
13 health care professional and confirm that the patient qualifies for the
14 medical use of cannabis;

15 (c) A nonprofit patient cooperative may obtain cannabis from a
16 collective garden or collective gardens operating under RCW 69.51A.---
17 (section 403, chapter 181, Laws of 2011), and may produce and process
18 cannabis subject to the following limits:

19 (i) A nonprofit patient cooperative may contain no more than
20 fifteen plants per member up to a total of ninety-nine plants; and

21 (ii) A nonprofit patient cooperative may contain no more than
22 twenty-four ounces of useable cannabis per member up to a total of one
23 hundred forty-four ounces;

24 (d) Members of a nonprofit patient cooperative are not required to
25 provide work as part of their membership;

26 (e) A copy of each member's valid documentation or proof of
27 registration with the medical cannabis registry and a copy of the
28 member's proof of identity, must be available at all times on the
29 premises of a nonprofit patient cooperative;

30 (f) No useable cannabis from the nonprofit patient cooperative may
31 be delivered to anyone other than one of the members of the nonprofit
32 patient cooperative;

33 (g) Beginning January 1, 2013, a nonprofit patient cooperative must
34 register its location with the medical cannabis registry;

35 (h) A nonprofit patient cooperative must ensure that no cannabis or
36 cannabis paraphernalia may be viewed from outside the facility;

37 (i) A nonprofit patient cooperative may not be located within one
38 thousand feet of a community center, child care center, elementary or

1 secondary school, or college or university. A city, town, or county
2 may adopt an ordinance providing for distance requirements that are
3 greater than or less than the distance requirements under this
4 subsection (1)(i);

5 (j) A nonprofit patient cooperative may hire staff to assist in the
6 operation of the nonprofit patient cooperative;

7 (k) A nonprofit patient cooperative may only sell cannabis and
8 charge membership fees to its members at a price determined to defray
9 operating costs of the nonprofit patient cooperative. Fees may be
10 adjusted based on individual consumption rates and level of
11 participation in the nonprofit patient cooperative;

12 (l) A nonprofit patient cooperative may not advertise cannabis for
13 sale to the general public and may not include pictures or drawings of
14 cannabis in any facility displays;

15 (m) A nonprofit patient cooperative may not permit cannabis to be
16 consumed on the premises of the nonprofit patient cooperative;

17 (n) A nonprofit patient cooperative must exclude from its premises
18 people who are not members or employees of the nonprofit patient
19 cooperative;

20 (o) A nonprofit patient cooperative must permit city, town, or
21 county employees to access records at the cooperative in order to
22 verify patient documentation required by (e) of this subsection.

23 (2) A person who knowingly violates a provision of this section is
24 not entitled to the protections of this chapter. If charged with a
25 violation of state law relating to cannabis, an employee of a nonprofit
26 patient cooperative is deemed to have established an affirmative
27 defense to such charges by proof of compliance with this section.

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

30 (1) The lawful possession, dispensing, delivery, or manufacture of
31 medical (~~(marijuana as authorized by)~~) cannabis under this chapter
32 shall not result in the forfeiture or seizure of any real or personal
33 property including, but not limited to, cannabis intended for medical
34 use, items used to facilitate the medical use of cannabis or its
35 production or dispensing for medical use, or proceeds of sales of
36 cannabis for medical use made by nonprofit patient cooperatives.

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

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

8 NEW SECTION. Sec. 8. A new section is added to chapter 69.51A RCW
9 to read as follows:

10 (1) The medical cannabis registry is established in the department
11 of health as a secure and confidential registration system for
12 qualifying patients, designated providers, collective gardens, and
13 nonprofit patient cooperatives. By January 1, 2013, the department of
14 health shall adopt rules to create, implement, administer, and maintain
15 the medical cannabis registry. Beginning January 1, 2013, the medical
16 cannabis registry must allow:

17 (a) A health care professional to register a qualifying patient or
18 designated provider, including locations where the qualifying patient
19 or designated provider plans to grow cannabis;

20 (b) A qualifying patient or designated provider to register himself
21 or herself; and

22 (c) A collective garden or nonprofit patient cooperative to
23 register its location.

24 (2) A peace officer must be able to access the medical cannabis
25 registry at any time to verify whether a person or location is
26 registered as a qualifying patient, designated provider, collective
27 garden, or nonprofit patient cooperative. Such access may be made only
28 in connection with a specific, legitimate criminal investigation
29 regarding cannabis.

30 (3) Before seeking a nonvehicle search warrant or arrest warrant,
31 a peace officer investigating a cannabis-related incident must make
32 reasonable efforts to ascertain whether the location or person under
33 investigation is registered in the medical cannabis registry, and
34 include the results of this inquiry in the affidavit submitted in
35 support of the application for the warrant. This requirement does not
36 apply to investigations in which:

1 (a) The peace officer has observed evidence of an apparent cannabis
2 operation that is not a collective garden, nonprofit patient
3 cooperative, or the personal garden of a qualifying patient or
4 designated provider;

5 (b) The peace officer has observed evidence of theft of electrical
6 power;

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

9 (d) The peace officer has observed frequent and numerous short-term
10 visits over an extended period that are consistent with commercial
11 activity, if the subject of the investigation is not a collective
12 garden or nonprofit patient cooperative;

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

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

18 (g) The subject of the investigation has an outstanding arrest
19 warrant.

20 (4) Registration is voluntary for qualifying patients and
21 designated providers. However, nonprofit patient cooperatives and
22 collective gardens must register their locations.

23 (5) Registrations in the medical cannabis registry are valid for
24 one year; however, qualifying patients or designated providers must be
25 able to remove themselves from the registry or change their designated
26 providers at any time.

27 (6) The department of health must adopt rules providing for:

28 (a) Registration renewals;

29 (b) Removing expired registrations from the registry;

30 (c) Health care professionals' entry of qualifying patients and
31 designated providers into the registry;

32 (d) Qualified patients or designated providers to self-register or
33 remove themselves from the registry;

34 (e) Collective gardens and nonprofit patient cooperatives to
35 register their locations; and

36 (f) Registration fees. Fees, including renewal fees, for
37 qualifying patients and designated providers participating in the
38 medical cannabis registry shall be limited to the cost to the state of

1 implementing, maintaining, and enforcing the provisions of this section
2 and the rules adopted to carry out its purposes. The fee shall also
3 include any costs for the department of health to disseminate
4 information to employees of state and local law enforcement agencies
5 relating to whether a person is a qualifying patient or designated
6 provider, or that a location is the address of a qualifying patient,
7 designated provider, collective garden, or nonprofit patient
8 cooperative, and for the dissemination of log records relating to such
9 requests for information to the subjects of those requests. No fee may
10 be charged to local law enforcement agencies for accessing the
11 registry.

12 (7) During the rule-making process, the department of health shall
13 consult with stakeholders and persons with relevant expertise, to
14 include, but not be limited to, qualifying patients, designated
15 providers, health care professionals, state and local law enforcement
16 agencies, and the University of Washington computer science and
17 engineering security and privacy research lab.

18 (8) The medical cannabis registry shall meet the following
19 requirements:

20 (a) Any personally identifiable information included in the
21 registration system must be nonreversible, pursuant to definitions and
22 standards set forth by the national institute of standards and
23 technology;

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

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

31 (d) The registration system must be upgradeable and updated in a
32 timely fashion to keep current with state of the art privacy and
33 security standards and practices.

34 (9) The registration system shall maintain a log of each
35 verification query submitted by a peace officer, including the peace
36 officer's name, agency, and identification number, for a period of no
37 less than three years from the date of the query. Personally
38 identifiable information of qualifying patients and designated

1 providers included in the log shall be confidential and exempt from
2 public disclosure, inspection, or copying under chapter 42.56 RCW:
3 PROVIDED, That:

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

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

8 (ii) Authorized employees of state or local law enforcement
9 agencies, only as necessary to verify that the person or location is a
10 qualifying patient, designated provider, collective garden, or
11 nonprofit patient cooperative. Authorized employees who obtain
12 personally identifiable information under this subsection may not
13 release or use the information for any purpose other than verification
14 that a person or location is a qualifying patient, designated provider,
15 collective garden, or nonprofit patient cooperative or as otherwise
16 provided in this section;

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

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

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

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

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 42.56 RCW
30 to read as follows:

31 Records containing names and other personally identifiable
32 information relating to qualifying patients, designated providers,
33 collective gardens, and nonprofit patient cooperatives, under section
34 8 of this act are exempt from disclosure under this chapter.

35 **Sec. 10.** RCW 69.51A.--- and 2011 c 181 s 1102 are each amended to
36 read as follows:

1 (1)(a) Nothing in this chapter is intended to preempt the authority
2 of cities and towns ((may adopt and enforce any of the following
3 pertaining to the production, processing, or dispensing of cannabis or
4 cannabis products within their jurisdiction*)) to impose zoning
5 requirements, ((business)) licensing requirements, permitting
6 requirements, health and safety requirements, ((and)) taxes, or other
7 conditions upon any entity producing, processing, or dispensing
8 cannabis within its jurisdiction.

9 ~~((Nothing in this act is intended to limit the authority of cities~~
10 ~~and towns to impose zoning requirements or other conditions upon~~
11 ~~licensed dispensers, so long as)) However, such requirements ~~((do)) may~~
12 ~~not preclude the possibility of siting ((licensed dispensers))~~
13 collective gardens within the jurisdiction. ~~((If the jurisdiction has~~
14 ~~no commercial zones, the jurisdiction is not required to adopt zoning~~
15 ~~to accommodate licensed dispensers.))~~~~

16 (b) A city or town may enact an ordinance stating that nonprofit
17 patient cooperatives as provided in section 6 of this act are not
18 prohibited within the city's or town's jurisdiction. Cities and towns
19 may adopt and enforce requirements for nonprofit patient cooperatives
20 that include but are not limited to: Security requirements; inspection
21 standards, including policies on verifying qualified patient records;
22 limits on size of membership; and limits on number of plants and
23 amounts of useable cannabis so long as such limits do not exceed the
24 maximum amount allowed under section 6 of this act.

25 (2)(a) Nothing in this chapter is intended to preempt the authority
26 of counties ((may adopt and enforce any of the following pertaining to
27 the production, processing, or dispensing of cannabis or cannabis
28 products within their jurisdiction in locations outside of the
29 corporate limits of any city or town*)) to impose zoning requirements,
30 business licensing requirements, ((and)) permitting requirements,
31 health and safety requirements, taxes, or other conditions upon any
32 entity producing, processing, or dispensing cannabis within its
33 jurisdiction in locations outside the corporate limits of any city or
34 town.

35 ~~((Nothing in this act is intended to limit the authority of~~
36 ~~counties to impose zoning requirements or other conditions upon~~
37 ~~licensed dispensers, so long as)) However, such requirements ~~((do)) may~~
38 ~~not preclude the possibility of siting ((licensed dispensers))~~~~

1 collective gardens within the jurisdiction. (~~If the jurisdiction has~~
2 ~~no commercial zones, the jurisdiction is not required to adopt zoning~~
3 ~~to accommodate licensed dispensers.))~~

4 (b) A county may enact an ordinance stating that nonprofit patient
5 cooperatives as provided in section 6 of this act are not prohibited
6 within its jurisdiction in locations outside of the corporate limits of
7 any city or town. Counties may adopt and enforce requirements for
8 nonprofit patient cooperatives that include but are not limited to:
9 Security requirements; inspection standards, including policies on
10 verifying qualified patient records; limits on size of membership; and
11 limits on number of plants and amounts of useable cannabis so long as
12 such limits do not exceed the maximum amount allowed under section 6 of
13 this act.

14 **Sec. 11.** RCW 69.51A.--- and 2011 c 181 s 1105 are each amended to
15 read as follows:

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

22 (b) The affirmative defenses established in RCW 69.51A.--- (section
23 402, chapter 181, Laws of 2011)(~~(7)~~) and 69.51A.--- (section 405,
24 chapter 181, Laws of 2011)(~~(7, 69.51A.---~~ (section 406, chapter 181,
25 ~~Laws of 2011), and section 407 of this act)) may not be asserted in a~~
26 supervision revocation or violation hearing by a person who is
27 supervised by a corrections agency or department, including local
28 governments or jails, that has determined that the terms of this
29 section are inconsistent with and contrary to his or her supervision.

30 (2) The provisions of RCW 69.51A.040, 69.51A.--- (section 403,
31 chapter 181, Laws of 2011), and 69.51A.--- (section 413, chapter 181,
32 Laws of 2011) do not apply to a person who is supervised for a criminal
33 conviction by a corrections agency or department, including local
34 governments or jails, that has determined that the terms of this
35 chapter are inconsistent with and contrary to his or her supervision.

36 (~~(3) A person may not be licensed as a licensed producer, licensed~~
37 ~~processor of cannabis products, or a licensed dispenser under section~~

1 ~~601, 602, or 701 of this act if he or she is supervised for a criminal~~
2 ~~conviction by a corrections agency or department, including local~~
3 ~~governments or jails, that has determined that licensure is~~
4 ~~inconsistent with and contrary to his or her supervision.)~~)

5 **Sec. 12.** RCW 82.08.0281 and 2004 c 153 s 108 are each amended to
6 read as follows:

7 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
8 drugs for human use dispensed or to be dispensed to patients, pursuant
9 to a prescription.

10 (2) The tax levied by RCW 82.08.020 shall not apply to sales of
11 drugs or devices used for family planning purposes, including the
12 prevention of conception, for human use dispensed or to be dispensed to
13 patients, pursuant to a prescription.

14 (3) The tax levied by RCW 82.08.020 shall not apply to sales of
15 drugs and devices used for family planning purposes, including the
16 prevention of conception, for human use supplied by a family planning
17 clinic that is under contract with the department of health to provide
18 family planning services.

19 (4) The tax levied by RCW 82.08.020 shall not apply to sales of
20 cannabis for medical use by a nonprofit patient cooperative to
21 qualifying patients or designated providers if the sale is made in
22 compliance with the provisions of chapter 69.51A RCW. The definitions
23 in chapter 69.51A RCW apply to this subsection.

24 (5) The definitions in this subsection apply throughout this
25 section.

26 (a) "Prescription" means an order, formula, or recipe issued in any
27 form of oral, written, electronic, or other means of transmission by a
28 duly licensed practitioner authorized by the laws of this state to
29 prescribe.

30 (b) "Drug" means a compound, substance, or preparation, and any
31 component of a compound, substance, or preparation, other than food and
32 food ingredients, dietary supplements, or alcoholic beverages:

33 (i) Recognized in the official United States pharmacopoeia,
34 official homeopathic pharmacopoeia of the United States, or official
35 national formulary, or any supplement to any of them; or

36 (ii) Intended for use in the diagnosis, cure, mitigation,
37 treatment, or prevention of disease; or

1 (iii) Intended to affect the structure or any function of the body.

2 (c) "Over-the-counter drug" means a drug that contains a label that
3 identifies the product as a drug required by 21 C.F.R. Sec. 201.66, as
4 amended or renumbered on January 1, 2003. The label includes:

5 (i) A "drug facts" panel; or

6 (ii) A statement of the "active ingredient(s)" with a list of those
7 ingredients contained in the compound, substance, or preparation.

8 **Sec. 13.** RCW 82.12.0275 and 2003 c 168 s 406 are each amended to
9 read as follows:

10 (1) The provisions of this chapter shall not apply in respect to
11 the use of drugs dispensed or to be dispensed to patients, pursuant to
12 a prescription, if the drugs are for human use.

13 (2) The provisions of this chapter shall not apply in respect to
14 the use of drugs or devices used for family planning purposes,
15 including the prevention of conception, for human use dispensed or to
16 be dispensed to patients, pursuant to a prescription.

17 (3) The provisions of this chapter shall not apply in respect to
18 the use of drugs or devices used for family planning purposes,
19 including the prevention of conception, for human use supplied by a
20 family planning clinic that is under contract with the department of
21 health to provide family planning services.

22 (4) The provisions of this chapter shall not apply in respect to
23 the use of cannabis provided or to be provided to qualifying patients
24 by a nonprofit patient cooperative, if the cannabis is for medical use
25 in compliance with the provisions of chapter 69.51A RCW. The
26 definitions in chapter 69.51A RCW apply to this subsection.

27 (5) As used in this section, "prescription" and "drug" have the
28 same meanings as in RCW 82.08.0281.

29 NEW SECTION. **Sec. 14.** RCW 69.51A.--- and 2011 c 181 s 406 are
30 each repealed.

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