

# SENATE BILL REPORT

## ESSB 6032

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As Amended by House, April 4, 2007

**Title:** An act relating to medical use of marijuana.

**Brief Description:** Concerning the medical use of marijuana.

**Sponsors:** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kohl-Welles, McCaslin, Kline, Regala and Keiser).

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 2/27/07, 2/28/07 [DPS, w/oRec].  
Passed Senate: 3/14/07, 39-10.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** That Substitute Senate Bill No. 6032 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Fairley, Kohl-Welles, Marr and Parlette.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Carrell.

**Staff:** Edith Rice (786-7444)

**Background:** Under Initiative Measure No. 692, approved November 1998, the Washington State medical use of marijuana act (act), the citizens of the state of Washington intended to allow for the limited medical use of marijuana by patients with terminal or debilitating illnesses. Such patients and their primary caregivers will not be found guilty of a crime for possession and limited use of marijuana under state law. Physicians who authorize marijuana use to qualifying patients are excepted from liability and prosecution for doing so.

Physicians must provide a qualifying patient with valid documentation stating that the potential benefits of the medical use of marijuana would likely outweigh the health risks for a particular qualifying patient. Documentation consists of a statement signed by the physician or a copy of the pertinent medical record containing the physician's statement and proof of identity.

A qualifying patient or any designated primary caregiver will be deemed to have established an affirmative defense to charges of violation of state law relating to marijuana if he or she complies with the requirements under this act.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The act provides definitions for: medical use of marijuana, primary caregiver, qualifying patient, terminal or debilitating medical condition, and valid documentation.

**Summary of Engrossed Substitute Bill:** Qualifying patients and any designated provider who assists them in the medical use of marijuana will be deemed to have established an affirmative defense if he or she complies with the requirements under this act. Designated provider replaces "primary caregiver" and is defined as a person who is over 18 years of age, has been designated in writing by a patient to serve as a designated provider and serves as a designated provider to only one patient at a time.

The term "production" is defined as the manufacturing and other steps reasonably related to the provision of medical marijuana by a patient or a designated provider for the exclusive benefit of the qualifying patient in the treatment of terminal or debilitating medical conditions.

Department of Health (DOH) will adopt rules defining the presumptive quantity of marijuana that could reasonably be said to be a 60-day supply. DOH will make recommendations to the Legislature addressing access to an adequate, safe, consistent, and secure source of medical marijuana for qualifying patients.

Crohn's disease, hepatitis C, and other diseases are added to the existing list of terminal and debilitating medical conditions.

Valid documentation must state that in the physician's professional opinion, the patient may benefit from the medical use of marijuana.

A copy of a physician statement has the same force and effect as the signed original.

The Medical Quality Assurance Commission will accept petitions from anyone to add terminal or debilitating conditions to those already on this list.

If a law enforcement officer determines that a person's possession of marijuana satisfies the requirements under this act, the officer may take a representative sample of the marijuana. The officer is not liable for failure to seize marijuana in this circumstance.

The medical quality assurance commission will consult with the Board of Osteopathic Medicine and Surgery in adding approved medical conditions to those defined as terminal or debilitating.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Patients with intractable pain should be helped and their doctors should be able to help them. We need to clarify what physicians and patients can do lawfully. Law enforcement has raided my home even though I was growing medical marijuana for a lawful purpose. Different county law enforcement agencies enforce the law differently, they are not obeying the law. Patients need safety and

help in dealing with their pain. Patients need assistance in attaining a regular safe supply of medical marijuana because many of us are unable to grow it ourselves. For some patients, having access to medical marijuana is what is keeping them alive. Other pain medication has serious side effects or does not provide the relief that medical marijuana does. It allows us to have a quality of life that was otherwise unavailable. Help us get this done. Patients shouldn't be persecuted. Be compassionate. Efficacy is clearly defined by science. Medical marijuana is safe, there is no lethal dose. We can provide dosing guidelines. Medical marijuana helps me maintain my independence. I shouldn't have to worry about being prosecuted. This is a harm reduction drug. Other pain medication is highly addictive. People shouldn't be stigmatized for using this. Medical marijuana should not be considered a Schedule I drug. Most pain medication offers me no quality of life. The current law is flawed, prosecution is unconscionable. My property was taken by authorities.

CON: There are some parts of this bill we support. Federal law conflicts with our state law. We should maintain the affirmative defense aspect. The definition of production is a problem. Cooperative growing is not currently permitted. We don't know how much is considered a 60 day supply. We support the change to designated provider. Cooperative production is a problem and can be easily abused. This bill won't keep local law enforcement in check, we need something that will force local prosecutors to be reasonable.

**Persons Testifying:** PRO: Margaret Denny, Joanna McKee, Ric Smith, Julie Barber, Michael Howard, Sean R. Willey, Tiffany O'Connor, Michelle K. Smith, Dennis Coughlin, John Ernest Berry III, Bambi Hope, Green Cross; Steve Sarich, Thomas J. McCoy CANNACARE; Katy Rourke, Jonathan Graves, American Civil Liberties Union; Greg Carter, MD, University of Washington.

CON: Tom McBride, Washington Association of Prosecuting Attorneys; Don Pierce, Washington Association of Sheriffs and Police Chiefs, Jeff Gilmore, citizen.

**House Amendment(s):** The definition of production is eliminated. Specifies that a designated provider may not consume marijuana obtained for the use of the patient.

DOH is directed to gather information regarding access to a source of medical marijuana. This must include an evaluation of proposals to establish a government operated distribution system, and address concerns related to production, safety, or legal requirements. A report is due to the Legislature by July 1, 2008.