

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.

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