

ESSB 6032 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 04/04/2007

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

1 the judgment of their physicians, (~~would~~) may benefit from the
2 medical use of marijuana, shall not be found guilty of a crime under
3 state law for their possession and limited use of marijuana;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (a) Is a patient of a physician licensed under chapter 18.71 or
34 18.57 RCW;

35 (b) Has been diagnosed by that physician as having a terminal or
36 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 physician about the risks and benefits
4 of the medical use of marijuana; and

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

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

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

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

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

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

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

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

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

27 (5) "Valid documentation" means:

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

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

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

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

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

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

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

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

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

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

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

36 (a) Meet all criteria for status as a qualifying patient or
37 designated provider;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (5) It is a class C felony to fraudulently produce any record
8 purporting to be, or tamper with the content of any record for the
9 purpose of having it accepted as, valid documentation under RCW
10 69.51A.010~~((+5))~~ (6)(a).

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

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

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

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

34 (1) By January 1, 2008, the department of health shall adopt rules
35 defining the quantity of marijuana that could reasonably be presumed to

1 be a sixty-day supply for any qualifying patient; this presumption may
2 be overcome with evidence of the qualifying patient's necessary medical
3 use.

4 (2) As used in this chapter, "sixty-day supply" means that amount
5 of marijuana that qualifying patients would reasonably be expected to
6 need over a period of sixty days for their personal medical use.

7 (3) By January 1, 2008, the department of health shall report to
8 the legislature on options for efficiently providing access to an
9 adequate, safe, consistent, and secure source of medical marijuana for
10 qualifying patients. The report may be based on a review of other
11 states' best practices, available medical and scientific literature,
12 consultation with experts, and public input."

13 Correct the title.

EFFECT: Eliminates the definition of "production."

Requires the Department of Health to submit its report on options for providing access to medical marijuana by January 1, 2008, instead of July 1, 2008. Specifies that the 60 day supply applies to the amount of marijuana that is needed for patients generally and not individual patient determinations.

Specifies that designated providers may not consume marijuana obtained for the use of the patient.

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