

**E2SSB 5073** - H COMM AMD

By Committee on Health Care & Wellness

NOT CONSIDERED 04/11/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "PART I

4 LEGISLATIVE DECLARATION AND INTENT

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

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

11 (b) Qualifying patients will have access to an adequate, safe,  
12 consistent, and secure source of medical quality cannabis; and

13 (c) Health care professionals may authorize the medical use of  
14 cannabis in the manner provided by this act without fear of state  
15 criminal or civil sanctions.

16 (2) This act is not intended to amend or supersede Washington state  
17 law prohibiting the acquisition, possession, manufacture, sale, or use  
18 of cannabis for nonmedical purposes.

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

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

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

26 (a) There is medical evidence that some patients with terminal or  
27 debilitating ((illnesses)) medical conditions may, under their health  
28 care professional's care, ((may)) benefit from the medical use of

1 ((marijuana)) cannabis. Some of the ((illnesses)) conditions for which  
2 ((marijuana)) cannabis appears to be beneficial include ((chemotherapy-  
3 related)), but are not limited to:

4 (i) Nausea ((and)), vomiting ((in cancer patients; AIDS wasting  
5 syndrome)), and cachexia associated with cancer, HIV-positive status,  
6 AIDS, hepatitis C, anorexia, and their treatments;

7 (ii) Severe muscle spasms associated with multiple sclerosis,  
8 epilepsy, and other seizure and spasticity disorders; ((epilepsy;))

9 (iii) Acute or chronic glaucoma;

10 (iv) Crohn's disease; and

11 (v) Some forms of intractable pain.

12 ((The people find that)) (b) Humanitarian compassion necessitates  
13 that the decision to ((authorize the medical)) use ((of marijuana))  
14 cannabis by patients with terminal or debilitating ((illnesses))  
15 medical conditions is a personal, individual decision, based upon their  
16 health care professional's professional medical judgment and  
17 discretion.

18 (2) Therefore, the ((people of the state of Washington))  
19 legislature intends that:

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

28 (b) Persons who act as designated providers to such patients shall  
29 also not be ((found guilty of a crime under state law for)) arrested,  
30 prosecuted, or subject to other criminal sanctions or civil  
31 consequences under state law, notwithstanding any other provision of  
32 law, based solely on their assisting with the medical use of  
33 ((marijuana)) cannabis; and

34 (c) Health care professionals shall also ((be excepted from  
35 liability and prosecution)) not be arrested, prosecuted, or subject to  
36 other criminal sanctions or civil consequences under state law for the  
37 proper authorization of ((marijuana)) medical use ((to)) of cannabis by

1 qualifying patients for whom, in the health care professional's  
2 professional judgment, the medical ((marijuana)) use of cannabis may  
3 prove beneficial.

4 (3) Nothing in this chapter establishes the medical necessity or  
5 medical appropriateness of cannabis for treating terminal or  
6 debilitating medical conditions as defined in RCW 69.51A.010.

7 (4) Nothing in this chapter diminishes the authority of  
8 correctional agencies and departments to establish a procedure for  
9 determining when the use of cannabis would impact community safety or  
10 the effective supervision of those on active supervision for a felony  
11 conviction.

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

14 Nothing in this chapter shall be construed to supersede Washington  
15 state law prohibiting the acquisition, possession, manufacture, sale,  
16 or use of ((marijuana)) cannabis for nonmedical purposes. Criminal  
17 penalties created under this act do not preclude the prosecution or  
18 punishment for other crimes, including other crimes involving the  
19 manufacture or delivery of cannabis for nonmedical purposes.

20 **PART II**  
21 **DEFINITIONS**

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

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

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

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

3 (2) "Cannabis analysis laboratory" means a laboratory that performs  
4 chemical analysis and inspection of cannabis samples.

5 (3) "Cannabis products" means products that contain cannabis or  
6 cannabis 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, tinctures,  
9 and lotions. The term "cannabis products" does not include useable  
10 cannabis. The definition of "cannabis products" as a measurement of  
11 THC concentration only applies to the provisions of this chapter and  
12 shall not be considered applicable to any criminal laws related to  
13 marijuana or cannabis.

14 (4) "Corrections agency or department" means any agency or  
15 department in the state of Washington that is vested with the  
16 responsibility to manage those individuals who are being supervised in  
17 the community for a felony conviction and has established a written  
18 policy for determining when the possession, manufacture, or delivery  
19 of, or for possession with intent to manufacture or deliver, is  
20 inconsistent with and contrary to the person's supervision.

21 (5) "Designated provider" means a person who:

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

23 (b) Has been designated in ((writing)) a written document signed  
24 and dated by a qualifying patient to serve as a designated provider  
25 under this chapter; and

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

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

30 ~~(2))~~ in compliance with the terms and conditions set forth in RCW  
31 69.51A.040.

32 A qualifying patient may be the designated provider for another  
33 qualifying patient and be in possession of both patients' cannabis at  
34 the same time.

35 (6) "Director" means the director of the department of agriculture.

36 (7) "Dispense" means the selection, measuring, packaging, labeling,  
37 delivery, or retail sale of cannabis by a licensed dispenser to a  
38 qualifying patient or designated provider.

1       (8) "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 under  
7 chapter 18.79 RCW.

8       ~~((+3))~~ (9) "Labeling" means all labels and other written, printed,  
9 or graphic matter (a) upon any cannabis intended for medical use, or  
10 (b) accompanying such cannabis.

11       (10) "Licensed dispenser" means a medical organization licensed to  
12 dispense cannabis for medical use to qualifying patients and designated  
13 providers by the department of health in accordance with rules adopted  
14 by the department of health pursuant to the terms of this chapter.

15       (11) "Licensed processor of cannabis products" means a person  
16 licensed by the department of agriculture to manufacture, process,  
17 handle, and label cannabis products for wholesale to licensed  
18 dispensers.

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

24       (13) "Medical use of ~~((marijuana))~~ cannabis" means the manufacture,  
25 production, processing, possession, transportation, delivery,  
26 dispensing, ingestion, application, or administration of ~~((marijuana,~~  
27 as defined in RCW 69.50.101(q),) cannabis for the exclusive benefit of  
28 a qualifying patient in the treatment of his or her terminal or  
29 debilitating ~~((illness))~~ medical condition.

30       ~~((+4))~~ (14) "Nonresident" means a person who is temporarily in the  
31 state but is not a Washington state resident.

32       (15) "Peace officer" means any law enforcement personnel as defined  
33 in RCW 43.101.010.

34       (16) "Person" means an individual or an entity.

35       (17) "Personally identifiable information" means any information  
36 that includes, but is not limited to, data that uniquely identify,  
37 distinguish, or trace a person's identity, such as the person's name,  
38 date of birth, or address, either alone or when combined with other

1 sources, that establish the person is a qualifying patient, designated  
2 provider, licensed producer, or licensed processor of cannabis products  
3 for purposes of registration with the department of health or  
4 department of agriculture. The term "personally identifiable  
5 information" also means any information used by the department of  
6 health or department of agriculture to identify a person as a  
7 qualifying patient, designated provider, licensed producer, or licensed  
8 processor of cannabis products.

9 (18) "Plant" means an organism having at least three  
10 distinguishable and distinct leaves, each leaf being at least three  
11 centimeters in diameter, and a readily observable root formation  
12 consisting of at least two separate and distinct roots, each being at  
13 least two centimeters in length. Multiple stalks emanating from the  
14 same root ball or root system shall be considered part of the same  
15 single plant.

16 (19) "Process" means to handle or process cannabis in preparation  
17 for medical use.

18 (20) "Processing facility" means the premises and equipment where  
19 cannabis products are manufactured, processed, handled, and labeled for  
20 wholesale to licensed dispensers.

21 (21) "Produce" means to plant, grow, or harvest cannabis for  
22 medical use.

23 (22) "Production facility" means the premises and equipment where  
24 cannabis is planted, grown, harvested, processed, stored, handled,  
25 packaged, or labeled by a licensed producer for wholesale, delivery, or  
26 transportation to a licensed dispenser or licensed processor of  
27 cannabis products, and all vehicles and equipment used to transport  
28 cannabis from a licensed producer to a licensed dispenser or licensed  
29 processor of cannabis products.

30 (23) "Public place" includes streets and alleys of incorporated  
31 cities and towns; state or county or township highways or roads;  
32 buildings and grounds used for school purposes; public dance halls and  
33 grounds adjacent thereto; premises where goods and services are offered  
34 to the public for retail sale; public buildings, public meeting halls,  
35 lobbies, halls and dining rooms of hotels, restaurants, theatres,  
36 stores, garages, and filling stations which are open to and are  
37 generally used by the public and to which the public is permitted to  
38 have unrestricted access; railroad trains, stages, buses, ferries, and

1 other public conveyances of all kinds and character, and the depots,  
2 stops, and waiting rooms used in conjunction therewith which are open  
3 to unrestricted use and access by the public; publicly owned bathing  
4 beaches, parks, or playgrounds; and all other places of like or similar  
5 nature to which the general public has unrestricted right of access,  
6 and which are generally used by the public.

7 (24) "Qualifying patient" means a person who:

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

9 ((+b)) (ii) Has been diagnosed by that health care professional as  
10 having a terminal or debilitating medical condition;

11 ((+e)) (iii) Is a resident of the state of Washington at the time  
12 of such diagnosis;

13 ((+d)) (iv) Has been advised by that health care professional  
14 about the risks and benefits of the medical use of ((marijuana))  
15 cannabis; and

16 ((+e)) (v) Has been advised by that health care professional that  
17 ((they)) he or she may benefit from the medical use of ((marijuana))  
18 cannabis.

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

24 ((+5)) (25) "Secretary" means the secretary of health.

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

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

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

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

32 ((+6)) (27) "Terminal or debilitating medical condition" means:

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

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

37 (c) Glaucoma, either acute or chronic, limited for the purpose of

1 this chapter to mean increased intraocular pressure unrelieved by  
2 standard treatments and medications; or

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

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

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

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

14 (~~(7)~~) (28) "THC concentration" means percent of  
15 tetrahydrocannabinol content per weight or volume of useable cannabis  
16 or cannabis product.

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

23 (30)(a) Until July 1, 2012, "valid documentation" means:

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

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

31 (iii) In the case of a designated provider, the signed and dated  
32 document valid for one year from the date of signature executed by the  
33 qualifying patient who has designated the provider; and

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

35 (i) An original statement signed and dated by a qualifying  
36 patient's health care professional written on tamper-resistant paper  
37 and valid for up to one year from the date of the health care



1 professional's signature, which states that, in the health care  
2 professional's professional opinion, the patient may benefit from the  
3 medical use of cannabis;

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

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

9 **PART III**

10 **PROTECTIONS FOR HEALTH CARE PROFESSIONALS**

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

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

23 ~~((+1))~~ (a) Advising a ((qualifying)) patient about the risks and  
24 benefits of medical use of ((marijuana)) cannabis or that the  
25 ((qualifying)) patient may benefit from the medical use of ((marijuana  
26 ~~where such use is within a professional standard of care or in the~~  
27 ~~individual health care professional's medical judgment)) cannabis; or~~

28 ~~((+2))~~ (b) Providing a ((qualifying)) patient meeting the criteria  
29 established under RCW 69.51A.010(24) with valid documentation, based  
30 upon the health care professional's assessment of the ((qualifying))  
31 patient's medical history and current medical condition, ((that the  
32 ~~medical use of marijuana may benefit a particular qualifying patient))~~  
33 where such use is within a professional standard of care or in the  
34 individual health care professional's medical judgment.

35 (2)(a) A health care professional may only provide a patient with  
36 valid documentation authorizing the medical use of cannabis or register

1 the patient with the registry established in section 901 of this act if  
2 he or she has a documented relationship with the patient relating to  
3 the diagnosis and ongoing treatment or monitoring of the patient's  
4 terminal or debilitating medical condition, and only after:

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

7 (ii) Documenting the terminal or debilitating medical condition of  
8 the patient in the patient's medical record and that the patient may  
9 benefit from treatment of this condition or its symptoms with medical  
10 use of cannabis;

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

13 (iv) Documenting other measures attempted to treat the terminal or  
14 debilitating medical condition that do not involve the medical use of  
15 cannabis.

16 (b) A health care professional shall not:

17 (i) Accept, solicit, or offer any form of pecuniary remuneration  
18 from or to a licensed dispenser, licensed producer, or licensed  
19 processor of cannabis products;

20 (ii) Offer a discount or any other thing of value to a qualifying  
21 patient who is a customer of, or agrees to be a customer of, a  
22 particular licensed dispenser, licensed producers, or licensed  
23 processor of cannabis products;

24 (iii) Examine or offer to examine a patient for purposes of  
25 diagnosing a terminal or debilitating medical condition at a location  
26 where cannabis is produced, processed, or dispensed;

27 (iv) Have a business or practice which consists solely of  
28 authorizing the medical use of cannabis;

29 (v) Include any statement or reference, visual or otherwise, on the  
30 medical use of cannabis in any advertisement for his or her business or  
31 practice; or

32 (vi) Hold an economic interest in an enterprise that produces,  
33 processes, or dispenses cannabis if the health care professional  
34 authorizes the medical use of cannabis.

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

37 **PART IV**

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

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

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

10           ~~(2) If charged with a violation of state law relating to marijuana,~~  
11 ~~any qualifying patient who is engaged in the medical use of marijuana,~~  
12 ~~or any designated provider who assists a qualifying patient in the~~  
13 ~~medical use of marijuana, will be deemed to have established an~~  
14 ~~affirmative defense to such charges by proof of his or her compliance~~  
15 ~~with the requirements provided in this chapter. Any person meeting the~~  
16 ~~requirements appropriate to his or her status under this chapter shall~~  
17 ~~be considered to have engaged in activities permitted by this chapter~~  
18 ~~and shall not be penalized in any manner, or denied any right or~~  
19 ~~privilege, for such actions.~~

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

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

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

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

30           ~~(4) A qualifying patient, if under eighteen years of age at the~~  
31 ~~time he or she is alleged to have committed the offense, shall~~  
32 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~  
33 ~~However, any possession under subsection (3)(b) of this section, as~~  
34 ~~well as any production, acquisition, and decision as to dosage and~~  
35 ~~frequency of use, shall be the responsibility of the parent or legal~~  
36 ~~guardian of the qualifying patient.)) The medical use of cannabis in~~  
37 ~~accordance with the terms and conditions of this chapter does not~~

1 constitute a crime and a qualifying patient or designated provider in  
2 compliance with the terms and conditions of this chapter may not be  
3 arrested, searched, prosecuted, or subject to other criminal sanctions  
4 or civil consequences for possession, manufacture, or delivery of, or  
5 for possession with intent to manufacture or deliver, cannabis under  
6 state law, or have real or personal property searched, seized, or  
7 forfeited for possession, manufacture, or delivery of, or for  
8 possession with intent to manufacture or deliver, cannabis under state  
9 law, and investigating peace officers and law enforcement agencies may  
10 not be held civilly liable for failure to seize cannabis in this  
11 circumstance, if:

12 (1)(a) The qualifying patient or designated provider possesses no  
13 more than fifteen cannabis plants and:

14 (i) No more than twenty-four ounces of useable cannabis;

15 (ii) No more cannabis product than what could reasonably be  
16 produced with no more than twenty-four ounces of useable cannabis; or

17 (iii) A combination of useable cannabis and cannabis product that  
18 does not exceed a combined total representing possession and processing  
19 of no more than twenty-four ounces of useable cannabis.

20 (b) If a person is both a qualifying patient and a designated  
21 provider for another qualifying patient, the person may possess no more  
22 than twice the amounts described in (a) of this subsection, whether the  
23 plants, useable cannabis, and cannabis product are possessed  
24 individually or in combination between the qualifying patient and his  
25 or her designated provider;

26 (2) The qualifying patient or designated provider presents his or  
27 her proof of registration with the department of health, to any peace  
28 officer who questions the patient or provider regarding his or her  
29 medical use of cannabis;

30 (3) The qualifying patient or designated provider keeps a copy of  
31 his or her proof of registration with the registry established in  
32 section 901 of this act and the qualifying patient or designated  
33 provider's contact information posted prominently next to any cannabis  
34 plants, cannabis products, or useable cannabis located at his or her  
35 residence;

36 (4) The investigating peace officer does not possess evidence that  
37 the designated provider has converted cannabis produced or obtained for  
38 the qualifying patient for his or her own personal use or benefit; and

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

4       NEW SECTION. Sec. 402. A qualifying patient or designated  
5 provider who is not registered with the registry established in section  
6 901 of this act, but who possesses valid documentation that he or she  
7 is a qualifying patient and otherwise meets the requirements of section  
8 401 of this act, may not be arrested or searched and may assert an  
9 affirmative defense at trial for possession, manufacture, or delivery  
10 of, or for possession with intent to manufacture or deliver, cannabis  
11 under state law, or have real or personal property searched, seized, or  
12 forfeited for possession, manufacture, or delivery of, or for  
13 possession with intent to manufacture or deliver, cannabis under state  
14 law, and investigating peace officers and law enforcement agencies may  
15 not be held civilly liable for failure to seize cannabis in this  
16 circumstance.

17       NEW SECTION. Sec. 403. (1) Qualifying patients may create and  
18 participate in collective gardens for the purpose of producing,  
19 processing, transporting, and delivering cannabis for medical use  
20 subject to the following conditions:

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

23       (b) A collective garden may contain no more than fifteen plants per  
24 patient up to a total of ninety-nine plants;

25       (c) A collective garden may contain no more than twenty-four ounces  
26 of useable cannabis per patient up to a total of one hundred fifty  
27 ounces of useable cannabis;

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

32       (e) No useable cannabis from the collective garden is delivered to  
33 anyone other than one of the qualifying patients participating in the  
34 collective garden.

35       (2) For purposes of this section, the creation of a "collective  
36 garden" means qualifying patients sharing responsibility for acquiring

1 and supplying the resources required to produce and process cannabis  
2 for medical use such as, for example, a location for a collective  
3 garden; equipment, supplies, and labor necessary to plant, grow, and  
4 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,  
5 supplies, and labor necessary for proper construction, plumbing,  
6 wiring, and ventilation of a garden of cannabis plants.

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

9 NEW SECTION. **Sec. 404.** (1) A qualifying patient may revoke his or  
10 her designation of a specific provider and designate a different  
11 provider at any time. A revocation of designation must be in writing,  
12 signed and dated. The protections of this chapter cease to apply to a  
13 person who has served as a designated provider to a qualifying patient  
14 seventy-two hours after receipt of that patient's revocation of his or  
15 her designation.

16 (2) A person may stop serving as a designated provider to a given  
17 qualifying patient at any time. However, that person may not begin  
18 serving as a designated provider to a different qualifying patient  
19 until fifteen days have elapsed from the date the last qualifying  
20 patient designated him or her to serve as a provider.

21 NEW SECTION. **Sec. 405.** A qualifying patient or designated  
22 provider in possession of cannabis plants, useable cannabis, or  
23 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)  
24 but otherwise in compliance with all other terms and conditions of this  
25 chapter may establish an affirmative defense to charges of violations  
26 of state law relating to cannabis through proof at trial, by a  
27 preponderance of the evidence, that the qualifying patient's necessary  
28 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An  
29 investigating peace officer may seize cannabis plants, useable  
30 cannabis, or cannabis product exceeding the amounts set forth in RCW  
31 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the  
32 qualifying patient or designated provider shall be allowed to select  
33 the plants that will remain at the location. The officer and his or  
34 her law enforcement agency may not be held civilly liable for failure  
35 to seize cannabis in this circumstance.

1        NEW SECTION.    **Sec. 406.**    A qualifying patient or designated  
2 provider who is not registered with the registry established in section  
3 901 of this act or does not present his or her valid documentation to  
4 a peace officer who questions the patient or provider regarding his or  
5 her medical use of cannabis but is in compliance with all other terms  
6 and conditions of this chapter may establish an affirmative defense to  
7 charges of violations of state law relating to cannabis through proof  
8 at trial, by a preponderance of the evidence, that he or she was a  
9 validly authorized qualifying patient or designated provider at the  
10 time of the officer's questioning. A qualifying patient or designated  
11 provider who establishes an affirmative defense under the terms of this  
12 section may also establish an affirmative defense under section 405 of  
13 this act.

14        NEW SECTION.    **Sec. 407.**    A nonresident who is duly authorized to  
15 engage in the medical use of cannabis under the laws of another state  
16 or territory of the United States may raise an affirmative defense to  
17 charges of violations of Washington state law relating to cannabis,  
18 provided that the nonresident:

19            (1) Possesses no more than fifteen cannabis plants and no more than  
20 twenty-four ounces of useable cannabis, no more cannabis product than  
21 reasonably could be produced with no more than twenty-four ounces of  
22 useable cannabis, or a combination of useable cannabis and cannabis  
23 product that does not exceed a combined total representing possession  
24 and processing of no more than twenty-four ounces of useable cannabis;

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

29            (3) Presents the documentation of authorization required under the  
30 nonresident's authorizing state or territory's law and proof of  
31 identity issued by the authorizing state or territory to any peace  
32 officer who questions the nonresident regarding his or her medical use  
33 of cannabis.

34        NEW SECTION.    **Sec. 408.**    A qualifying patient's medical use of  
35 cannabis as authorized by a health care professional may not be a sole  
36 disqualifying factor in determining the patient's suitability for an

1 organ transplant, unless it is shown that this use poses a significant  
2 risk of rejection or organ failure. This section does not preclude a  
3 health care professional from requiring that a patient abstain from the  
4 medical use of cannabis, for a period of time determined by the health  
5 care professional, while waiting for a transplant organ or before the  
6 patient undergoes an organ transplant.

7 NEW SECTION. **Sec. 409.** A qualifying patient or designated  
8 provider may not have his or her parental rights or residential time  
9 with a child restricted solely due to his or her medical use of  
10 cannabis in compliance with the terms of this chapter absent written  
11 findings supported by evidence that such use has resulted in a long-  
12 term impairment that interferes with the performance of parenting  
13 functions as defined under RCW 26.09.004.

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

23 (2) Housing programs containing a program component prohibiting the  
24 use of drugs or alcohol among its residents are not required to permit  
25 the medical use of cannabis among those residents.

26 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,  
27 deferred prosecution, stipulated order of continuance, deferred  
28 disposition, or dispositional order, any court organized under the laws  
29 of Washington state may permit the medical use of cannabis in  
30 compliance with the terms of this chapter and exclude it as a possible  
31 ground for finding that the offender has violated the conditions or  
32 requirements of the sentence, deferred prosecution, stipulated order of  
33 continuance, deferred disposition, or dispositional order. This  
34 section does not require the accommodation of any on-site medical use  
35 of cannabis in any correctional facility.





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

11 (2) Nothing in this chapter (~~requires any health insurance~~  
12 ~~provider~~) establishes a right of care as a covered benefit and does  
13 not require 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 be  
15 liable for any claim for reimbursement for the medical use of  
16 (~~marijuana~~) cannabis. Such entities may enact coverage or  
17 noncoverage criteria or related policies for payment or nonpayment of  
18 medical cannabis in its sole discretion.

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

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

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

30 (6) It is a class C felony to fraudulently produce any record  
31 purporting to be, or tamper with the content of any record for the  
32 purpose of having it accepted as, valid documentation under RCW  
33 69.51A.010(~~(+7)~~) (30)(a), or to backdate such documentation to a time  
34 earlier than its actual date of execution.

35 (~~(+6)~~) (7) No person shall be entitled to claim the affirmative  
36 defense provided in RCW 69.51A.040 for engaging in the medical use of  
37 marijuana in a way that endangers the health or well-being of any

1 person through the use of a motorized vehicle on a street, road, or  
2 highway.

3 **PART VI**

4 **LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS**

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

20 NEW SECTION. **Sec. 602.** A person may not act as a licensed  
21 processor without a license for each processing facility issued by the  
22 department of agriculture and prominently displayed on the premises.  
23 Provided they are acting in compliance with the terms of this chapter  
24 and rules adopted to enforce and carry out its purposes, licensed  
25 processors of cannabis products and their employees, members, officers,  
26 and directors may possess useable cannabis and manufacture, produce,  
27 prepare, process, package, repackage, transport, transfer, deliver,  
28 label, relabel, wholesale, or possess cannabis products intended for  
29 medical use by qualifying patients, and may not be arrested, searched,  
30 prosecuted, or subject to other criminal sanctions or civil  
31 consequences under state law, or have real or personal property  
32 searched, seized, or forfeited pursuant to state law, for such  
33 activities, notwithstanding any other provision of law.

1        NEW SECTION.    **Sec. 603.**    The director shall administer and carry  
2 out the provisions of this chapter relating to licensed producers and  
3 licensed processors of cannabis products, and rules adopted under this  
4 chapter.

5        NEW SECTION.    **Sec. 604.**    (1) On a schedule determined by the  
6 department of agriculture, licensed producers and licensed processors  
7 must submit representative samples of cannabis grown or processed to a  
8 cannabis analysis laboratory for grade, condition, cannabinoid profile,  
9 THC concentration, other qualitative measurements of cannabis intended  
10 for medical use, and other inspection standards determined by the  
11 department of agriculture. Any samples remaining after testing must be  
12 destroyed by the laboratory or returned to the licensed producer or  
13 licensed processor.

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

17        (3) If a representative sample of cannabis tested under this  
18 section has a THC concentration of three-tenths of one percent or less,  
19 the lot of cannabis the sample was taken from may not be sold for  
20 medical use and must be destroyed or sold to a manufacturer of hemp  
21 products.

22        NEW SECTION.    **Sec. 605.**    The department of agriculture may contract  
23 with a cannabis analysis laboratory to conduct independent inspection  
24 and testing of cannabis samples to verify testing results provided  
25 under section 604 of this act.

26        NEW SECTION.    **Sec. 606.**    The department of agriculture may adopt  
27 rules on:

28        (1) Facility standards, including scales, for all licensed  
29 producers and licensed processors of cannabis products;

30        (2) Measurements for cannabis intended for medical use, including  
31 grade, condition, cannabinoid profile, THC concentration, other  
32 qualitative measurements, and other inspection standards for cannabis  
33 intended for medical use; and

34        (3) Methods to identify cannabis intended for medical use so that

1 such cannabis may be readily identified if stolen or removed in  
2 violation of the provisions of this chapter from a production or  
3 processing facility, or if otherwise unlawfully transported.

4 NEW SECTION. **Sec. 607.** The director is authorized to deny,  
5 suspend, or revoke a producer's or processor's license after a hearing  
6 in any case in which it is determined that there has been a violation  
7 or refusal to comply with the requirements of this chapter or rules  
8 adopted hereunder. All hearings for the denial, suspension, or  
9 revocation of a producer's or processor's license are subject to  
10 chapter 34.05 RCW, the administrative procedure act, as enacted or  
11 hereafter amended.

12 NEW SECTION. **Sec. 608.** (1) By July 1, 2012, taking into  
13 consideration, but not being limited by, the security requirements  
14 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt  
15 rules:

16 (a) On the inspection or grading and certification of grade,  
17 grading factors, condition, cannabinoid profile, THC concentration, or  
18 other qualitative measurement of cannabis intended for medical use that  
19 must be used by cannabis analysis laboratories in section 604 of this  
20 act;

21 (b) Fixing the sizes, dimensions, and safety and security features  
22 required of containers to be used for packing, handling, or storing  
23 cannabis intended for medical use;

24 (c) Establishing labeling requirements for cannabis intended for  
25 medical use including, but not limited to:

26 (i) The business or trade name and Washington state unified  
27 business identifier (UBI) number of the licensed producer of the  
28 cannabis;

29 (ii) THC concentration; and

30 (iii) Information on whether the cannabis was grown using organic,  
31 inorganic, or synthetic fertilizers;

32 (d) Establishing requirements for transportation of cannabis  
33 intended for medical use from production facilities to processing  
34 facilities and licensed dispensers;

35 (e) Establishing security requirements for the facilities of  
36 licensed producers and licensed processors of cannabis products. These

1 security requirements must consider the safety of the licensed  
2 producers and licensed processors as well as the safety of the  
3 community surrounding the licensed producers and licensed processors;

4 (f) Establishing requirements for the licensure of producers, and  
5 processors of cannabis products, setting forth procedures to obtain  
6 licenses, and determining expiration dates and renewal requirements;  
7 and

8 (g) Establishing license application and renewal fees for the  
9 licensure of producers and processors of cannabis products.

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

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

17 NEW SECTION. **Sec. 609.** (1) Each licensed producer and licensed  
18 processor of cannabis products shall maintain complete records at all  
19 times with respect to all cannabis produced, processed, weighed,  
20 tested, stored, shipped, or sold. The director shall adopt rules  
21 specifying the minimum recordkeeping requirements necessary to comply  
22 with this section.

23 (2) The property, books, records, accounts, papers, and proceedings  
24 of every licensed producer and licensed processor of cannabis products  
25 shall be subject to inspection by the department of agriculture at any  
26 time during ordinary business hours. Licensed producers and licensed  
27 processors of cannabis products shall maintain adequate records and  
28 systems for the filing and accounting of crop production, product  
29 manufacturing and processing, records of weights and measurements,  
30 product testing, receipts, canceled receipts, other documents, and  
31 transactions necessary or common to the medical cannabis industry.

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

1 (4) Each licensed producer and licensed processor of cannabis  
2 products shall report information to the department of agriculture at  
3 such times and as may be reasonably required by the director for the  
4 necessary enforcement and supervision of a sound, reasonable, and  
5 efficient cannabis inspection program for the protection of the health  
6 and welfare of qualifying patients.

7 NEW SECTION. **Sec. 610.** (1) The department of agriculture may give  
8 written notice to a licensed producer or processor of cannabis products  
9 to furnish required reports, documents, or other requested information,  
10 under such conditions and at such time as the department of agriculture  
11 deems necessary if a licensed producer or processor of cannabis  
12 products fails to:

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

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

17 (c) Furnish the department of agriculture with requested  
18 information.

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

33 (a) Authorizing the department of agriculture to seize and take  
34 possession of all books, papers, and property of all kinds used in  
35 connection with the conduct or the operation of the licensed producer  
36 or processor's business, and the books, papers, records, and property

1 that pertain specifically, exclusively, and directly to that business;  
2 and

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

6 (3) All necessary costs and expenses, including attorneys' fees,  
7 incurred by the department of agriculture in carrying out the  
8 provisions of this section may be recovered at the same time and as  
9 part of the action filed under this section.

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

13 NEW SECTION. **Sec. 611.** (1) A licensed producer may not sell or  
14 deliver cannabis to any person other than a cannabis analysis  
15 laboratory, licensed processor of cannabis products, licensed  
16 dispenser, or law enforcement officer except as provided by court  
17 order. Violation of this section is a class C felony punishable  
18 according to chapter 9A.20 RCW.

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

24 **PART VII**  
25 **LICENSED DISPENSERS**

26 NEW SECTION. **Sec. 701.** A person may not act as a licensed  
27 dispenser without a license for each place of business issued by the  
28 department of health and prominently displayed on the premises.  
29 Provided they are acting in compliance with the terms of this chapter  
30 and rules adopted to enforce and carry out its purposes, licensed  
31 dispensers and their employees, members, officers, and directors may  
32 deliver, distribute, dispense, transfer, prepare, package, repackage,  
33 label, relabel, sell at retail, or possess cannabis intended for  
34 medical use by qualifying patients, including seeds, seedlings,  
35 cuttings, plants, useable cannabis, and cannabis products, and may not



1 be arrested, searched, prosecuted, or subject to other criminal  
2 sanctions or civil consequences under state law, or have real or  
3 personal property searched, seized, or forfeited pursuant to state law,  
4 for such activities, notwithstanding any other provision of law.

5 NEW SECTION. **Sec. 702.** (1) By July 1, 2012, taking into  
6 consideration the security requirements described in 21 C.F.R. 1301.71-  
7 1301.76, the secretary of health shall adopt rules:

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

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

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

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

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

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

21 (g) Establishing cannabis storage requirements, including security  
22 requirements;

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

26 (i) Establishing physical standards for cannabis dispensing  
27 facilities;

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

32 (k) Establishing physical standards for sanitary conditions for  
33 cannabis dispensing facilities;

34 (l) Establishing physical and sanitation standards for cannabis  
35 dispensing equipment;

36 (m) Establishing a maximum number of licensed dispensers that may  
37 be licensed in each county as provided in section 704 of this act;

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

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

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

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

22 NEW SECTION. **Sec. 704.** (1) The secretary of health shall adopt  
23 rules to establish a maximum number of licensed dispensers that may  
24 operate in each county. The maximum number shall be based upon the  
25 number of licensed dispensers reasonably required to meet the demands  
26 of the qualifying patients and designated providers from each county  
27 who are registered with the registry in section 901 of this act. The  
28 secretary may not issue more licenses than the maximum number for each  
29 county established under this subsection.

30 (2) Determinations of which applicants shall be licensed within a  
31 county for purposes of the maximum allowable number of licensed  
32 dispensers as provided in this section shall be made by the secretary  
33 according to a random selection process.

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

35 (a) Update the maximum allowable number of licensed dispensers in  
36 each county; and

1 (b) Issue approvals to operate within a county according to the  
2 random selection process.

3 NEW SECTION. **Sec. 705.** A license to operate as a licensed  
4 dispenser is not transferrable.

5 NEW SECTION. **Sec. 706.** The secretary of health shall not issue or  
6 renew a license to an applicant or licensed dispenser located within  
7 five hundred feet of a public school or another licensed dispenser.

8 **PART VIII**  
9 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**  
10 **LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

11 NEW SECTION. **Sec. 801.** All weighing and measuring instruments and  
12 devices used by licensed producers, processors of cannabis products,  
13 and dispensers shall comply with the requirements set forth in chapter  
14 19.94 RCW.

15 NEW SECTION. **Sec. 802.** (1) No person, partnership, corporation,  
16 association, or agency may advertise cannabis for sale to the general  
17 public in any manner that promotes or tends to promote the use or abuse  
18 of cannabis. For the purposes of this subsection, displaying cannabis,  
19 including artistic depictions of cannabis, is considered to promote or  
20 to tend to promote the use or abuse of cannabis.

21 (2) The department of agriculture may fine a licensed producer or  
22 processor of cannabis products up to one thousand dollars for each  
23 violation of subsection (1) of this section. Fines collected under  
24 this subsection must be deposited into the agriculture local fund  
25 created in RCW 43.23.230.

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

30 (4) No broadcast television licensee, radio broadcast licensee,  
31 newspaper, magazine, advertising agency, or agency or medium for the  
32 dissemination of an advertisement, except the licensed producer,  
33 processor of cannabis products, or dispenser to which the advertisement

1 relates, is subject to the penalties of this section by reason of  
2 dissemination of advertising in good faith without knowledge that the  
3 advertising promotes or tends to promote the use or abuse of cannabis.

4 NEW SECTION. **Sec. 803.** (1) A prior conviction for a cannabis or  
5 marijuana offense shall not disqualify an applicant from receiving a  
6 license to produce, process, or dispense cannabis for medical use,  
7 provided the conviction did not include any sentencing enhancements  
8 under RCW 9.94A.533 or analogous laws in other jurisdictions. Any  
9 criminal conviction of a current licensee may be considered in  
10 proceedings to suspend or revoke a license.

11 (2) Nothing in this section prohibits either the department of  
12 health or the department of agriculture, as appropriate, from denying,  
13 suspending, or revoking the credential of a license holder for other  
14 drug-related offenses.

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

20 NEW SECTION. **Sec. 804.** A violation of any provision or section of  
21 this chapter that relates to the licensing and regulation of producers,  
22 processors, or dispensers, where no other penalty is provided for, and  
23 the violation of any rule adopted under this chapter constitutes a  
24 misdemeanor.

25 NEW SECTION. **Sec. 805.** (1) Every licensed producer or processor  
26 of cannabis products who fails to comply with this chapter, or any rule  
27 adopted under it, may be subjected to a civil penalty, as determined by  
28 the director, in an amount of not more than one thousand dollars for  
29 every such violation. Each violation shall be a separate and distinct  
30 offense.

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

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

5 NEW SECTION. **Sec. 806.** The department of agriculture or the  
6 department of health, as the case may be, must immediately suspend any  
7 certification of licensure issued under this chapter if the holder of  
8 the certificate has been certified under RCW 74.20A.320 by the  
9 department of social and health services as a person who is not in  
10 compliance with a support order. If the person has continued to meet  
11 all other requirements for certification during the suspension,  
12 reissuance of the certificate of licensure shall be automatic upon the  
13 department's receipt of a release issued by the department of social  
14 and health services stating that the person is in compliance with the  
15 order.

16 NEW SECTION. **Sec. 807.** The department of agriculture or the  
17 department of health, as the case may be, must suspend the  
18 certification of licensure of any person who has been certified by a  
19 lending agency and reported to the appropriate department for  
20 nonpayment or default on a federally or state-guaranteed educational  
21 loan or service-conditional scholarship. Prior to the suspension, the  
22 department of agriculture or the department of health, as the case may  
23 be, must provide the person an opportunity for a brief adjudicative  
24 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of  
25 nonpayment or default on a federally or state-guaranteed educational  
26 loan or service-conditional scholarship. The person's license may not  
27 be reissued until the person provides the appropriate department a  
28 written release issued by the lending agency stating that the person is  
29 making payments on the loan in accordance with a repayment agreement  
30 approved by the lending agency. If the person has continued to meet  
31 all other requirements for certification or registration during the  
32 suspension, reinstatement is automatic upon receipt of the notice and  
33 payment of any reinstatement fee.

34 **PART IX**

35 **SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS,**

1                   **AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

2           NEW SECTION.   **Sec. 901.**   (1) By July 1, 2012, the department of  
3 health shall, in consultation with the department of agriculture, adopt  
4 rules for the creation, implementation, maintenance, and timely  
5 upgrading of a secure and confidential registration system that 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 necessary  
9 to verify his or her registration as either a qualifying patient or a  
10 designated provider;

11           (b) A peace officer to verify at any time whether a health care  
12 professional has registered a person as either a qualifying patient or  
13 a designated provider, or an address as the primary residence of a  
14 qualifying patient or designated provider; and

15           (c) A peace officer to verify at any time during ordinary business  
16 hours of the department of health whether a person, location, or  
17 business is licensed by the department of agriculture or the department  
18 of health as a licensed producer, licensed processor of cannabis  
19 products, or licensed dispenser.

20           (2) The department of agriculture must, in consultation with the  
21 department of health, create and maintain a secure and confidential  
22 list of persons to whom it has issued a license to produce cannabis for  
23 medical use or a license to process cannabis products, and the physical  
24 addresses of the licensees' production and processing facilities. The  
25 list must meet the requirements of subsection (8) of this section and  
26 be transmitted to the department of health to be included in the  
27 registry established by this section.

28           (3) The department of health must, in consultation with the  
29 department of agriculture, create and maintain a secure and  
30 confidential list of the persons to whom it has issued a license to  
31 dispense cannabis for medical use that meets the requirements of  
32 subsection (8) of this section and must be included in the registry  
33 established by this section.

34           (4) Law enforcement shall comply with Article I, section 7 of the  
35 state Constitution when accessing the registration system for criminal  
36 investigations.

1 (5) Registration in the system shall be optional for qualifying  
2 patients and designated providers, not mandatory, and registrations are  
3 valid for one year, except that qualifying patients must be able to  
4 remove themselves from the registry at any time. For licensees,  
5 registrations are valid for the term of the license and the  
6 registration must be removed if the licensee's license is expired or  
7 revoked. The department of health must adopt rules providing for  
8 registration renewals and for removing expired registrations and  
9 expired or revoked licenses from the registry.

10 (6) Fees, including renewal fees, for qualifying patients and  
11 designated providers participating in the registration system shall be  
12 limited to the cost to the state of implementing, maintaining, and  
13 enforcing the provisions of this section and the rules adopted to carry  
14 out its purposes. The fee shall also include any costs for the  
15 department of health to disseminate information to employees of state  
16 and local law enforcement agencies relating to whether a person is a  
17 licensed producer, processor of cannabis products, or dispenser, or  
18 that a location is the recorded address of a license producer,  
19 processor of cannabis products, or dispenser, and for the dissemination  
20 of log records relating to such requests for information to the  
21 subjects of those requests. No fee may be charged to local law  
22 enforcement agencies for accessing the registry.

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

29 (8) The registration system shall meet the following requirements:

30 (a) Any personally identifiable information included in the  
31 registration system must be "nonreversible," pursuant to definitions  
32 and standards set forth by the national institute of standards and  
33 technology;

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

37 (c) The registration system must incorporate current best

1 differential privacy practices, allowing for maximum accuracy of  
2 registration system queries while minimizing the chances of identifying  
3 the personally identifiable information included therein; and

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

7 (9) The registration system shall maintain a log of each  
8 verification query submitted by a peace officer, including the peace  
9 officer's name, agency, and identification number, for a period of no  
10 less than three years from the date of the query. Personally  
11 identifiable information of qualifying patients and designated  
12 providers included in the log shall be confidential and exempt from  
13 public disclosure, inspection, or copying under chapter 42.56 RCW:  
14 PROVIDED, That:

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

17 (i) Authorized employees of the department of agriculture and the  
18 department of health as necessary to perform official duties of either  
19 department; or

20 (ii) Authorized employees of state or local law enforcement  
21 agencies, only as necessary to verify that the person or location is a  
22 qualified patient, designated provider, licensed producer, licensed  
23 processor of cannabis products, or licensed dispenser, and only after  
24 the inquiring employee has provided adequate identification.  
25 Authorized employees who obtain personally identifiable information  
26 under this subsection may not release or use the information for any  
27 purpose other than verification that a person or location is a  
28 qualified patient, designated provider, licensed producer, licensed  
29 processor of cannabis products, or licensed dispenser;

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

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

37 (d) The subject of a registration query may submit a written



1 request to the department of health, along with adequate proof of  
2 identity, for copies of log records relating to him or her.

3 (10) This section does not prohibit a department of agriculture  
4 employee or a department of health employee from contacting state or  
5 local law enforcement for assistance during an emergency or while  
6 performing his or her duties under this chapter.

7 (11) Fees collected under this section must be deposited into the  
8 health professions account under RCW 43.70.320.

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

11 Records containing names and other personally identifiable  
12 information relating to qualifying patients, designated providers, and  
13 persons licensed as producers or dispensers of cannabis for medical  
14 use, or as processors of cannabis products, under section 901 of this  
15 act are exempt from disclosure under this chapter.

16 **PART X**  
17 **EVALUATION**

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

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

25 (a) Qualifying patients' access to an adequate source of cannabis  
26 for medical use;

27 (b) Qualifying patients' access to a safe source of cannabis for  
28 medical use;

29 (c) Qualifying patients' access to a consistent source of cannabis  
30 for medical use;

31 (d) Qualifying patients' access to a secure source of cannabis for  
32 medical use;

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

1 (f) Diversion of cannabis intended for medical use to nonmedical  
2 uses;

3 (g) Incidents of home invasion burglaries, robberies, and other  
4 violent and property crimes associated with qualifying patients  
5 accessing cannabis for medical use;

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

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

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

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

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

20 The University of Washington and Washington State University may  
21 conduct scientific research on the efficacy and safety of administering  
22 cannabis as part of medical treatment. As part of this research, the  
23 University of Washington and Washington State University may develop  
24 and conduct studies to ascertain the general medical safety and  
25 efficacy of cannabis and may develop medical guidelines for the  
26 appropriate administration and use of cannabis.

27 **PART XI**  
28 **CONSTRUCTION**

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

33 (2) No civil or criminal liability may be imposed by any court on  
34 cities, towns, and counties or other municipalities and their officers

1 and employees for actions taken in good faith under this chapter and  
2 within the scope of their assigned duties.

3 NEW SECTION. **Sec. 1102.** Cities, towns, and counties or other  
4 municipalities may adopt reasonable zoning requirements pertaining to  
5 the production, processing, or dispensing of cannabis products that are  
6 adopted pursuant to their authority and duties under chapters 36.70 and  
7 36.70A RCW.

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

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

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

24 (3) A person may not be licensed as a licensed producer, licensed  
25 processor of cannabis products, or a licensed dispenser under section  
26 601, 602, or 701 of this act if he or she is supervised for a felony  
27 conviction by a corrections agency or department that has determined  
28 that licensure is inconsistent with and contrary to his or her  
29 supervision.

30 **Sec. 1105.** RCW 69.51A.900 and 1999 c 2 s 1 are each amended to  
31 read as follows:

32 This chapter may be known and cited as the Washington state medical  
33 use of (~~marijuana~~) cannabis act.



1 (e) File a letter of intent with the city clerk if in an  
2 incorporated area or to the county clerk if in an unincorporated area  
3 stating they operate as a producer or dispensary and that they comply  
4 with the provisions of this chapter and will comply with subsequent  
5 department rule making.

6 (4) Upon receiving a letter of intent under subsection (3) of this  
7 section, the department of agriculture, the department of health, and  
8 the city clerk or county clerk must send a letter of acknowledgment to  
9 the producer or dispenser. The producer and dispenser must display  
10 this letter of acknowledgment in a prominent place in their facility.

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

15 (6) This section expires upon the establishment of the licensing  
16 programs of the department of agriculture and the department of health  
17 and the commencement of the issuance of licenses for dispensers and  
18 producers as provided in this chapter.

19 NEW SECTION. **Sec. 1202.** A new section is added to chapter 42.56  
20 RCW to read as follows:

21 The following information related to cannabis producers and  
22 cannabis dispensers are exempt from disclosure under this section:

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

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

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

29 NEW SECTION. **Sec. 1203.** RCW 69.51A.080 (Adoption of rules by the  
30 department of health--Sixty-day supply for qualifying patients) and  
31 2007 c 371 s 8 are each repealed.

32 NEW SECTION. **Sec. 1204.** Sections 402 through 411, 413, 601  
33 through 611, 701 through 706, 801 through 807, 901, 1001, 1101 through  
34 1104, and 1201 of this act are each added to chapter 69.51A RCW.

1        NEW SECTION.    **Sec. 1205.**    Section 1002 of this act takes effect  
2    July 1, 2012."

3        Correct the title.

EFFECT:    States that there is no right to health care coverage of medical cannabis by an insurer or state purchased health care program.

Establishes arrest and search protection (but not prosecution protection) for individuals who are not registered with the Department of Health, but have valid documentation and are in compliance with other aspects of the bill.

Eliminates provision stating that evidence of the presence of cannabis does not constitute probable cause for a search or arrest warrant or a warrantless search or arrest unless an inquiry is made that the person is registered.

Eliminates the requirement that licensed dispensers be nonprofits.

Eliminates the prohibition on health care professionals from examining patients solely or primarily for the purpose of authorizing the use of medical cannabis.

Exempts law enforcement from having to pay a fee for accessing the Department of Health registry and requires that any costs for law enforcement access be paid by those registered with the registry.

Authorizes the Department of Health and Department of Agriculture to deny, suspend, or revoke dispenser, producer, and processor licenses based on drug-related offenses other than cannabis or marijuana.

Increases the number of patients that may participate in collective gardens from 3 to 10, the total number of plants from 45 to 99, and the total amount of useable cannabis from 72 ounces to 150.

Exempts the National Guard from the medical cannabis laws.

Directs the Department of Health to establish a maximum number of licenses that may be issued in each county based upon the number of qualifying patients and designated providers in the registry and to issue licenses according to a random selection process. Specifies that dispenser licenses are not transferrable.

Prohibits licensed dispensers from being located within 500 feet of either a public school or another dispenser.

Removes the requirement that dispensers be licensed by local governments.

Immunity from liability for governments and their employees applies when they are acting in good faith and within the scope of their duties, rather than applying in all situations except for misconduct.

Exempts people under the supervision of a correctional agency from provisions related to collective gardens, noncommercial growing, and the registry if it is inconsistent with the terms of their supervision. Prohibits people under the supervision of a correctional agency from being licensed as a producer, processor, or dispenser if it is inconsistent with the terms of their supervision. Prohibits the affirmative defense from applying to people under supervision of a correctional agency in a supervision revocation or violation hearing.

Exempts letters of intent and acknowledgement from public disclosure requirements. Delays the expiration of the letter of intent provisions from July 1, 2012, until the agencies establish the licensing programs and begin issuing licenses.

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