

**ESSB 6032** - CONF REPT  
By Conference Committee

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

14 The people of Washington state find that some patients with  
15 terminal or debilitating illnesses, under their physician's care, may  
16 benefit from the medical use of marijuana. Some of the illnesses for  
17 which marijuana appears to be beneficial include chemotherapy-related  
18 nausea and vomiting in cancer patients; AIDS wasting syndrome; severe  
19 muscle spasms associated with multiple sclerosis and other spasticity  
20 disorders; epilepsy; acute or chronic glaucoma; and some forms of  
21 intractable pain.

22 The people find that humanitarian compassion necessitates that the  
23 decision to authorize the medical use of marijuana by patients with  
24 terminal or debilitating illnesses is a personal, individual decision,  
25 based upon their physician's professional medical judgment and  
26 discretion.

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

28 Qualifying patients with terminal or debilitating illnesses who, in  
29 the judgment of their physicians, (~~would~~) may benefit from the

1 medical use of marijuana, shall not be found guilty of a crime under  
2 state law for their possession and limited use of marijuana;

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

6 Physicians also be excepted from liability and prosecution for the  
7 authorization of marijuana use to qualifying patients for whom, in the  
8 physician's professional judgment, medical marijuana may prove  
9 beneficial.

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

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14 (1) "Designated provider" means a person who:

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

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

18 (c) Is prohibited from consuming marijuana obtained for the  
19 personal, medical use of the patient for whom the individual is acting  
20 as designated provider; and

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

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

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

27 ~~(a) Is eighteen years of age or older;~~

28 ~~(b) Is responsible for the housing, health, or care of the patient;~~

29 ~~(c) Has been designated in writing by a patient to perform the~~  
30 ~~duties of primary caregiver under this chapter.))~~

31 (3) "Qualifying patient" means a person who:

32 (a) Is a patient of a physician licensed under chapter 18.71 or  
33 18.57 RCW;

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

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

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

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

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

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

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

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

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

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

17 (f) Diseases, including anorexia, which result in nausea, vomiting,  
18 wasting, appetite loss, cramping, seizures, muscle spasms, or  
19 spasticity, when these symptoms are unrelieved by standard treatments  
20 or medications; or

21 (g) Any other medical condition duly approved by the Washington  
22 state medical quality assurance ((~~board~~ [commission])) commission in  
23 consultation with the board of osteopathic medicine and surgery as  
24 directed in this chapter.

25 (5) "Valid documentation" means:

26 (a) A statement signed by a qualifying patient's physician, or a  
27 copy of the qualifying patient's pertinent medical records, which  
28 states that, in the physician's professional opinion, the ((~~potential~~  
29 ~~benefits of the medical use of marijuana would likely outweigh the~~  
30 ~~health risks for a particular qualifying~~) patient may benefit from the  
31 medical use of marijuana; ((and))

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

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

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

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

4 (1) Advising a qualifying patient about the risks and benefits of  
5 medical use of marijuana or that the qualifying patient may benefit  
6 from the medical use of marijuana where such use is within a  
7 professional standard of care or in the individual physician's medical  
8 judgment; or

9 (2) Providing a qualifying patient with valid documentation, based  
10 upon the physician's assessment of the qualifying patient's medical  
11 history and current medical condition, that the ~~((potential benefits of  
12 the))~~ medical use of marijuana ~~((would likely outweigh the health risks  
13 for the))~~ may benefit a particular qualifying patient.

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

16 (1) If a law enforcement officer determines that marijuana is being  
17 possessed lawfully under the medical marijuana law, the officer may  
18 document the amount of marijuana, take a representative sample that is  
19 large enough to test, but not seize the marijuana. A law enforcement  
20 officer or agency shall not be held civilly liable for failure to seize  
21 marijuana in this circumstance.

22 (2) If charged with a violation of state law relating to marijuana,  
23 any qualifying patient who is engaged in the medical use of marijuana,  
24 or any designated ~~((primary caregiver))~~ provider who assists a  
25 qualifying patient in the medical use of marijuana, will be deemed to  
26 have established an affirmative defense to such charges by proof of his  
27 or her compliance with the requirements provided in this chapter. Any  
28 person meeting the requirements appropriate to his or her status under  
29 this chapter shall be considered to have engaged in activities  
30 permitted by this chapter and shall not be penalized in any manner, or  
31 denied any right or privilege, for such actions.

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

34 (a) Meet all criteria for status as a qualifying patient or  
35 designated provider;

36 (b) Possess no more marijuana than is necessary for the patient's

1 personal, medical use, not exceeding the amount necessary for a sixty-  
2 day supply; and

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

6 ~~((3) The))~~ (4) A qualifying patient, if under eighteen years of  
7 age at the time he or she is alleged to have committed the offense,  
8 shall ~~((comply))~~ demonstrate compliance with subsection ~~((2))~~ (3)(a)  
9 and (c) of this section. However, any possession under subsection  
10 ~~((2))~~ (3)(b) of this section, as well as any production, acquisition,  
11 and decision as to dosage and frequency of use, shall be the  
12 responsibility of the parent or legal guardian of the qualifying  
13 patient.

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

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

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

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

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

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

29 **Sec. 6.** RCW 69.51A.060 and 1999 c 2 s 8 are each amended to read  
30 as follows:

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

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

36 (3) Nothing in this chapter requires any physician to authorize the  
37 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, in any  
4 correctional facility, or smoking medical marijuana in any public place  
5 as that term is defined in RCW 70.160.020.

6 (5) It is a class C felony to fraudulently produce any record  
7 purporting to be, or tamper with the content of any record for the  
8 purpose of having it accepted as, valid documentation under RCW  
9 69.51A.010~~((+5))~~ (6)(a).

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

14 **Sec. 7.** RCW 69.51A.070 and 1999 c 2 s 9 are each amended to read  
15 as follows:

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

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

33 (1) By July 1, 2008, the department of health shall adopt rules  
34 defining the quantity of marijuana that could reasonably be presumed to  
35 be a sixty-day supply for qualifying patients; this presumption may be  
36 overcome with evidence of a qualifying patient's necessary medical use.

1 (2) As used in this chapter, "sixty-day supply" means that amount  
2 of marijuana that qualifying patients would reasonably be expected to  
3 need over a period of sixty days for their personal medical use.  
4 During the rule-making process, the department shall make a good faith  
5 effort to include all stakeholders identified in the rule-making  
6 analysis as being impacted by the rule.

7 (3) The department of health shall gather information from medical  
8 and scientific literature, consulting with experts and the public, and  
9 reviewing the best practices of other states regarding access to an  
10 adequate, safe, consistent, and secure source, including alternative  
11 distribution systems, of medical marijuana for qualifying patients.  
12 The department shall report its findings to the legislature by July 1,  
13 2008."

14 Correct the title.

EFFECT: Excepts public places, as defined in the public smoking laws, from having to accommodate individuals who seek to smoke medical marijuana at that location.

Specifies that the 60-day supply rules apply to patients generally and not to specific individuals. Requires the Department of Health to make a good faith effort to include all impacted stakeholders in the rule-making process.

Removes specific references to the Department of Health report addressing the feasibility of government distribution systems for medical marijuana and replaces it with a requirement that the report address alternative distributions generally.

--- END ---