
SENATE BILL 5798

State of Washington

61st Legislature

2009 Regular Session

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

Read first time 02/02/09. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to medical marijuana; and amending RCW 69.51A.005,
2 69.51A.010, 69.51A.030, and 69.51A.060.

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

4 **Sec. 1.** RCW 69.51A.005 and 2007 c 371 s 2 are each amended to read
5 as follows:

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

14 The people find that humanitarian compassion necessitates that the
15 decision to authorize the medical use of marijuana by patients with
16 terminal or debilitating illnesses is a personal, individual decision,
17 based upon their physician's professional medical judgment and
18 discretion.

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

1 Qualifying patients with terminal or debilitating illnesses who, in
2 the judgment of their (~~physicians~~) health care professionals, may
3 benefit from the medical use of marijuana, shall not be found guilty of
4 a crime under state law for their possession and limited use of
5 marijuana;

6 Persons who act as designated providers to such patients shall also
7 not be found guilty of a crime under state law for assisting with the
8 medical use of marijuana; and

9 (~~Physicians~~) Health care professionals also be excepted from
10 liability and prosecution for the authorization of marijuana use to
11 qualifying patients for whom, in the (~~physician's~~) health care
12 professional's professional judgment, medical marijuana may prove
13 beneficial.

14 **Sec. 2.** RCW 69.51A.010 and 2007 c 371 s 3 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

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

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

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

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

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

26 (2) "Health care professional," for purposes of this chapter only,
27 means a physician licensed under chapter 18.71 RCW, a physician
28 assistant licensed under chapter 18.71A RCW, an osteopathic physician
29 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
30 licensed under chapter 18.57A RCW, or an advanced registered nurse
31 practitioner licensed under chapter 18.79 RCW.

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

36 (~~(3)~~) (4) "Qualifying patient" means a person who:

- 1 (a) Is a patient of a (~~(physician licensed under chapter 18.71 or~~
2 ~~18.57 RCW)~~) health care professional;
- 3 (b) Has been diagnosed by that (~~(physician)~~) health care
4 professional as having a terminal or debilitating medical condition;
- 5 (c) Is a resident of the state of Washington at the time of such
6 diagnosis;
- 7 (d) Has been advised by that (~~(physician)~~) health care professional
8 about the risks and benefits of the medical use of marijuana; and
- 9 (e) Has been advised by that (~~(physician)~~) health care professional
10 that they may benefit from the medical use of marijuana.
- 11 (~~(+4)~~) (5) "Terminal or debilitating medical condition" means:
- 12 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
13 epilepsy or other seizure disorder, or spasticity disorders; or
- 14 (b) Intractable pain, limited for the purpose of this chapter to
15 mean pain unrelieved by standard medical treatments and medications; or
- 16 (c) Glaucoma, either acute or chronic, limited for the purpose of
17 this chapter to mean increased intraocular pressure unrelieved by
18 standard treatments and medications; or
- 19 (d) Crohn's disease with debilitating symptoms unrelieved by
20 standard treatments or medications; or
- 21 (e) Hepatitis C with debilitating nausea or intractable pain
22 unrelieved by standard treatments or medications; or
- 23 (f) Diseases, including anorexia, which result in nausea, vomiting,
24 wasting, appetite loss, cramping, seizures, muscle spasms, or
25 spasticity, when these symptoms are unrelieved by standard treatments
26 or medications; or
- 27 (g) Any other medical condition duly approved by the Washington
28 state medical quality assurance commission in consultation with the
29 board of osteopathic medicine and surgery as directed in this chapter.
- 30 (~~(+5)~~) (6) "Valid documentation" means:
- 31 (a) A statement signed by a qualifying patient's (~~(physician)~~)
32 health care professional, or a copy of the qualifying patient's
33 pertinent medical records, which states that, in the (~~(physician's)~~)
34 health care professional's professional opinion, the patient may
35 benefit from the medical use of marijuana;
- 36 (b) Proof of identity such as a Washington state driver's license
37 or identicard, as defined in RCW 46.20.035; and

1 (c) A copy of the ((~~physician~~)) health care professional statement
2 described in (a) of this subsection shall have the same force and
3 effect as the signed original.

4 **Sec. 3.** RCW 69.51A.030 and 2007 c 371 s 4 are each amended to read
5 as follows:

6 A ((~~physician licensed under chapter 18.71 or 18.57 RCW~~)) health
7 care professional shall be excepted from the state's criminal laws and
8 shall not be penalized in any manner, or denied any right or privilege,
9 for:

10 (1) Advising a qualifying patient about the risks and benefits of
11 medical use of marijuana or that the qualifying patient may benefit
12 from the medical use of marijuana where such use is within a
13 professional standard of care or in the individual ((~~physician's~~))
14 health care professional's medical judgment; or

15 (2) Providing a qualifying patient with valid documentation, based
16 upon the ((~~physician's~~)) health care professional's assessment of the
17 qualifying patient's medical history and current medical condition,
18 that the medical use of marijuana may benefit a particular qualifying
19 patient.

20 **Sec. 4.** RCW 69.51A.060 and 2007 c 371 s 6 are each amended to read
21 as follows:

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

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

27 (3) Nothing in this chapter requires any ((~~physician~~)) health care
28 professional to authorize the use of medical marijuana for a patient.

29 (4) Nothing in this chapter requires any accommodation of any on-
30 site medical use of marijuana in any place of employment, in any school
31 bus or on any school grounds, in any youth center, in any correctional
32 facility, or smoking medical marijuana in any public place as that term
33 is defined in RCW 70.160.020.

34 (5) It is a class C felony to fraudulently produce any record
35 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under RCW
2 69.51A.010(6)(a).

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

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