
HOUSE BILL 1084

State of Washington

63rd Legislature

2013 Regular Session

By Representative Appleton

Read first time 01/16/13. Referred to Committee on Government
Accountability & Oversight.

1 AN ACT Relating to the medical use of cannabis; amending RCW
2 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.047, 69.51A.050, 69.51A.055,
3 69.51A.060, 69.51A.085, and 69.51A.110; creating a new section; and
4 repealing RCW 69.51A.043.

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

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

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

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

1 plant which is incapable of germination. "Cannabis" includes cannabis
2 products and useable cannabis.

3 (2) "Cannabis products" means products that contain cannabis or
4 cannabis extracts, have a measurable THC concentration greater than
5 three-tenths of one percent, and are intended for human consumption or
6 application, including, but not limited to, edible products, tinctures,
7 and lotions. "Cannabis products" does not include useable cannabis.

8 (3) "Designated provider" means a person who:

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

10 (b) Has been designated in writing by a patient to serve as a
11 designated provider under this chapter;

12 (c) Is prohibited from consuming (~~marijuana~~) cannabis obtained
13 for the personal, medical use of the patient for whom the individual is
14 acting as designated provider; and

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

16 ~~((+2))~~ (4) "Health care professional," for purposes of this
17 chapter only, means a physician licensed under chapter 18.71 RCW, a
18 physician assistant licensed under chapter 18.71A RCW, an osteopathic
19 physician licensed under chapter 18.57 RCW, an osteopathic physicians'
20 assistant licensed under chapter 18.57A RCW, a naturopath licensed
21 under chapter 18.36A RCW, or an advanced registered nurse practitioner
22 licensed under chapter 18.79 RCW.

23 ~~((+3))~~ (5) "Medical use of (~~marijuana~~) cannabis" means the
24 manufacture, production, possession, transportation, delivery,
25 ingestion, application, or administration of marijuana, as defined in
26 RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in
27 the treatment of his or her terminal or debilitating illness.

28 ~~((+4))~~ (6) "Plant" means an organism having at least three
29 distinguishable and distinct leaves, each leaf being at least three
30 centimeters in diameter, and a readily observable root formation
31 consisting of at least two separate and distinct roots, each being at
32 least two centimeters in length. Multiple stalks emanating from the
33 same root ball or root system is considered part of the same single
34 plant.

35 (7) "Qualifying patient" means a person who:

36 (a) Is a patient of a health care professional;

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

1 (c) Is a resident of the state of Washington at the time of such
2 diagnosis;

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

5 (e) Has been advised by that health care professional that they may
6 benefit from the medical use of (~~(marijuana)~~) cannabis.

7 (~~(+5)~~) (8) "Tamper-resistant paper" means paper that meets one or
8 more of the following industry-recognized features:

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

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

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

14 (~~(+6)~~) (9) "Terminal or debilitating medical condition" means:

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

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

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

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

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

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

30 (g) Any other medical condition duly approved by the Washington
31 state medical quality assurance commission in consultation with the
32 board of osteopathic medicine and surgery as directed in this chapter.

33 (~~(+7)~~) (10) "THC concentration" means percent of
34 tetrahydrocannabinol content per weight or volume of useable cannabis
35 or cannabis product.

36 (11) "Useable cannabis" means dried flowers of the Cannabis plant
37 having a THC concentration greater than three-tenths of one percent.

38 Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For

1 purposes of this subsection, "dried" means containing less than fifteen
2 percent moisture content by weight. "Useable cannabis" does not
3 include cannabis products. "Useable cannabis," as a measurement of THC
4 concentration, only applies to the provisions of this chapter and is
5 not considered applicable to any other criminal laws related to
6 marijuana or cannabis.

7 (12) "Valid documentation" means:

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

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

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

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

24 (a) Advising a patient about the risks and benefits of medical use
25 of cannabis or that the patient may benefit from the medical use of
26 cannabis; or

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

33 (2)(a) A health care professional may only provide a patient with
34 valid documentation authorizing the medical use of cannabis (~~(or~~
35 ~~register the patient with the registry established in section 901 of~~
36 ~~this act)) if he or she has a newly initiated or existing documented
37 relationship with the patient, as a primary care provider or a~~

1 specialist, relating to the diagnosis and ongoing treatment or
2 monitoring of the patient's terminal or debilitating medical condition,
3 and only after:

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

6 (ii) Documenting the terminal or debilitating medical condition of
7 the patient in the patient's medical record and that the patient may
8 benefit from treatment of this condition or its symptoms with medical
9 use of cannabis;

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

12 (iv) Documenting other measures attempted to treat the terminal or
13 debilitating medical condition that do not involve the medical use of
14 cannabis.

15 (b) A health care professional shall not:

16 (i) ~~((Accept, solicit, or offer any form of pecuniary remuneration
17 from or to a licensed dispenser, licensed producer, or licensed
18 processor of cannabis products;~~

19 ~~(ii) Offer a discount or any other thing of value to a qualifying
20 patient who is a customer of, or agrees to be a customer of, a
21 particular licensed dispenser, licensed producer, or licensed processor
22 of cannabis products;~~

23 ~~(iii))~~ Examine or offer to examine a patient for purposes of
24 diagnosing a terminal or debilitating medical condition at a location
25 where cannabis is produced, ~~((processed))~~ manufactured, or
26 ~~((dispensed))~~ delivered;

27 ~~((iv))~~ (ii) Have a business or practice which consists solely of
28 authorizing the medical use of cannabis; or

29 ~~((v))~~ (iii) Include any statement or reference, visual or
30 otherwise, on the medical use of cannabis in any advertisement for his
31 or her business or practice(~~(+or~~

32 ~~(vi) Hold an economic interest in an enterprise that produces,
33 processes, or dispenses cannabis if the health care professional
34 authorizes the medical use of cannabis))~~).

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

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

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

15 (1)(a) The qualifying patient or designated provider possesses no
16 more than fifteen cannabis plants and:

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

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

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

23 (b) If a person is both a qualifying patient and a designated
24 provider for another qualifying patient, the person may possess no more
25 than twice the amounts described in (a) of this subsection, whether the
26 plants, useable cannabis, and cannabis product are possessed
27 individually or in combination between the qualifying patient and his
28 or her designated provider;

29 (2) The qualifying patient or designated provider presents his or
30 her (~~proof of registration with the department of health,~~) valid
31 documentation to any peace officer who questions the patient or
32 provider regarding his or her medical use of cannabis;

33 (3) The qualifying patient or designated provider keeps a copy of
34 his or her (~~proof of registration with the registry established in~~
35 ~~section 901 of this act~~) valid documentation and the qualifying
36 patient or designated provider's contact information (~~posted~~
37 ~~prominently next to~~) available at all times on the premises where any

1 cannabis plants, cannabis products, or useable cannabis is located (~~at~~
2 ~~his or her residence~~));

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

4 (a) The designated provider has converted cannabis produced or
5 obtained for the qualifying patient for his or her own personal use or
6 benefit; or

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

10 (5) The investigating peace officer does not possess evidence that
11 the designated provider has served as a designated provider to more
12 than one qualifying patient within a fifteen-day period(~~and~~

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

15 **Sec. 4.** RCW 69.51A.047 and 2011 c 181 s 406 are each amended to
16 read as follows:

17 A qualifying patient or designated provider who (~~is not registered~~
18 ~~with the registry established in section 901 of this act or~~) does not
19 present his or her valid documentation to a peace officer who questions
20 the patient or provider regarding his or her medical use of cannabis
21 but is in compliance with all other terms and conditions of this
22 chapter may establish an affirmative defense to charges of violations
23 of state law relating to cannabis through proof at trial, by a
24 preponderance of the evidence, that he or she was a validly authorized
25 qualifying patient or designated provider at the time of the officer's
26 questioning. A qualifying patient or designated provider who
27 establishes an affirmative defense under the terms of this section may
28 also establish an affirmative defense under RCW 69.51A.045.

29 **Sec. 5.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
30 as follows:

31 (1) The lawful possession or manufacture of medical (~~marijuana~~)
32 cannabis as authorized by this chapter shall not result in the
33 forfeiture or seizure of any property.

34 (2) No person shall be prosecuted for constructive possession,
35 conspiracy, or any other criminal offense solely for being in the

1 presence or vicinity of medical ((marijuana)) cannabis or its use as
2 authorized by this chapter.

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

6 **Sec. 6.** RCW 69.51A.055 and 2011 c 181 s 1105 are each amended to
7 read as follows:

8 (1)(a) The arrest and prosecution protections established in RCW
9 69.51A.040 may not be asserted in a supervision revocation or violation
10 hearing by a person who is supervised by a corrections agency or
11 department, including local governments or jails, that has determined
12 that the terms of this section are inconsistent with and contrary to
13 his or her supervision.

14 (b) The affirmative defenses established in RCW ((69.51A.043,))
15 69.51A.045((7)) and 69.51A.047((7, and section 407 of this act)) may not
16 be asserted in a supervision revocation or violation hearing by a
17 person who is supervised by a corrections agency or department,
18 including local governments or jails, that has determined that the
19 terms of this section are inconsistent with and contrary to his or her
20 supervision.

21 (2) The provisions of RCW 69.51A.040, 69.51A.085, and 69.51A.025 do
22 not apply to a person who is supervised for a criminal conviction by a
23 corrections agency or department, including local governments or jails,
24 that has determined that the terms of this chapter are inconsistent
25 with and contrary to his or her supervision.

26 ((3) A person may not be licensed as a licensed producer, licensed
27 processor of cannabis products, or a licensed dispenser under section
28 601, 602, or 701 of this act if he or she is supervised for a criminal
29 conviction by a corrections agency or department, including local
30 governments or jails, that has determined that licensure is
31 inconsistent with and contrary to his or her supervision.))

32 **Sec. 7.** RCW 69.51A.060 and 2011 c 181 s 501 are each amended to
33 read as follows:

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

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

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

10 (4) Nothing in this chapter requires any accommodation of any on-
11 site medical use of cannabis in any place of employment, in any school
12 bus or on any school grounds, in any youth center, in any correctional
13 facility, or smoking cannabis in any public place or hotel or motel.

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

17 ~~((Employers may establish drug-free work policies. Nothing in
18 this chapter requires an accommodation for the medical use of cannabis
19 if an employer has a drug-free work place.~~

20 ~~(7))~~ It is a class C felony to fraudulently produce any record
21 purporting to be, or tamper with the content of any record for the
22 purpose of having it accepted as, valid documentation ~~((under RCW
23 69.51A.010(32)(a))~~), or to backdate such documentation to a time
24 earlier than its actual date of execution.

25 ~~((8))~~ (7) No person shall be entitled to claim the protection
26 from arrest and prosecution under RCW 69.51A.040 ~~((or the affirmative
27 defense under RCW 69.51A.043))~~ for engaging in the medical use of
28 cannabis in a way that endangers the health or well-being of any person
29 through the use of a motorized vehicle on a street, road, or highway,
30 including violations of RCW 46.61.502 or 46.61.504, or equivalent local
31 ordinances.

32 **Sec. 8.** RCW 69.51A.085 and 2011 c 181 s 403 are each amended to
33 read as follows:

34 (1) Qualifying patients may create and participate in collective
35 gardens for the purpose of producing, ~~((processing,))~~ transporting, and
36 delivering cannabis for medical use subject to the following
37 conditions:

1 (a) No more than ten qualifying patients may participate in a
2 single collective garden at any time;

3 (b) A collective garden may contain no more than fifteen plants per
4 patient (~~((up to a total of forty five plants))~~);

5 (c) A collective garden may contain no more than twenty-four ounces
6 of useable cannabis per patient (~~((up to a total of seventy two ounces
7 of useable cannabis))~~);

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

12 (e) No useable cannabis from the collective garden is delivered to
13 anyone other than one of the qualifying patients participating in the
14 collective garden.

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

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

25 **Sec. 9.** RCW 69.51A.110 and 2011 c 181 s 408 are each amended to
26 read as follows:

27 A qualifying patient's medical use of cannabis as authorized by a
28 health care professional may not be a sole disqualifying factor in
29 determining the patient's suitability for an organ transplant(~~((, unless
30 it is shown that this use poses a significant risk of rejection or
31 organ failure. This section does not preclude a health care
32 professional from requiring that a patient abstain from the medical use
33 of cannabis, for a period of time determined by the health care
34 professional, while waiting for a transplant organ or before the
35 patient undergoes an organ transplant))~~).

1 NEW SECTION. **Sec. 10.** RCW 69.51A.043 (Failure to register--
2 Affirmative defense) and 2011 c 181 s 402 are each repealed.

3 NEW SECTION. **Sec. 11.** This act may be known and cited as the Ric
4 Smith memorial act.

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