

1 On page 1 of the striking amendment, strike all material after
2 line 2 and insert the following:

3

4

"PART I

5

LEGISLATIVE DECLARATION AND INTENT

6

7

8 NEW SECTION. **Sec. 101.** (1) The legislature intends to amend and
9 clarify the law on the medical use of marijuana so that:

10 (a) Qualifying patients and designated providers complying with
11 the terms of this act and registering with the department of health
12 will no longer be subject to arrest or prosecution, other criminal
13 sanctions, or civil consequences based solely on their medical use of
14 marijuana;

15 (b) Qualifying patients will have access to an adequate, safe,
16 consistent, and secure source of medical quality marijuana; and

17 (c) Health care professionals may authorize the medical use of
18 marijuana in the manner provided by this act without fear of state
19 criminal or civil sanctions.

20 (2) This act is not intended to amend or supersede Washington
21 state law prohibiting the acquisition, possession, manufacture, sale,
22 or use of marijuana for nonmedical purposes.

23 (3) This act is not intended to compromise community safety.
24 State, county, or city correctional agencies or departments shall
25 retain the authority to establish and enforce terms for those on
26 active supervision.

27

1 **Sec. 102.** RCW 69.51A.005 and 2010 c 284 s 1 are each amended to
2 read as follows:

3 (1) The ~~((people of Washington state))~~ legislature finds that:

4 (a) There is medical evidence that some patients with terminal or
5 debilitating ~~((illnesses))~~ medical conditions may, under their health
6 care professional's care, ~~((may))~~ benefit from the medical use of
7 marijuana. Some of the ~~((illnesses))~~ conditions for which marijuana
8 appears to be beneficial include ~~((chemotherapy-related))~~, but are not
9 limited to:

10 (i) Nausea ~~((and))~~, vomiting ~~((in cancer patients; AIDS wasting~~
11 ~~syndrome))~~, and cachexia associated with cancer, HIV-positive status,
12 AIDS, hepatitis C, anorexia, and their treatments;

13 (ii) Severe muscle spasms associated with multiple sclerosis,
14 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy;))~~

15 (iii) Acute or chronic glaucoma;

16 (iv) Crohn's disease; and

17 (v) Some forms of intractable pain.

18 ~~((The people find that))~~ (b) Humanitarian compassion necessitates
19 that the decision to ~~((authorize the medical))~~ use ~~((of))~~ marijuana by
20 patients with terminal or debilitating ~~((illnesses))~~ medical
21 conditions is a personal, individual decision, based upon their health
22 care professional's professional medical judgment and discretion.

23 (2) Therefore, the ~~((people of the state of Washington))~~
24 legislature intends that:

25 (a) Qualifying patients with terminal or debilitating
26 ~~((illnesses))~~ medical conditions who, in the judgment of their health
27 care professionals, may benefit from the medical use of marijuana,
28 shall not be ~~((found guilty of a crime under state law for their~~
29 ~~possession and limited use of marijuana))~~ arrested, prosecuted, or
30 subject to other criminal sanctions or civil consequences under state
31 law based solely on their medical use of marijuana, notwithstanding
32 any other provision of law;

33 (b) Persons who act as designated providers to such patients shall
34 also not be ~~((found guilty of a crime under state law for))~~ arrested,

1 prosecuted, or subject to other criminal sanctions or civil
2 consequences under state law, notwithstanding any other provision of
3 law, based solely on their assisting with the medical use of
4 marijuana; and

5 (c) Health care professionals shall also ((be—excepted—from
6 liability and prosecution)) not be arrested, prosecuted, or subject to
7 other criminal sanctions or civil consequences under state law for the
8 proper authorization of ((marijuana)) medical use ((to)) of marijuana
9 by qualifying patients for whom, in the health care professional's
10 professional judgment, the medical use of marijuana may prove
11 beneficial.

12 (3) Nothing in this chapter establishes the medical necessity or
13 medical appropriateness of marijuana for treating terminal or
14 debilitating medical conditions as defined in RCW 69.51A.010.

15 (4) Nothing in this chapter diminishes the authority of
16 correctional agencies and departments, including local governments or
17 jails, to establish a procedure for determining when the use of
18 marijuana would impact community safety or the effective supervision
19 of those on active supervision for a criminal conviction, nor does it
20 create the right to any accommodation of any medical use of marijuana
21 in any correctional facility or jail.

22
23 **Sec. 103.** RCW 69.51A.020 and 1999 c 2 s 3 are each amended to
24 read as follows:

25 Nothing in this chapter shall be construed to supersede Washington
26 state law prohibiting the acquisition, possession, manufacture, sale,
27 or use of marijuana for nonmedical purposes. Criminal penalties
28 created under this act do not preclude the prosecution or punishment
29 for other crimes, including other crimes involving the manufacture or
30 delivery of marijuana for nonmedical purposes.

31
32 **PART II**

33 **DEFINITIONS**

34

1 **Sec. 201.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Correctional facility" has the same meaning as provided in
6 RCW 72.09.015.

7 (2) "Corrections agency or department" means any agency or
8 department in the state of Washington, including local governments or
9 jails, that is vested with the responsibility to manage those
10 individuals who are being supervised in the community for a criminal
11 conviction and has established a written policy for determining when
12 the medical use of marijuana, including possession, manufacture, or
13 delivery of, or for possession with intent to manufacture or deliver,
14 is inconsistent with and contrary to the person's supervision.

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

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

17 (b) Has been designated in (~~writing~~) a written document signed
18 and dated by a qualifying patient to serve as a designated provider
19 under this chapter; and

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

23 ~~(d) Is the designated provider to only one patient at any one~~
24 ~~time.~~

25 ~~(2))~~ in compliance with the terms and conditions set forth in RCW
26 69.51A.040.

27 A qualifying patient may be the designated provider for another
28 qualifying patient and be in possession of both patients' marijuana at
29 the same time.

30 (4) "Director" means the director of the department of
31 agriculture.

32 (5) "Dispense" means the selection, measuring, packaging,
33 labeling, delivery, or retail sale of marijuana by a licensed
34 dispenser to a qualifying patient or designated provider.

1 (6) "Health care professional," for purposes of this chapter only,
2 means a physician licensed under chapter 18.71 RCW, a physician
3 assistant licensed under chapter 18.71A RCW, an osteopathic physician
4 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
5 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
6 18.36A RCW, or an advanced registered nurse practitioner licensed
7 under chapter 18.79 RCW.

8 ~~((3))~~ (7) "Jail" has the same meaning as provided in RCW
9 70.48.020.

10 (8) "Labeling" means all labels and other written, printed, or
11 graphic matter (a) upon any marijuana intended for medical use, or (b)
12 accompanying such marijuana.

13 (9) "Licensed dispenser" means a person licensed to dispense
14 marijuana for medical use to qualifying patients and designated
15 providers by the department of health in accordance with rules adopted
16 by the department of health pursuant to the terms of this chapter.

17 (10) "Licensed processor of marijuana products" means a person
18 licensed by the department of agriculture to manufacture, process,
19 handle, and label marijuana products for wholesale to licensed
20 dispensers.

21 (11) "Licensed producer" means a person licensed by the department
22 of agriculture to produce marijuana for medical use for wholesale to
23 licensed dispensers and licensed processors of marijuana products in
24 accordance with rules adopted by the department of agriculture
25 pursuant to the terms of this chapter.

26 (12) "Marijuana" means all parts of the plant *Cannabis*, whether
27 growing or not; the seeds thereof; the resin extracted from any part
28 of the plant; and every compound, manufacture, salt, derivative,
29 mixture, or preparation of the plant, its seeds, or resin. For the
30 purposes of this chapter, "marijuana" does not include the mature
31 stalks of the plant, fiber produced from the stalks, oil or cake made
32 from the seeds of the plant, any other compound, manufacture, salt,
33 derivative, mixture, or preparation of the mature stalks, except the
34 resin extracted therefrom, fiber, oil, or cake, or the sterilized seed

1 of the plant which is incapable of germination. The term "marijuana"
2 includes marijuana products and useable marijuana.

3 (13) "Marijuana analysis laboratory" means a laboratory that
4 performs chemical analysis and inspection of marijuana samples.

5 (14) "Marijuana products" means products that contain marijuana or
6 marijuana extracts, have a measurable THC concentration greater than
7 three-tenths of one percent, and are intended for human consumption or
8 application, including, but not limited to, edible products,
9 tinctures, and lotions. The term "marijuana products" does not
10 include useable marijuana. The definition of "marijuana products" as
11 a measurement of THC concentration only applies to the provisions of
12 this chapter and shall not be considered applicable to any criminal
13 laws related to marijuana or marijuana.

14 (15) "Medical use of marijuana" means the manufacture, production,
15 processing, possession, transportation, delivery, dispensing,
16 ingestion, application, or administration of marijuana ((~~as defined~~
17 in ~~RCW 69.50.101(q),~~)) for the exclusive benefit of a qualifying
18 patient in the treatment of his or her terminal or debilitating
19 ((~~illness~~)) medical condition.

20 ((~~4~~)) (16) "Nonresident" means a person who is temporarily in
21 the state but is not a Washington state resident.

22 (17) "Peace officer" means any law enforcement personnel as
23 defined in RCW 43.101.010.

24 (18) "Person" means an individual or an entity.

25 (19) "Personally identifiable information" means any information
26 that includes, but is not limited to, data that uniquely identify,
27 distinguish, or trace a person's identity, such as the person's name,
28 date of birth, or address, either alone or when combined with other
29 sources, that establish the person is a qualifying patient, designated
30 provider, licensed producer, or licensed processor of marijuana
31 products for purposes of registration with the department of health or
32 department of agriculture. The term "personally identifiable
33 information" also means any information used by the department of
34 health or department of agriculture to identify a person as a

1 qualifying patient, designated provider, licensed producer, or
2 licensed processor of marijuana products.

3 (20) "Plant" means an organism having at least three
4 distinguishable and distinct leaves, each leaf being at least three
5 centimeters in diameter, and a readily observable root formation
6 consisting of at least two separate and distinct roots, each being at
7 least two centimeters in length. Multiple stalks emanating from the
8 same root ball or root system shall be considered part of the same
9 single plant.

10 (21) "Process" means to handle or process marijuana in preparation
11 for medical use.

12 (22) "Processing facility" means the premises and equipment where
13 marijuana products are manufactured, processed, handled, and labeled
14 for wholesale to licensed dispensers.

15 (23) "Produce" means to plant, grow, or harvest marijuana for
16 medical use.

17 (24) "Production facility" means the premises and equipment where
18 marijuana is planted, grown, harvested, processed, stored, handled,
19 packaged, or labeled by a licensed producer for wholesale, delivery,
20 or transportation to a licensed dispenser or licensed processor of
21 marijuana products, and all vehicles and equipment used to transport
22 marijuana from a licensed producer to a licensed dispenser or licensed
23 processor of marijuana products.

24 (25) "Public place" includes streets and alleys of incorporated
25 cities and towns; state or county or township highways or roads;
26 buildings and grounds used for school purposes; public dance halls and
27 grounds adjacent thereto; premises where goods and services are
28 offered to the public for retail sale; public buildings, public
29 meeting halls, lobbies, halls and dining rooms of hotels, restaurants,
30 theatres, stores, garages, and filling stations which are open to and
31 are generally used by the public and to which the public is permitted
32 to have unrestricted access; railroad trains, stages, buses, ferries,
33 and other public conveyances of all kinds and character, and the
34 depots, stops, and waiting rooms used in conjunction therewith which

1 are open to unrestricted use and access by the public; publicly owned
2 bathing beaches, parks, or playgrounds; and all other places of like
3 or similar nature to which the general public has unrestricted right
4 of access, and which are generally used by the public.

5 (26) "Qualifying patient" means a person who:

6 (a)(i) Is a patient of a health care professional;

7 ~~((b))~~ (ii) Has been diagnosed by that health care professional
8 as having a terminal or debilitating medical condition;

9 ~~((e))~~ (iii) Is a resident of the state of Washington at the time
10 of such diagnosis;

11 ~~((d))~~ (iv) Has been advised by that health care professional
12 about the risks and benefits of the medical use of marijuana; ~~(and~~

13 ~~(e))~~ (v) Has been advised by that health care professional that
14 ~~((they))~~ he or she may benefit from the medical use of marijuana; and

15 (vi) Is otherwise in compliance with the terms and conditions
16 established in this chapter.

17 (b) The term "qualifying patient" does not include a person who is
18 actively being supervised for a criminal conviction by a corrections
19 agency or department that has determined that the terms of this
20 chapter are inconsistent with and contrary to his or her supervision
21 and all related processes and procedures related to that supervision.

22 ~~((5))~~ (27) "Secretary" means the secretary of health.

23 (28) "Tamper-resistant paper" means paper that meets one or more
24 of the following industry-recognized features:

25 (a) One or more features designed to prevent copying of the paper;

26 (b) One or more features designed to prevent the erasure or
27 modification of information on the paper; or

28 (c) One or more features designed to prevent the use of
29 counterfeit valid documentation.

30 ~~((6))~~ (29) "Terminal or debilitating medical condition" means:

31 (a) Cancer, human immunodeficiency virus (HIV), multiple
32 sclerosis, epilepsy or other seizure disorder, or spasticity
33 disorders; or

34

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

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

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

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

11 (f) Diseases, including anorexia, which result in nausea,
12 vomiting, (~~wasting~~) cachexia, appetite loss, cramping, seizures,
13 muscle spasms, or spasticity, when these symptoms are unrelieved by
14 standard treatments or medications; or

15 (g) Any other medical condition duly approved by the Washington
16 state medical quality assurance commission in consultation with the
17 board of osteopathic medicine and surgery as directed in this chapter.

18 (~~(7)~~) (30) "THC concentration" means percent of
19 tetrahydrocannabinol content per weight or volume of useable marijuana
20 or marijuana product.

21 (31) "Useable marijuana" means dried flowers of the Cannabis plant
22 having a THC concentration greater than three-tenths of one percent.
23 Useable marijuana excludes stems, stalks, leaves, seeds, and roots.
24 For purposes of this subsection, "dried" means containing less than
25 fifteen percent moisture content by weight. The term "useable
26 marijuana" does not include marijuana products.

27 (32)(a) Until January 1, 2013, "valid documentation" means:

28 (~~(a)~~) (i) A statement signed and dated by a qualifying patient's
29 health care professional written on tamper-resistant paper, which
30 states that, in the health care professional's professional opinion,
31 the patient may benefit from the medical use of marijuana; (~~and~~

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

34 (iii) In the case of a designated provider, the signed and dated

1 document valid for one year from the date of signature executed by the
2 qualifying patient who has designated the provider; and

3 (b) Beginning July 1, 2012, "valid documentation" means:

4 (i) An original statement signed and dated by a qualifying
5 patient's health care professional written on tamper-resistant paper
6 and valid for up to one year from the date of the health care
7 professional's signature, which states that, in the health care
8 professional's professional opinion, the patient may benefit from the
9 medical use of marijuana;

10 (ii) Proof of identity such as a Washington state driver's license
11 or identicard, as defined in RCW 46.20.035; and

12 (iii) In the case of a designated provider, the signed and dated
13 document valid for up to one year from the date of signature executed
14 by the qualifying patient who has designated the provider."

15
16 **PART III**

17 **PROTECTIONS FOR HEALTH CARE PROFESSIONALS**

18
19 **Sec. 301.** RCW 69.51A.030 and 2010 c 284 s 3 are each amended to
20 read as follows:

21 ~~((A health care professional shall be excepted from the state's~~
22 ~~criminal laws and shall not be penalized in any manner, or denied any~~
23 ~~right or privilege, for)) (1) The following acts do not constitute~~
24 crimes under state law or unprofessional conduct under chapter 18.130
25 RCW, and a health care professional may not be arrested, searched,
26 prosecuted, disciplined, or subject to other criminal sanctions or
27 civil consequences or liability under state law, or have real or
28 personal property searched, seized, or forfeited pursuant to state
29 law, notwithstanding any other provision of law as long as the health
30 care professional complies with subsection (2) of this section:

31 ~~((1))~~ (a) Advising a ~~((qualifying))~~ patient about the risks and
32 benefits of medical use of marijuana or that the ~~((qualifying))~~
33 patient may benefit from the medical use of marijuana ~~((where such use~~
34

1 ~~is within a professional standard of care or in the individual health~~
2 ~~care professional's medical judgment)); or~~

3 ~~((2))~~ (b) Providing a ~~((qualifying))~~ patient meeting the
4 criteria established under RCW 69.51A.010(26) with valid
5 documentation, based upon the health care professional's assessment of
6 the ((qualifying)) patient's medical history and current medical
7 condition, ((that the medical use of marijuana may benefit a
8 particular qualifying patient)) where such use is within a
9 professional standard of care or in the individual health care
10 professional's medical judgment.

11 (2)(a) A health care professional may only provide a patient with
12 valid documentation authorizing the medical use of marijuana or
13 register the patient with the registry established in section 901 of
14 this act if he or she has a documented relationship with the patient
15 relating to the diagnosis and ongoing treatment or monitoring of the
16 patient's terminal or debilitating medical condition, and only after:

17 (i) Completing a physical examination of the patient as
18 appropriate, based on the patient's condition and age;

19 (ii) Documenting the terminal or debilitating medical condition of
20 the patient in the patient's medical record and that the patient may
21 benefit from treatment of this condition or its symptoms with medical
22 use of marijuana;

23 (iii) Informing the patient of other options for treating the
24 terminal or debilitating medical condition; and

25 (iv) Documenting other measures attempted to treat the terminal or
26 debilitating medical condition that do not involve the medical use of
27 marijuana.

28 (b) A health care professional shall not:

29 (i) Accept, solicit, or offer any form of pecuniary remuneration
30 from or to a licensed dispenser, licensed producer, or licensed
31 processor of marijuana products;

32 (ii) Offer a discount or any other thing of value to a qualifying
33 patient who is a customer of, or agrees to be a customer of, a
34 particular licensed dispenser, licensed producer, or licensed

1 processor of marijuana products;

2 (iii) Examine or offer to examine a patient for purposes of
3 diagnosing a terminal or debilitating medical condition at a location
4 where marijuana is produced, processed, or dispensed;

5 (iv) Have a business or practice which consists solely of
6 authorizing the medical use of marijuana;

7 (v) Include any statement or reference, visual or otherwise, on
8 the medical use of marijuana in any advertisement for his or her
9 business or practice; or

10 (vi) Hold an economic interest in an enterprise that produces,
11 processes, or dispenses marijuana if the health care professional
12 authorizes the medical use of marijuana.

13 (3) A violation of any provision of subsection (2) of this section
14 constitutes unprofessional conduct under chapter 18.130 RCW.

15
16 **PART IV**

17 **PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS**

18
19 **Sec. 401.** RCW 69.51A.040 and 2007 c 371 s 5 are each amended to
20 read as follows:

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

27 ~~(2) If charged with a violation of state law relating to~~
28 ~~marijuana, any qualifying patient who is engaged in the medical use of~~
29 ~~marijuana, or any designated provider who assists a qualifying patient~~
30 ~~in the medical use of marijuana, will be deemed to have established an~~
31 ~~affirmative defense to such charges by proof of his or her compliance~~
32 ~~with the requirements provided in this chapter. Any person meeting~~
33 ~~the requirements appropriate to his or her status under this chapter~~
34 ~~shall be considered to have engaged in activities permitted by this~~

1 ~~chapter and shall not be penalized in any manner, or denied any right~~
2 ~~or privilege, for such actions.~~

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

5 ~~(a) Meet all criteria for status as a qualifying patient or~~
6 ~~designated provider;~~

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

10 ~~(c) Present his or her valid documentation to any law enforcement~~
11 ~~official who questions the patient or provider regarding his or her~~
12 ~~medical use of marijuana.~~

13 ~~(4) A qualifying patient, if under eighteen years of age at the~~
14 ~~time he or she is alleged to have committed the offense, shall~~
15 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~
16 ~~However, any possession under subsection (3)(b) of this section, as~~
17 ~~well as any production, acquisition, and decision as to dosage and~~
18 ~~frequency of use, shall be the responsibility of the parent or legal~~
19 ~~guardian of the qualifying patient.)) The medical use of marijuana in~~

20 accordance with the terms and conditions of this chapter does not
21 constitute a crime and a qualifying patient or designated provider in
22 compliance with the terms and conditions of this chapter may not be
23 arrested, searched, prosecuted, or subject to other criminal sanctions
24 or civil consequences for possession, manufacture, or delivery of, or
25 for possession with intent to manufacture or deliver, marijuana under
26 state law, or have real or personal property searched, seized, or
27 forfeited for possession, manufacture, or delivery of, or for
28 possession with intent to manufacture or deliver, marijuana under
29 state law, and investigating peace officers and law enforcement
30 agencies may not be held civilly liable for failure to seize marijuana
31 in this circumstance, if:

32 (1)(a) The qualifying patient or designated provider possesses no
33 more than fifteen marijuana plants and:

34 (i) No more than twenty-four ounces of useable marijuana;

1 (ii) No more marijuana product than what could reasonably be
2 produced with no more than twenty-four ounces of useable marijuana; or

3 (iii) A combination of useable marijuana and marijuana product
4 that does not exceed a combined total representing possession and
5 processing of no more than twenty-four ounces of useable marijuana.

6 (b) If a person is both a qualifying patient and a designated
7 provider for another qualifying patient, the person may possess no
8 more than twice the amounts described in (a) of this subsection,
9 whether the plants, useable marijuana, and marijuana product are
10 possessed individually or in combination between the qualifying
11 patient and his or her designated provider;

12 (2) The qualifying patient or designated provider presents his or
13 her proof of registration with the department of health, to any peace
14 officer who questions the patient or provider regarding his or her
15 medical use of marijuana;

16 (3) The qualifying patient or designated provider keeps a copy of
17 his or her proof of registration with the registry established in
18 section 901 of this act and the qualifying patient or designated
19 provider's contact information posted prominently next to any
20 marijuana plants, marijuana products, or useable marijuana located at
21 his or her residence;

22 (4) The investigating peace officer does not possess evidence that
23 the designated provider has converted marijuana produced or obtained
24 for the qualifying patient for his or her own personal use or benefit;
25 and

26 (5) The investigating peace officer does not possess evidence that
27 the designated provider has served as a designated provider to more
28 than one qualifying patient within a fifteen-day period.

29
30 NEW SECTION. Sec. 402. (1) A qualifying patient or designated
31 provider who is not registered with the registry established in
32 section 901 of this act may not be taken into custody or booked into
33 jail on the grounds of his or her medical use of marijuana prior to
34

1 conviction, and may raise the affirmative defense set forth in
2 subsection (2) of this section, if:

3 (a) The qualifying patient or designated provider presents his or
4 her valid documentation to any peace officer who questions the patient
5 or provider regarding his or her medical use of marijuana;

6 (b) The qualifying patient or designated provider possesses no
7 more marijuana than the limits set forth in RCW 69.51A.040(1);

8 (c) The qualifying patient or designated provider is in compliance
9 with all other terms and conditions of this chapter;

10 (d) The investigating peace officer does not have probable cause
11 to believe that the qualifying patient or designated provider has
12 committed a felony, or is committing a misdemeanor in the officer's
13 presence, that does not relate to the medical use of marijuana; and

14 (e) No outstanding warrant for arrest exists for the qualifying
15 patient or designated provider.

16 (2) A qualifying patient or designated provider who is not
17 registered with the registry established in section 901 of this act,
18 but who presents his or her valid documentation to any peace officer
19 who questions the patient or provider regarding his or her medical use
20 of marijuana, may assert an affirmative defense to charges of
21 violations of state law relating to marijuana through proof at trial,
22 by a preponderance of the evidence, that he or she otherwise meets the
23 requirements of RCW 69.51A.040. A qualifying patient or designated
24 provider meeting the conditions of this subsection but possessing more
25 marijuana than the limits set forth in RCW 69.51A.040(1) may, in the
26 investigating peace officer's discretion, be taken into custody and
27 booked into jail in connection with the investigation of the incident.

28
29 NEW SECTION. **Sec. 403.** (1) Qualifying patients may create and
30 participate in collective gardens for the purpose of producing,
31 processing, transporting, and delivering marijuana for medical use
32 subject to the following conditions:

33 (a) No more than ten qualifying patients may participate in a
34 single collective garden at any time;

1 (b) A collective garden may contain no more than fifteen plants
2 per patient up to a total of forty-five plants;

3 (c) A collective garden may contain no more than twenty-four
4 ounces of useable marijuana per patient up to a total of seventy-two
5 ounces of useable marijuana;

6 (d) A copy of each qualifying patient's valid documentation or
7 proof of registration with the registry established in section 901 of
8 this act, including a copy of the patient's proof of identity, must be
9 available at all times on the premises of the collective garden; and

10 (e) No useable marijuana from the collective garden is delivered
11 to anyone other than one of the qualifying patients participating in
12 the collective garden.

13 (2) For purposes of this section, the creation of a "collective
14 garden" means qualifying patients sharing responsibility for acquiring
15 and supplying the resources required to produce and process marijuana
16 for medical use such as, for example, a location for a collective
17 garden; equipment, supplies, and labor necessary to plant, grow, and
18 harvest marijuana; marijuana plants, seeds, and cuttings; and
19 equipment, supplies, and labor necessary for proper construction,
20 plumbing, wiring, and ventilation of a garden of marijuana plants.

21 (3) A person who knowingly violates a provision of subsection (1)
22 of this section is not entitled to the protections of this chapter.

23
24 NEW SECTION. **Sec. 404.** (1) A qualifying patient may revoke his
25 or her designation of a specific provider and designate a different
26 provider at any time. A revocation of designation must be in writing,
27 signed and dated. The protections of this chapter cease to apply to a
28 person who has served as a designated provider to a qualifying patient
29 seventy-two hours after receipt of that patient's revocation of his or
30 her designation.

31 (2) A person may stop serving as a designated provider to a given
32 qualifying patient at any time. However, that person may not begin
33 serving as a designated provider to a different qualifying patient
34

1 until fifteen days have elapsed from the date the last qualifying
2 patient designated him or her to serve as a provider.

3
4 NEW SECTION. **Sec. 405.** A qualifying patient or designated
5 provider in possession of marijuana plants, useable marijuana, or
6 marijuana product exceeding the limits set forth in RCW 69.51A.040(1)
7 but otherwise in compliance with all other terms and conditions of
8 this chapter may establish an affirmative defense to charges of
9 violations of state law relating to marijuana through proof at trial,
10 by a preponderance of the evidence, that the qualifying patient's
11 necessary medical use exceeds the amounts set forth in RCW
12 69.51A.040(1). An investigating peace officer may seize marijuana
13 plants, useable marijuana, or marijuana product exceeding the amounts
14 set forth in RCW 69.51A.040(1): PROVIDED, That in the case of
15 marijuana plants, the qualifying patient or designated provider shall
16 be allowed to select the plants that will remain at the location. The
17 officer and his or her law enforcement agency may not be held civilly
18 liable for failure to seize marijuana in this circumstance.

19
20 NEW SECTION. **Sec. 406.** A qualifying patient or designated
21 provider who is not registered with the registry established in
22 section 901 of this act or does not present his or her valid
23 documentation to a peace officer who questions the patient or provider
24 regarding his or her medical use of marijuana but is in compliance
25 with all other terms and conditions of this chapter may establish an
26 affirmative defense to charges of violations of state law relating to
27 marijuana through proof at trial, by a preponderance of the evidence,
28 that he or she was a validly authorized qualifying patient or
29 designated provider at the time of the officer's questioning. A
30 qualifying patient or designated provider who establishes an
31 affirmative defense under the terms of this section may also establish
32 an affirmative defense under section 405 of this act.

33
34

1 NEW SECTION. **Sec. 407.** A nonresident who is duly authorized to
2 engage in the medical use of marijuana under the laws of another state
3 or territory of the United States may raise an affirmative defense to
4 charges of violations of Washington state law relating to marijuana,
5 provided that the nonresident:

6 (1) Possesses no more than fifteen marijuana plants and no more
7 than twenty-four ounces of useable marijuana, no more marijuana
8 product than reasonably could be produced with no more than twenty-
9 four ounces of useable marijuana, or a combination of useable
10 marijuana and marijuana product that does not exceed a combined total
11 representing possession and processing of no more than twenty-four
12 ounces of useable marijuana;

13 (2) Is in compliance with all provisions of this chapter other
14 than requirements relating to being a Washington resident or
15 possessing valid documentation issued by a licensed health care
16 professional in Washington; and

17 (3) Presents the documentation of authorization required under the
18 nonresident's authorizing state or territory's law and proof of
19 identity issued by the authorizing state or territory to any peace
20 officer who questions the nonresident regarding his or her medical use
21 of marijuana.

22
23 NEW SECTION. **Sec. 408.** A qualifying patient's medical use of
24 marijuana as authorized by a health care professional may not be a
25 sole disqualifying factor in determining the patient's suitability for
26 an organ transplant, unless it is shown that this use poses a
27 significant risk of rejection or organ failure. This section does not
28 preclude a health care professional from requiring that a patient
29 abstain from the medical use of marijuana, for a period of time
30 determined by the health care professional, while waiting for a
31 transplant organ or before the patient undergoes an organ transplant.

32
33 NEW SECTION. **Sec. 409.** A qualifying patient or designated
34 provider may not have his or her parental rights or residential time

1 with a child restricted solely due to his or her medical use of
2 marijuana in compliance with the terms of this chapter absent written
3 findings supported by evidence that such use has resulted in a long-
4 term impairment that interferes with the performance of parenting
5 functions as defined under RCW 26.09.004.

6
7 NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)
8 of this section, a qualifying patient may not be refused housing or
9 evicted from housing solely as a result of his or her possession or
10 use of useable marijuana or marijuana products except that housing
11 providers otherwise permitted to enact and enforce prohibitions
12 against smoking in their housing may apply those prohibitions to
13 smoking marijuana provided that such smoking prohibitions are applied
14 and enforced equally as to the smoking of marijuana and the smoking of
15 all other substances, including without limitation tobacco.

16 (2) Housing programs containing a program component prohibiting
17 the use of drugs or alcohol among its residents are not required to
18 permit the medical use of marijuana among those residents.

19
20 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,
21 deferred prosecution, stipulated order of continuance, deferred
22 disposition, or dispositional order, any court organized under the
23 laws of Washington state may permit the medical use of marijuana in
24 compliance with the terms of this chapter and exclude it as a possible
25 ground for finding that the offender has violated the conditions or
26 requirements of the sentence, deferred prosecution, stipulated order
27 of continuance, deferred disposition, or dispositional order. This
28 section does not require the accommodation of any medical use of
29 marijuana in any correctional facility or jail.

30
31 **Sec. 412.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to
32 read as follows:

33 (1) The lawful possession, delivery, dispensing, production, or
34 manufacture of (~~medical~~) marijuana for medical use as authorized by

1 this chapter shall not result in the forfeiture or seizure of any real
2 or personal property including, but not limited to, marijuana intended
3 for medical use, items used to facilitate the medical use of marijuana
4 or its production or dispensing for medical use, or proceeds of sales
5 of marijuana for medical use made by licensed producers, licensed
6 processors of marijuana products, or licensed dispensers.

7 (2) No person shall be prosecuted for constructive possession,
8 conspiracy, or any other criminal offense solely for being in the
9 presence or vicinity of (~~medical~~) marijuana intended for medical use
10 or its use as authorized by this chapter.

11 (3) The state shall not be held liable for any deleterious
12 outcomes from the medical use of marijuana by any qualifying patient.

13
14 NEW SECTION. Sec. 413. (1) Nothing in this chapter or in the
15 rules adopted to implement it precludes a qualifying patient or
16 designated provider from engaging in the private, unlicensed,
17 noncommercial production, possession, transportation, delivery, or
18 administration of marijuana for medical use as authorized under RCW
19 69.51A.040.

20 (2) Nothing in this section applies to a person who is supervised
21 by a corrections agency or department that has determined that the
22 terms of this section are inconsistent with and contrary to his or her
23 supervision.

24
25 **PART V**
26 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**
27 **PATIENTS AND DESIGNATED PROVIDERS**

28
29 **Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to
30 read as follows:

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

1 marijuana or consume marijuana in a public place in a manner that
2 presents a reasonably foreseeable risk that another person would see
3 and be able to identify the substance contained in the package or
4 being consumed as marijuana. A person who violates a provision of
5 this section commits a class 3 civil infraction under chapter 7.80
6 RCW. This subsection does not apply to licensed dispensers or their
7 employees, members, officers, or directors displaying marijuana to
8 customers on their licensed premises as long as such displays are not
9 visible to members of the public standing or passing outside the
10 premises.

11 (2) Nothing in this chapter (~~requires any health insurance~~
12 ~~provider~~) establishes a right of care as a covered benefit or
13 requires any state purchased health care as defined in RCW 41.05.011
14 or other health carrier or health plan as defined in Title 48 RCW to
15 be liable for any claim for reimbursement for the medical use of
16 marijuana. Such entities may enact coverage or noncoverage criteria
17 or related policies for payment or nonpayment of medical marijuana in
18 their sole discretion.

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

21 (4) Nothing in this chapter requires any accommodation of any on-
22 site medical use of marijuana in any place of employment, in any
23 school bus or on any school grounds, in any youth center, in any
24 correctional facility, or smoking (~~medical~~) marijuana in any public
25 place (~~as that term is defined in RCW 70.160.020~~).

26 (5) Nothing in this chapter authorizes the use of medical
27 marijuana by any person who is subject to the Washington code of
28 military justice in chapter 38.38 RCW.

29 (6) Employers may establish drug-free work policies. Nothing in
30 this chapter requires an accommodation for the medical use of
31 marijuana if an employer has a drug-free work place.

32 (7) It is a class C felony to fraudulently produce any record
33 purporting to be, or tamper with the content of any record for the
34 purpose of having it accepted as, valid documentation under RCW

1 69.51A.010((+7)) (32)(a), or to backdate such documentation to a time
2 earlier than its actual date of execution.

3 ~~((+6)) (8)~~ No person shall be entitled to claim the ~~((affirmative~~
4 ~~defense provided in RCW 69.51A.040))~~ protection from search, arrest,
5 and prosecution under RCW 69.51A.040 or protection from search and
6 arrest and the affirmative defense under section 402 of this act for
7 engaging in the medical use of marijuana in a way that endangers the
8 health or well-being of any person through the use of a motorized
9 vehicle on a street, road, or highway, including violations of RCW
10 46.61.502 or 46.61.504, or equivalent local ordinances.

11
12 **PART VI**

13 **LICENSED PRODUCERS AND LICENSED PROCESSORS OF MARIJUANA PRODUCTS**

14
15 NEW SECTION. **Sec. 601.** A person may not act as a licensed
16 producer without a license for each production facility issued by the
17 department of agriculture and prominently displayed on the premises.
18 Provided they are acting in compliance with the terms of this chapter
19 and rules adopted to enforce and carry out its purposes, licensed
20 producers and their employees, members, officers, and directors may
21 manufacture, plant, cultivate, grow, harvest, produce, prepare,
22 propagate, process, package, repack, transport, transfer, deliver,
23 label, relabel, wholesale, or possess marijuana intended for medical
24 use by qualifying patients, including seeds, seedlings, cuttings,
25 plants, and useable marijuana, and may not be arrested, searched,
26 prosecuted, or subject to other criminal sanctions or civil
27 consequences under state law, or have real or personal property
28 searched, seized, or forfeited pursuant to state law, for such
29 activities, notwithstanding any other provision of law.

30
31 NEW SECTION. **Sec. 602.** A person may not act as a licensed
32 processor without a license for each processing facility issued by the
33 department of agriculture and prominently displayed on the premises.
34 Provided they are acting in compliance with the terms of this chapter

1 and rules adopted to enforce and carry out its purposes, licensed
2 processors of marijuana products and their employees, members,
3 officers, and directors may possess useable marijuana and manufacture,
4 produce, prepare, process, package, repackage, transport, transfer,
5 deliver, label, relabel, wholesale, or possess marijuana products
6 intended for medical use by qualifying patients, and may not be
7 arrested, searched, prosecuted, or subject to other criminal sanctions
8 or civil consequences under state law, or have real or personal
9 property searched, seized, or forfeited pursuant to state law, for
10 such activities, notwithstanding any other provision of law.

11

12 NEW SECTION. **Sec. 603.** The director shall administer and carry
13 out the provisions of this chapter relating to licensed producers and
14 licensed processors of marijuana products, and rules adopted under
15 this chapter.

16

17 NEW SECTION. **Sec. 604.** (1) On a schedule determined by the
18 department of agriculture, licensed producers and licensed processors
19 must submit representative samples of marijuana grown or processed to
20 a marijuana analysis laboratory for grade, condition, cannabinoid
21 profile, THC concentration, other qualitative measurements of
22 marijuana intended for medical use, and other inspection standards
23 determined by the department of agriculture. Any samples remaining
24 after testing must be destroyed by the laboratory or returned to the
25 licensed producer or licensed processor.

26 (2) Licensed producers and licensed processors must submit copies
27 of the results of this inspection and testing to the department of
28 agriculture on a form developed by the department.

29 (3) If a representative sample of marijuana tested under this
30 section has a THC concentration of three-tenths of one percent or
31 less, the lot of marijuana the sample was taken from may not be sold
32 for medical use and must be destroyed or sold to a manufacturer of
33 hemp products.

34

1 NEW SECTION. **Sec. 605.** The department of agriculture may
2 contract with a marijuana analysis laboratory to conduct independent
3 inspection and testing of marijuana samples to verify testing results
4 provided under section 604 of this act.

5
6 NEW SECTION. **Sec. 606.** The department of agriculture may adopt
7 rules on:

8 (1) Facility standards, including scales, for all licensed
9 producers and licensed processors of marijuana products;

10 (2) Measurements for marijuana intended for medical use, including
11 grade, condition, cannabinoid profile, THC concentration, other
12 qualitative measurements, and other inspection standards for marijuana
13 intended for medical use; and

14 (3) Methods to identify marijuana intended for medical use so that
15 such marijuana may be readily identified if stolen or removed in
16 violation of the provisions of this chapter from a production or
17 processing facility, or if otherwise unlawfully transported.

18
19 NEW SECTION. **Sec. 607.** The director is authorized to deny,
20 suspend, or revoke a producer's or processor's license after a hearing
21 in any case in which it is determined that there has been a violation
22 or refusal to comply with the requirements of this chapter or rules
23 adopted hereunder. All hearings for the denial, suspension, or
24 revocation of a producer's or processor's license are subject to
25 chapter 34.05 RCW, the administrative procedure act, as enacted or
26 hereafter amended.

27
28 NEW SECTION. **Sec. 608.** (1) By January 1, 2013, taking into
29 consideration, but not being limited by, the security requirements
30 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
31 rules:

32 (a) On the inspection or grading and certification of grade,
33 grading factors, condition, cannabinoid profile, THC concentration, or
34 other qualitative measurement of marijuana intended for medical use

1 that must be used by marijuana analysis laboratories in section 604 of
2 this act;

3 (b) Fixing the sizes, dimensions, and safety and security features
4 required of containers to be used for packing, handling, or storing
5 marijuana intended for medical use;

6 (c) Establishing labeling requirements for marijuana intended for
7 medical use including, but not limited to:

8 (i) The business or trade name and Washington state unified
9 business identifier (UBI) number of the licensed producer of the
10 marijuana;

11 (ii) THC concentration; and

12 (iii) Information on whether the marijuana was grown using
13 organic, inorganic, or synthetic fertilizers;

14 (d) Establishing requirements for transportation of marijuana
15 intended for medical use from production facilities to processing
16 facilities and licensed dispensers;

17 (e) Establishing security requirements for the facilities of
18 licensed producers and licensed processors of marijuana products.
19 These security requirements must consider the safety of the licensed
20 producers and licensed processors as well as the safety of the
21 community surrounding the licensed producers and licensed processors;

22 (f) Establishing requirements for the licensure of producers, and
23 processors of marijuana products, setting forth procedures to obtain
24 licenses, and determining expiration dates and renewal requirements;
25 and

26 (g) Establishing license application and renewal fees for the
27 licensure of producers and processors of marijuana products.

28 (2) Fees collected under this section must be deposited into the
29 agricultural local fund created in RCW 43.23.230.

30 (3) During the rule-making process, the department of agriculture
31 shall consult with stakeholders and persons with relevant expertise,
32 to include but not be limited to qualifying patients, designated
33 providers, health care professionals, state and local law enforcement
34 agencies, and the department of health.

1 NEW SECTION. **Sec. 609.** (1) Each licensed producer and licensed
2 processor of marijuana products shall maintain complete records at all
3 times with respect to all marijuana produced, processed, weighed,
4 tested, stored, shipped, or sold. The director shall adopt rules
5 specifying the minimum recordkeeping requirements necessary to comply
6 with this section.

7 (2) The property, books, records, accounts, papers, and
8 proceedings of every licensed producer and licensed processor of
9 marijuana products shall be subject to inspection by the department of
10 agriculture at any time during ordinary business hours. Licensed
11 producers and licensed processors of marijuana products shall maintain
12 adequate records and systems for the filing and accounting of crop
13 production, product manufacturing and processing, records of weights
14 and measurements, product testing, receipts, canceled receipts, other
15 documents, and transactions necessary or common to the medical
16 marijuana industry.

17 (3) The director may administer oaths and issue subpoenas to
18 compel the attendance of witnesses, or the production of books,
19 documents, and records anywhere in the state pursuant to a hearing
20 relative to the purposes and provisions of this chapter. Witnesses
21 shall be entitled to fees for attendance and travel, as provided in
22 chapter 2.40 RCW.

23 (4) Each licensed producer and licensed processor of marijuana
24 products shall report information to the department of agriculture at
25 such times and as may be reasonably required by the director for the
26 necessary enforcement and supervision of a sound, reasonable, and
27 efficient marijuana inspection program for the protection of the
28 health and welfare of qualifying patients.

29
30 NEW SECTION. **Sec. 610.** (1) The department of agriculture may
31 give written notice to a licensed producer or processor of marijuana
32 products to furnish required reports, documents, or other requested
33 information, under such conditions and at such time as the department
34

1 of agriculture deems necessary if a licensed producer or processor of
2 marijuana products fails to:

3 (a) Submit his or her books, papers, or property to lawful
4 inspection or audit;

5 (b) Submit required laboratory results, reports, or documents to
6 the department of agriculture by their due date; or

7 (c) Furnish the department of agriculture with requested
8 information.

9 (2) If the licensed producer or processor of marijuana products
10 fails to comply with the terms of the notice within seventy-two hours
11 from the date of its issuance, or within such further time as the
12 department of agriculture may allow, the department of agriculture
13 shall levy a fine of five hundred dollars per day from the final date
14 for compliance allowed by this section or the department of
15 agriculture. In those cases where the failure to comply continues for
16 more than seven days or where the director determines the failure to
17 comply creates a threat to public health, public safety, or a
18 substantial risk of diversion of marijuana to unauthorized persons or
19 purposes, the department of agriculture may, in lieu of levying
20 further fines, petition the superior court of the county where the
21 licensee's principal place of business in Washington is located, as
22 shown by the license application, for an order:

23 (a) Authorizing the department of agriculture to seize and take
24 possession of all books, papers, and property of all kinds used in
25 connection with the conduct or the operation of the licensed producer
26 or processor's business, and the books, papers, records, and property
27 that pertain specifically, exclusively, and directly to that business;
28 and

29 (b) Enjoining the licensed producer or processor from interfering
30 with the department of agriculture in the discharge of its duties as
31 required by this chapter.

32 (3) All necessary costs and expenses, including attorneys' fees,
33 incurred by the department of agriculture in carrying out the
34

1 provisions of this section may be recovered at the same time and as
2 part of the action filed under this section.

3 (4) The department of agriculture may request the Washington state
4 patrol to assist it in enforcing this section if needed to ensure the
5 safety of its employees.

6
7 NEW SECTION. **Sec. 611.** (1) A licensed producer may not sell or
8 deliver marijuana to any person other than a marijuana analysis
9 laboratory, licensed processor of marijuana products, licensed
10 dispenser, or law enforcement officer except as provided by court
11 order. Violation of this section is a class C felony punishable
12 according to chapter 9A.20 RCW.

13 (2) A licensed processor of marijuana products may not sell or
14 deliver marijuana to any person other than a marijuana analysis
15 laboratory licensed dispenser, or law enforcement officer except as
16 provided by court order. Violation of this section is a class C
17 felony punishable according to chapter 9A.20 RCW.

18 **PART VII**

19 **LICENSED DISPENSERS**

20
21
22 NEW SECTION. **Sec. 701.** A person may not act as a licensed
23 dispenser without a license for each place of business issued by the
24 department of health and prominently displayed on the premises.
25 Provided they are acting in compliance with the terms of this chapter
26 and rules adopted to enforce and carry out its purposes, licensed
27 dispensers and their employees, members, officers, and directors may
28 deliver, distribute, dispense, transfer, prepare, package, repackage,
29 label, relabel, sell at retail, or possess marijuana intended for
30 medical use by qualifying patients, including seeds, seedlings,
31 cuttings, plants, useable marijuana, and marijuana products, and may
32 not be arrested, searched, prosecuted, or subject to other criminal
33 sanctions or civil consequences under state law, or have real or
34

1 personal property searched, seized, or forfeited pursuant to state
2 law, for such activities, notwithstanding any other provision of law.

3
4 NEW SECTION. **Sec. 702.** (1) By January 1, 2013, taking into
5 consideration the security requirements described in 21 C.F.R.
6 1301.71-1301.76, the secretary of health shall adopt rules:

7 (a) Establishing requirements for the licensure of dispensers of
8 marijuana for medical use, setting forth procedures to obtain
9 licenses, and determining expiration dates and renewal requirements;

10 (b) Providing for mandatory inspection of licensed dispensers'
11 locations;

12 (c) Establishing procedures governing the suspension and
13 revocation of licenses of dispensers;

14 (d) Establishing recordkeeping requirements for licensed
15 dispensers;

16 (e) Fixing the sizes and dimensions of containers to be used for
17 dispensing marijuana for medical use;

18 (f) Establishing safety standards for containers to be used for
19 dispensing marijuana for medical use;

20 (g) Establishing marijuana storage requirements, including
21 security requirements;

22 (h) Establishing marijuana labeling requirements, to include
23 information on whether the marijuana was grown using organic,
24 inorganic, or synthetic fertilizers;

25 (i) Establishing physical standards for marijuana dispensing
26 facilities;

27 (j) Establishing maximum amounts of marijuana and marijuana
28 products that may be kept at one time at a dispensary. In determining
29 maximum amounts, the secretary must consider the security of the
30 dispensary and the surrounding community;

31 (k) Establishing physical standards for sanitary conditions for
32 marijuana dispensing facilities;

33 (l) Establishing physical and sanitation standards for marijuana
34 dispensing equipment;

1 (m) Establishing a maximum number of licensed dispensers that may
2 be licensed in each county as provided in this section;

3 (n) Enforcing and carrying out the provisions of this section and
4 the rules adopted to carry out its purposes; and

5 (o) Establishing license application and renewal fees for the
6 licensure of dispensers in accordance with RCW 43.70.250.

7 (2)(a) The secretary of health shall adopt rules to establish a
8 maximum number of licensed dispensers that may operate in each county.
9 When establishing the initial maximum number of dispensers, the
10 department shall base the number on each county's population and the
11 number of licensed dispensers reasonably required to meet the expected
12 demand. Subsequent determinations of the maximum number shall be
13 based upon the number of licensed dispensers reasonably required to
14 meet the demands of the qualifying patients and designated providers
15 from each county who are registered with the registry in section 901
16 of this act. The secretary may not issue more licenses than the
17 maximum number for each county established under this subsection.

18 (b) Determinations of which applicants shall be licensed within a
19 county for purposes of the maximum allowable number of licensed
20 dispensers as provided in this section shall be made by the secretary
21 according to a random selection process.

22 (c) To qualify for the selection process, an applicant must
23 demonstrate to the secretary that he or she meets initial screening
24 criteria that represent the applicant's capacity to operate in
25 compliance with this chapter. Initial screening criteria shall
26 include, but not be limited to:

27 (i) Successful completion of a background check;

28 (ii) A plan to systematically verify qualifying patient and
29 designated provider status of clients;

30 (iii) Evidence of compliance with functional standards, such as
31 ventilation and security requirements; and

32 (iv) Evidence of compliance with facility standards, such as
33 zoning compliance and not using the facility as a residence.

34 (d) The secretary shall establish a schedule to:

1 (i) Update the maximum allowable number of licensed dispensers in
2 each county; and

3 (ii) Issue approvals to operate within a county according to the
4 random selection process.

5 (3) Fees collected under this section must be deposited into the
6 health professions account created in RCW 43.70.320.

7 (4) During the rule-making process, the department of health shall
8 consult with stakeholders and persons with relevant expertise, to
9 include but not be limited to qualifying patients, designated
10 providers, health care professionals, state and local law enforcement
11 agencies, and the department of agriculture.

12
13 NEW SECTION. **Sec. 703.** A licensed dispenser may not sell
14 marijuana received from any person other than a licensed producer or
15 licensed processor of marijuana products, or sell or deliver marijuana
16 to any person other than a qualifying patient, designated provider, or
17 licensed producer except as provided by court order. Before selling
18 or providing marijuana to a qualifying patient or designated provider,
19 the licensed dispenser must confirm that the patient qualifies for the
20 medical use of marijuana by contacting that patient's health care
21 professional. Violation of this section is a class C felony
22 punishable according to chapter 9A.20 RCW.

23
24 NEW SECTION. **Sec. 704.** A license to operate as a licensed
25 dispenser is not transferrable.

26
27 NEW SECTION. **Sec. 705.** The secretary of health shall not issue
28 or renew a license to an applicant or licensed dispenser located
29 within five hundred feet of a community center, child care center, or
30 elementary or secondary school or another licensed dispenser.

31
32 **PART VIII**
33 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**
34 **LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

1 NEW SECTION. **Sec. 801.** All weighing and measuring instruments
2 and devices used by licensed producers, processors of marijuana
3 products, and dispensers shall comply with the requirements set forth
4 in chapter 19.94 RCW.

5
6 NEW SECTION. **Sec. 802.** (1) No person, partnership, corporation,
7 association, or agency may advertise marijuana for sale to the general
8 public in any manner that promotes or tends to promote the use or
9 abuse of marijuana. For the purposes of this subsection, displaying
10 marijuana, including artistic depictions of marijuana, is considered
11 to promote or to tend to promote the use or abuse of marijuana.

12 (2) The department of agriculture may fine a licensed producer or
13 processor of marijuana products up to one thousand dollars for each
14 violation of subsection (1) of this section. Fines collected under
15 this subsection must be deposited into the agriculture local fund
16 created in RCW 43.23.230.

17 (3) The department of health may fine a licensed dispenser up to
18 one thousand dollars for each violation of subsection (1) of this
19 section. Fines collected under this subsection must be deposited into
20 the health professions account created in RCW 43.70.320.

21 (4) No broadcast television licensee, radio broadcast licensee,
22 newspaper, magazine, advertising agency, or agency or medium for the
23 dissemination of an advertisement, except the licensed producer,
24 processor of marijuana products, or dispenser to which the
25 advertisement relates, is subject to the penalties of this section by
26 reason of dissemination of advertising in good faith without knowledge
27 that the advertising promotes or tends to promote the use or abuse of
28 marijuana.

29
30 NEW SECTION. **Sec. 803.** (1) A prior conviction for a marijuana
31 offense shall not disqualify an applicant from receiving a license to
32 produce, process, or dispense marijuana for medical use, provided the
33 conviction did not include any sentencing enhancements under RCW
34 9.94A.533 or analogous laws in other jurisdictions. Any criminal

1 conviction of a current licensee may be considered in proceedings to
2 suspend or revoke a license.

3 (2) Nothing in this section prohibits either the department of
4 health or the department of agriculture, as appropriate, from denying,
5 suspending, or revoking the credential of a license holder for other
6 drug-related offenses or any other criminal offenses.

7 (3) Nothing in this section prohibits a corrections agency or
8 department from considering all prior and current convictions in
9 determining whether the possession, manufacture, or delivery of, or
10 for possession with intent to manufacture or deliver, is inconsistent
11 with and contrary to the person's supervision.

12
13 NEW SECTION. **Sec. 804.** A violation of any provision or section
14 of this chapter that relates to the licensing and regulation of
15 producers, processors, or dispensers, where no other penalty is
16 provided for, and the violation of any rule adopted under this chapter
17 constitutes a misdemeanor.

18
19 NEW SECTION. **Sec. 805.** (1) Every licensed producer or processor
20 of marijuana products who fails to comply with this chapter, or any
21 rule adopted under it, may be subjected to a civil penalty, as
22 determined by the director, in an amount of not more than one thousand
23 dollars for every such violation. Each violation shall be a separate
24 and distinct offense.

25 (2) Every licensed dispenser who fails to comply with this
26 chapter, or any rule adopted under it, may be subjected to a civil
27 penalty, as determined by the secretary, in an amount of not more than
28 one thousand dollars for every such violation. Each violation shall
29 be a separate and distinct offense.

30 (3) Every person who, through an act of commission or omission,
31 procures, aids, or abets in the violation shall be considered to have
32 violated this chapter and may be subject to the penalty provided for
33 in this section.

34

1 NEW SECTION. **Sec. 901.** (1) By January 1, 2013, the department of
2 health shall, in consultation with the department of agriculture,
3 adopt rules for the creation, implementation, maintenance, and timely
4 upgrading of a secure and confidential registration system that
5 allows:

6 (a) A peace officer to verify at any time whether a health care
7 professional has registered a person who has been contacted by that
8 peace officer and has provided that peace officer information
9 necessary to verify his or her registration as either a qualifying
10 patient or a designated provider; and

11 (b) A peace officer to verify at any time whether a person,
12 location, or business is licensed by the department of agriculture or
13 the department of health as a licensed producer, licensed processor of
14 marijuana products, or licensed dispenser.

15 (2) The department of agriculture must, in consultation with the
16 department of health, create and maintain a secure and confidential
17 list of persons to whom it has issued a license to produce marijuana
18 for medical use or a license to process marijuana products, and the
19 physical addresses of the licensees' production and processing
20 facilities. The list must meet the requirements of subsection (9) of
21 this section and be transmitted to the department of health to be
22 included in the registry established by this section.

23 (3) The department of health must, in consultation with the
24 department of agriculture, create and maintain a secure and
25 confidential list of the persons to whom it has issued a license to
26 dispense marijuana for medical use that meets the requirements of
27 subsection (9) of this section and must be included in the registry
28 established by this section.

29 (4) Before seeking a search warrant or arrest warrant, a peace
30 officer investigating a marijuana-related incident must make
31 reasonable efforts to ascertain whether the location or person under
32 investigation is registered in the registration system, and include
33 the results of this inquiry in the affidavit submitted in support of
34 the application for the warrant. This requirement does not apply to

1 investigations in which the peace officer has observed evidence of any
2 of the following circumstances:

3 (a) An apparent for profit operation that is not a licensed
4 producer, processor of marijuana products, or dispenser;

5 (b) Theft of electrical power;

6 (c) Other illegal drugs at the premises;

7 (d) Frequent and numerous short-term visits over an extended
8 period that are consistent with commercial activity, if the subject of
9 the investigation is not a licensed dispenser;

10 (e) Violent crime or other demonstrated dangers to the community;

11 (f) Probable cause to believe the subject of the investigation has
12 committed a felony, or a misdemeanor in the officer's presence, that
13 does not relate to marijuana; or

14 (g) An outstanding arrest warrant for the subject of the
15 investigation.

16 (5) Law enforcement may access the registration system only in
17 connection with a specific, legitimate criminal investigation
18 regarding marijuana.

19 (6) Registration in the system shall be optional for qualifying
20 patients and designated providers, not mandatory, and registrations
21 are valid for one year, except that qualifying patients must be able
22 to remove themselves from the registry at any time. For licensees,
23 registrations are valid for the term of the license and the
24 registration must be removed if the licensee's license is expired or
25 revoked. The department of health must adopt rules providing for
26 registration renewals and for removing expired registrations and
27 expired or revoked licenses from the registry.

28 (7) Fees, including renewal fees, for qualifying patients and
29 designated providers participating in the registration system shall be
30 limited to the cost to the state of implementing, maintaining, and
31 enforcing the provisions of this section and the rules adopted to
32 carry out its purposes. The fee shall also include any costs for the
33 department of health to disseminate information to employees of state
34 and local law enforcement agencies relating to whether a person is a

1 licensed producer, processor of marijuana products, or dispenser, or
2 that a location is the recorded address of a license producer,
3 processor of marijuana products, or dispenser, and for the
4 dissemination of log records relating to such requests for information
5 to the subjects of those requests. No fee may be charged to local law
6 enforcement agencies for accessing the registry.

7 (8) During the rule-making process, the department of health shall
8 consult with stakeholders and persons with relevant expertise, to
9 include, but not be limited to, qualifying patients, designated
10 providers, health care professionals, state and local law enforcement
11 agencies, and the University of Washington computer science and
12 engineering security and privacy research lab.

13 (9) The registration system shall meet the following requirements:

14 (a) Any personally identifiable information included in the
15 registration system must be "nonreversible," pursuant to definitions
16 and standards set forth by the national institute of standards and
17 technology;

18 (b) Any personally identifiable information included in the
19 registration system must not be susceptible to linkage by use of data
20 external to the registration system;

21 (c) The registration system must incorporate current best
22 differential privacy practices, allowing for maximum accuracy of
23 registration system queries while minimizing the chances of
24 identifying the personally identifiable information included therein;
25 and

26 (d) The registration system must be upgradable and updated in a
27 timely fashion to keep current with state of the art privacy and
28 security standards and practices.

29 (10) The registration system shall maintain a log of each
30 verification query submitted by a peace officer, including the peace
31 officer's name, agency, and identification number, for a period of no
32 less than three years from the date of the query. Personally
33 identifiable information of qualifying patients and designated
34 providers included in the log shall be confidential and exempt from

1 public disclosure, inspection, or copying under chapter 42.56 RCW:
2 PROVIDED, That:

3 (a) Names and other personally identifiable information from the
4 list may be released only to:

5 (i) Authorized employees of the department of agriculture and the
6 department of health as necessary to perform official duties of either
7 department; or

8 (ii) Authorized employees of state or local law enforcement
9 agencies, only as necessary to verify that the person or location is a
10 qualified patient, designated provider, licensed producer, licensed
11 processor of marijuana products, or licensed dispenser, and only after
12 the inquiring employee has provided adequate identification.
13 Authorized employees who obtain personally identifiable information
14 under this subsection may not release or use the information for any
15 purpose other than verification that a person or location is a
16 qualified patient, designated provider, licensed producer, licensed
17 processor of marijuana products, or licensed dispenser;

18 (b) Information contained in the registration system may be
19 released in aggregate form, with all personally identifying
20 information redacted, for the purpose of statistical analysis and
21 oversight of agency performance and actions;

22 (c) The subject of a registration query may appear during ordinary
23 department of health business hours and inspect or copy log records
24 relating to him or her upon adequate proof of identity; and

25 (d) The subject of a registration query may submit a written
26 request to the department of health, along with adequate proof of
27 identity, for copies of log records relating to him or her.

28 (11) This section does not prohibit a department of agriculture
29 employee or a department of health employee from contacting state or
30 local law enforcement for assistance during an emergency or while
31 performing his or her duties under this chapter.

32 (12) Fees collected under this section must be deposited into the
33 health professions account under RCW 43.70.320.

34

1 NEW SECTION. **Sec. 902.** A new section is added to chapter 42.56
2 RCW to read as follows:

3 Records containing names and other personally identifiable
4 information relating to qualifying patients, designated providers, and
5 persons licensed as producers or dispensers of marijuana for medical
6 use, or as processors of marijuana products, under section 901 of this
7 act are exempt from disclosure under this chapter.

8
9 **PART X**
10 **EVALUATION**

11
12 NEW SECTION. **Sec. 1001.** (1) By July 1, 2014, the Washington
13 state institute for public policy shall, within available funds,
14 conduct a cost-benefit evaluation of the implementation of this act
15 and the rules adopted to carry out its purposes.

16 (2) The evaluation of the implementation of this act and the rules
17 adopted to carry out its purposes shall include, but not necessarily
18 be limited to, consideration of the following factors:

19 (a) Qualifying patients' access to an adequate source of marijuana
20 for medical use;

21 (b) Qualifying patients' access to a safe source of marijuana for
22 medical use;

23 (c) Qualifying patients' access to a consistent source of
24 marijuana for medical use;

25 (d) Qualifying patients' access to a secure source of marijuana
26 for medical use;

27 (e) Qualifying patients' and designated providers' contact with
28 law enforcement and involvement in the criminal justice system;

29 (f) Diversion of marijuana intended for medical use to nonmedical
30 uses;

31 (g) Incidents of home invasion burglaries, robberies, and other
32 violent and property crimes associated with qualifying patients
33 accessing marijuana for medical use;

34

1 (h) Whether there are health care professionals who make a
2 disproportionately high amount of authorizations in comparison to the
3 health care professional community at large;

4 (i) Whether there are indications of health care professionals in
5 violation of RCW 69.51A.030; and

6 (j) Whether the health care professionals making authorizations
7 reside in this state or out of this state.

8 (3) For purposes of facilitating this evaluation, the departments
9 of health and agriculture will make available to the Washington state
10 institute for public policy requested data, and any other data either
11 department may consider relevant, from which all personally
12 identifiable information has been redacted.

13
14 NEW SECTION. **Sec. 1002.** A new section is added to chapter 28B.20
15 RCW to read as follows:

16 The University of Washington and Washington State University may
17 conduct scientific research on the efficacy and safety of
18 administering marijuana as part of medical treatment. As part of this
19 research, the University of Washington and Washington State University
20 may develop and conduct studies to ascertain the general medical
21 safety and efficacy of marijuana and may develop medical guidelines
22 for the appropriate administration and use of marijuana.

23
24 **PART XI**

25 **CONSTRUCTION**

26
27 NEW SECTION. **Sec. 1101.** (1) No civil or criminal liability may
28 be imposed by any court on the state or its officers and employees for
29 actions taken in good faith under this chapter and within the scope of
30 their assigned duties.

31 (2) No civil or criminal liability may be imposed by any court on
32 cities, towns, and counties or other municipalities and their officers
33 and employees for actions taken in good faith under this chapter and
34 within the scope of their assigned duties.

1 NEW SECTION. **Sec. 1102.** Cities, towns, and counties or other
2 municipalities may adopt and enforce reasonable zoning requirements,
3 business licensing requirements, health and safety requirements, or
4 business taxes pertaining to the production, processing, or dispensing
5 of marijuana products within their jurisdiction. Any zoning
6 requirements must be coordinated among jurisdictions within a county
7 so that the county can meet the licensed dispenser allocation
8 established by the department of health under section 702 of this act.

9
10 NEW SECTION. **Sec. 1103.** If any provision of this act or the
11 application thereof to any person or circumstance is held invalid, the
12 invalidity does not affect other provisions or applications of the act
13 that can be given effect without the invalid provision or application,
14 and to this end the provisions of this act are severable.

15
16 NEW SECTION. **Sec. 1104.** (1) The search, arrest, and prosecution
17 protections and affirmative defenses established in sections 405, 406,
18 and 407 of this act may not be asserted in a supervision revocation or
19 violation hearing by a person who is supervised by a corrections
20 agency or department that has determined that the terms of this
21 section are inconsistent with and contrary to his or her supervision.

22 (2) The provisions of RCW 69.51A.040 and sections 403 and 413 of
23 this act do not apply to a person who is supervised for a criminal
24 conviction by a corrections agency or department that has determined
25 that the terms of this chapter are inconsistent with and contrary to
26 his or her supervision.

27 (3) A person may not be licensed as a licensed producer, licensed
28 processor of marijuana products, or a licensed dispenser under section
29 601, 602, or 701 of this act if he or she is supervised for a criminal
30 conviction by a corrections agency or department that has determined
31 that licensure is inconsistent with and contrary to his or her
32 supervision.

33

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3
4 **PART XII**

5 **MISCELLANEOUS**

6 NEW SECTION. **Sec. 1201.** (1) The legislature recognizes that
7 there are marijuana producers and marijuana dispensaries in operation
8 as of the effective date of this section that are unregulated by the
9 state and who produce and dispense marijuana for medical use by
10 qualifying patients. The legislature intends that these producers and
11 dispensaries become licensed in accordance with the requirements of
12 this chapter and that this licensing provides them with arrest
13 protection so long as they remain in compliance with the requirements
14 of this chapter and the rules adopted under this chapter. The
15 legislature further recognizes that marijuana producers and marijuana
16 dispensaries in current operation are not able to become licensed
17 until the department of agriculture and the department of health adopt
18 rules and, consequently, it is likely they will remain unlicensed
19 until at least January 1, 2013. These producers and dispensary owners
20 and operators run the risk of arrest between the effective date of
21 this section and the time they become licensed. Therefore, the
22 legislature intends to provide them with an affirmative defense if
23 they meet the requirements of this section.

24 (2) If charged with a violation of state law relating to
25 marijuana, a producer of marijuana or a dispensary and its owners and
26 operators that are engaged in the production or dispensing of
27 marijuana to a qualifying patient or who assists a qualifying patient
28 in the medical use of marijuana is deemed to have established an
29 affirmative defense to such charges by proof of compliance with this
30 section.

31 (3) In order to assert an affirmative defense under this section,
32 a marijuana producer or marijuana dispensary must:

33 (a) In the case of producers, solely provide marijuana to
34 marijuana dispensaries for the medical use of marijuana by qualified
patients;

1 (b) In the case of dispensaries, solely provide marijuana to
2 qualified patients for their medical use;

3 (c) Be registered with the secretary of state as of May 1, 2011;

4 (d) File a letter of intent with the department of agriculture or
5 the department of health, as the case may be, asserting that the
6 producer or dispenser intends to become licensed in accordance with
7 this chapter and rules adopted by the appropriate department; and

8 (e) File a letter of intent with the city clerk if in an
9 incorporated area or to the county clerk if in an unincorporated area
10 stating they operate as a producer or dispensary and that they comply
11 with the provisions of this chapter and will comply with subsequent
12 department rule making.

13 (4) Upon receiving a letter of intent under subsection (3) of this
14 section, the department of agriculture, the department of health, and
15 the city clerk or county clerk must send a letter of acknowledgment to
16 the producer or dispenser. The producer and dispenser must display
17 this letter of acknowledgment in a prominent place in their facility.

18 (5) Letters of intent filed with a public agency, letters of
19 acknowledgement sent from those agencies, and other materials related
20 to such letters are exempt from public disclosure under chapter 42.56
21 RCW.

22 (6) This section expires upon the establishment of the licensing
23 programs of the department of agriculture and the department of health
24 and the commencement of the issuance of licenses for dispensers and
25 producers as provided in this chapter. The department and the
26 department of agriculture shall notify the code reviser when the
27 establishment of the licensing programs has occurred.

28
29 NEW SECTION. **Sec. 1202.** A new section is added to chapter 42.56
30 RCW to read as follows:

31 The following information related to marijuana producers and
32 marijuana dispensers are exempt from disclosure under this section:

33 (1) Letters of intent filed with a public agency under section
34 1201 of this act;

1 (2) Letters of acknowledgement sent from a public agency under
2 section 1201 of this act;

3 (3) Materials related to letters of intent and acknowledgement
4 under section 1201 of this act.

5
6 NEW SECTION. **Sec. 1203.** (1)(a) On July 1, 2015, the department
7 of health shall report the following information to the state
8 treasurer:

9 (i) The expenditures from the health professions account related
10 to the administration of chapter 69.51A RCW between the effective date
11 of this section and June 30, 2015; and

12 (ii) The amounts deposited into the health professions account
13 under sections 702, 802, and 901 of this act between the effective
14 date of this section and June 30, 2015.

15 (b) If the amount in (a)(i) of this subsection exceeds the amount
16 in (a)(ii) of this subsection, the state treasurer shall transfer an
17 amount equal to the difference from the general fund to the health
18 professions account.

19 (2)(a) Annually, beginning July 1, 2016, the department of health
20 shall report the following information to the state treasurer:

21 (i) The expenditures from the health professions account related
22 to the administration of chapter 69.51A RCW for the preceding fiscal
23 year; and

24 (ii) The amounts deposited into the health professions account
25 under sections 702, 802, and 901 of this act during the preceding
26 fiscal year.

27 (b) If the amount in (a)(i) of this subsection exceeds the amount
28 in (a)(ii) of this subsection, the state treasurer shall transfer an
29 amount equal to the difference from the general fund to the health
30 professions account.

31
32 NEW SECTION. **Sec. 1204.** RCW 69.51A.080 (Adoption of rules by the
33 department of health--Sixty-day supply for qualifying patients) and
34 2007 c 371 s 8 are each repealed.

1 NEW SECTION. **Sec. 1205.** Sections 402 through 411, 413, 601
2 through 611, 701 through 705, 801 through 807, 901, 1001, 1101 through
3 1104, and 1201 of this act are each added to chapter 69.51A RCW.

4
5 NEW SECTION. **Sec. 1206.** Section 1002 of this act takes effect
6 January 1, 2013."

7

EFFECT: Replaces "cannabis" with "marijuana".

--- END ---