
SENATE BILL 6032

State of Washington 60th Legislature 2007 Regular Session

By Senators Kohl-Welles, McCaslin, Kline, Regala and Keiser

Read first time 02/14/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to medical use of marijuana; amending RCW
2 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.050, 69.51A.060,
3 and 69.51A.070; adding a new section to chapter 69.51A RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to clarify the law
7 on medical marijuana so that the lawful use of this substance is not
8 impaired and medical practitioners are able to exercise their best
9 professional judgment in the delivery of medical treatment, qualifying
10 patients may fully participate in the medical use of marijuana, and
11 designated providers may assist patients in the manner provided by this
12 act without fear of state criminal prosecution. This act is also
13 intended to provide clarification to law enforcement and to all
14 participants in the judicial system.

15 **Sec. 2.** RCW 69.51A.005 and 1999 c 2 s 2 are each amended to read
16 as follows:

17 The people of Washington state find that some patients with
18 terminal or debilitating illnesses, under their physician's care, may

1 benefit from the medical use of marijuana. Some of the illnesses for
2 which marijuana appears to be beneficial include chemotherapy-related
3 nausea and vomiting in cancer patients; AIDS wasting syndrome; severe
4 muscle spasms associated with multiple sclerosis and other spasticity
5 disorders; epilepsy; acute or chronic glaucoma; and some forms of
6 intractable pain.

7 The people find that humanitarian compassion necessitates that the
8 decision to authorize the medical use of marijuana by patients with
9 terminal or debilitating illnesses is a personal, individual decision,
10 based upon their physician's professional medical judgment and
11 discretion.

12 Therefore, the people of the state of Washington intend that:

13 Qualifying patients with terminal or debilitating illnesses who, in
14 the judgment of their physicians, (~~would~~) may benefit from the
15 medical use of marijuana, shall not be found guilty of a crime under
16 state law for their possession and limited use of marijuana;

17 Persons who act as (~~primary caregivers~~) designated providers to
18 such patients shall also not be found guilty of a crime under state law
19 for assisting with the medical use of marijuana; and

20 Physicians also be excepted from liability and prosecution for the
21 authorization of marijuana use to qualifying patients for whom, in the
22 physician's professional judgment, medical marijuana may prove
23 beneficial.

24 **Sec. 3.** RCW 69.51A.010 and 1999 c 2 s 6 are each amended to read
25 as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

- 28 (1) "Designated provider" means a person who:
29 (a) Is eighteen years of age or older;
30 (b) Has been designated in writing by a patient to serve as a
31 designated provider under this chapter; and
32 (c) Is the designated provider to only one patient at any one time.

33 (2) "Medical use of marijuana" means the production, possession, or
34 administration of marijuana, as defined in RCW 69.50.101(q), for the
35 exclusive benefit of a qualifying patient in the treatment of his or
36 her terminal or debilitating illness.

37 (~~(2) "Primary caregiver" means a person who:~~

1 ~~(a) Is eighteen years of age or older;~~
2 ~~(b) Is responsible for the housing, health, or care of the patient;~~
3 ~~(c) Has been designated in writing by a patient to perform the~~
4 ~~duties of primary caregiver under this chapter.)~~)

5 (3) "Production" means the manufacturing, planting, cultivating,
6 growing, harvesting, and other steps reasonably related to the
7 provision of medical marijuana individually by one patient, or by or
8 with the assistance of his or her designated provider, or cooperatively
9 by qualifying patients, or by or with the assistance of their
10 designated providers, for the exclusive benefit of the qualifying
11 patient or patients in the treatment of terminal or debilitating
12 medical conditions.

13 (4) "Qualifying patient" means a person who:

14 (a) Is a patient of a physician licensed under chapter 18.71 or
15 18.57 RCW;

16 (b) Has been diagnosed by that physician as having a terminal or
17 debilitating medical condition;

18 (c) Is a resident of the state of Washington at the time of such
19 diagnosis;

20 (d) Has been advised by that physician about the risks and benefits
21 of the medical use of marijuana; and

22 (e) Has been advised by that physician that they may benefit from
23 the medical use of marijuana.

24 ~~((4))~~ (5) "Terminal or debilitating medical condition" means:

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

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

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

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

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

36 (f) Diseases, including anorexia, which result in nausea, vomiting,
37 wasting, appetite loss, cramping, seizures, muscle spasms, or

1 spasticity, when these symptoms are unrelieved by standard treatments
2 or medications; or

3 (g) Any other medical condition duly approved by the Washington
4 state medical quality assurance ((board [commission])) commission as
5 directed in this chapter.

6 ((+5)) (6) "Valid documentation" means:

7 (a) A statement signed by a qualifying patient's physician, or a
8 copy of the qualifying patient's pertinent medical records, which
9 states that, in the physician's professional opinion, the ((potential
10 ~~benefits of the medical use of marijuana would likely outweigh the~~
11 ~~health risks for a particular qualifying~~) patient may benefit from the
12 medical use of marijuana; ((and))

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

15 (c) A copy of the physician statement described in (a) of this
16 subsection shall have the same force and effect as the signed original.

17 **Sec. 4.** RCW 69.51A.030 and 1999 c 2 s 4 are each amended to read
18 as follows:

19 A physician licensed under chapter 18.71 or 18.57 RCW shall be
20 excepted from the state's criminal laws and shall not be penalized in
21 any manner, or denied any right or privilege, for:

22 (1) Advising a qualifying patient about the risks and benefits of
23 medical use of marijuana or that the qualifying patient may benefit
24 from the medical use of marijuana where such use is within a
25 professional standard of care or in the individual physician's medical
26 judgment; or

27 (2) Providing a qualifying patient with valid documentation, based
28 upon the physician's assessment of the qualifying patient's medical
29 history and current medical condition, that the ((potential benefits of
30 the)) medical use of marijuana ((would likely outweigh the health risks
31 for the)) may benefit a particular qualifying patient.

32 **Sec. 5.** RCW 69.51A.040 and 1999 c 2 s 5 are each amended to read
33 as follows:

34 (1) If a law enforcement officer determines that a person's
35 production, possession, or administration of marijuana satisfies the
36 requirements of this chapter, patients and providers shall be excepted

1 from any criminal or civil penalty, and shall not be denied any right
2 or privilege. In such cases, the officer shall not seize the marijuana
3 or any items related to the medical use of marijuana. If a law
4 enforcement officer determines that a person's production, possession,
5 or administration of marijuana may satisfy the requirements of this
6 chapter, the officer may, in his or her discretion, elect to seize only
7 a representative sample of the marijuana. A law enforcement officer
8 shall not be held civilly liable for failure to seize marijuana in
9 either of the above circumstances.

10 (2) If charged with a violation of state law relating to marijuana,
11 any qualifying patient who is engaged in the medical use of marijuana,
12 or any designated (~~primary caregiver~~) provider who assists a
13 qualifying patient in the medical use of marijuana, will be deemed to
14 have established an affirmative defense to such charges by proof of his
15 or her compliance with the requirements provided in this chapter. Any
16 person meeting the requirements appropriate to his or her status under
17 this chapter shall be considered to have engaged in activities
18 permitted by this chapter and shall not be penalized in any manner, or
19 denied any right or privilege, for such actions.

20 (~~(2) The~~) (3) A qualifying patient, if eighteen years of age or
21 older, or a designated provider shall:

22 (a) Meet all criteria for status as a qualifying patient or
23 designated provider;

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

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

30 (~~(3) The~~) (4) A qualifying patient, if under eighteen years of
31 age at the time he or she is alleged to have committed the offense,
32 shall (~~comply~~) demonstrate compliance with subsection (~~(2)~~) (3)(a)
33 and (c) of this section. However, any possession under subsection
34 (~~(2)~~) (3)(b) of this section, as well as any production, acquisition,
35 and decision as to dosage and frequency of use, shall be the
36 responsibility of the parent or legal guardian of the qualifying
37 patient, who shall not be arrested, prosecuted, or penalized in any
38 manner for meeting such responsibilities.

1 ~~((4) The designated primary caregiver shall:~~

2 ~~(a) Meet all criteria for status as a primary caregiver to a~~
3 ~~qualifying patient;~~

4 ~~(b) Possess, in combination with and as an agent for the qualifying~~
5 ~~patient, no more marijuana than is necessary for the patient's~~
6 ~~personal, medical use, not exceeding the amount necessary for a sixty-~~
7 ~~day supply;~~

8 ~~(c) Present a copy of the qualifying patient's valid documentation~~
9 ~~required by this chapter, as well as evidence of designation to act as~~
10 ~~primary caregiver by the patient, to any law enforcement official~~
11 ~~requesting such information;~~

12 ~~(d) Be prohibited from consuming marijuana obtained for the~~
13 ~~personal, medical use of the patient for whom the individual is acting~~
14 ~~as primary caregiver; and~~

15 ~~(e) Be the primary caregiver to only one patient at any one time.)~~

16 **Sec. 6.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
17 as follows:

18 (1) The lawful possession or manufacture of medical marijuana as
19 authorized by this chapter shall not result in the forfeiture or
20 seizure of any property, including but not limited to medical marijuana
21 and items related to the medical use of marijuana.

22 (2) No person shall be prosecuted for constructive possession,
23 conspiracy, or any other criminal offense solely for being in the
24 presence or vicinity of medical marijuana or its use as authorized by
25 this chapter.

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

28 **Sec. 7.** RCW 69.51A.060 and 1999 c 2 s 8 are each amended to read
29 as follows:

30 (1) It shall be a misdemeanor to use or display medical marijuana
31 in a manner or place which is open to the view of the general public.

32 (2) Nothing in this chapter requires any health insurance provider
33 to be liable for any claim for reimbursement for the medical use of
34 marijuana.

35 (3) Nothing in this chapter requires any physician to authorize the
36 use of medical marijuana for a patient.

1 (4) Nothing in this chapter requires any accommodation of any on-
2 site medical use of marijuana in any place of employment, in any school
3 bus or on any school grounds, ~~((or))~~ in any youth center, or in any
4 correctional facility.

5 (5) It is a class C felony to fraudulently produce any record
6 purporting to be, or tamper with the content of any record for the
7 purpose of having it accepted as, valid documentation under RCW
8 69.51A.010~~((+5))~~ (6)(a).

9 (6) No person shall be entitled to claim the affirmative defense
10 provided in RCW 69.51A.040 for engaging in the medical use of marijuana
11 in a way that endangers the health or well-being of any person through
12 the use of a motorized vehicle on a street, road, or highway.

13 **Sec. 8.** RCW 69.51A.070 and 1999 c 2 s 9 are each amended to read
14 as follows:

15 The Washington state medical quality assurance ~~((board~~
16 ~~[commission]))~~ commission, or other appropriate agency as designated by
17 the governor, shall accept for consideration petitions submitted ~~((by~~
18 ~~physicians or patients))~~ to add terminal or debilitating conditions to
19 those included in this chapter. In considering such petitions, the
20 Washington state medical quality assurance ~~((board~~
21 ~~[commission]))~~ commission shall include public notice of, and an opportunity to
22 comment in a public hearing upon, such petitions. The Washington state
23 medical quality assurance ~~((board~~
24 ~~[commission]))~~ commission shall, after hearing, approve or deny such petitions within one hundred eighty
25 days of submission. The approval or denial of such a petition shall be
26 considered a final agency action, subject to judicial review.

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

29 A person possessing valid documentation shall not be prohibited
30 from the medical use of marijuana by any judicial or administrative
31 order except as otherwise provided in this chapter.

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