H-1404.1

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**HOUSE BILL 2058**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Moscoso, Walsh, and Appleton

AN ACT Relating to medical use of cannabis; amending RCW 69.51A.010 and 69.51A.050; adding new sections to chapter 69.51A RCW; adding a new section to chapter 42.56 RCW; creating a new section; prescribing penalties; and providing an expiration date.

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

**PART I**

**LEGISLATIVE DECLARATION AND INTENT**

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

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

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

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

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

**PART II**

**DEFINITIONS**

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

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

(1) "Cannabis" means all parts of the plant *Cannabis,* whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this chapter, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

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

(3) "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis.

(4) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

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

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

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

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

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

(5) "Director" means the director of the department of agriculture.

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

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

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

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

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

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

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

((~~(4)~~)) (13) "Nonresident" means a person who is temporarily in the state but is not a Washington state resident.

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

(15) "Person" means an individual or an entity.

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

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

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

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

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

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

(22) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(23) "Qualifying patient" means a person who:

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

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

(c) Is a resident of the state of Washington at the time of such diagnosis;

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

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

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

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

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

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

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

((~~(6)~~)) (26) "Terminal or debilitating medical condition" means:

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

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

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

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

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

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

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

((~~(7)~~)) (27) "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

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

(29)(a) Until July 1, 2016, "valid documentation" means:

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

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

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

(b) Beginning July 1, 2016, "valid documentation" means:

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

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

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

**PART III**

**PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS**

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

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

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

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

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

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

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

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

(1) The lawful possession, delivery, dispensing, production, or manufacture of ((~~medical marijuana~~)) cannabis for medical use as authorized by this chapter shall not result in the forfeiture or seizure of any real or personal property including, but not limited to, cannabis intended for medical use, items used to facilitate the medical use of cannabis or its production or dispensing for medical use, or proceeds of sales of cannabis for medical use made by licensed producers, licensed processors of cannabis products, or licensed dispensers.

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

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

**PART IV**

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  The department of agriculture may contract with a cannabis analysis laboratory to conduct independent inspection and testing of cannabis samples to verify testing results provided under section 404 of this act.

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

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

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

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

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

NEW SECTION. **Sec.**  (1) By July 1, 2016, taking into consideration, but not being limited by, the security requirements described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt rules:

(a) On the inspection or grading and certification of grade, grading factors, condition, cannabinoid profile, THC concentration, or other qualitative measurement of cannabis intended for medical use that must be used by cannabis analysis laboratories in section 404 of this act;

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

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

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

(ii) THC concentration; and

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

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

(e) Establishing security requirements for the facilities of licensed producers and licensed processors of cannabis products. These security requirements must consider the safety of the licensed producers and licensed processors as well as the safety of the community surrounding the licensed producers and licensed processors;

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

(g) Establishing license application and renewal fees for the licensure of producers and processors of cannabis products in accordance with RCW 43.70.250.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PART V**

**LICENSED DISPENSERS**

NEW SECTION. **Sec.**  A person may not act as a licensed dispenser without a license for each place of business issued by the department of health and prominently displayed on the premises. Provided they are acting in compliance with the terms of this chapter and rules adopted to enforce and carry out its purposes, licensed dispensers and their employees, members, officers, and directors may deliver, distribute, dispense, transfer, prepare, package, repackage, label, relabel, sell at retail, or possess cannabis intended for medical use by qualifying patients, including seeds, seedlings, cuttings, plants, useable cannabis, and cannabis products, and may not be arrested, searched, prosecuted, or subject to other criminal sanctions or civil consequences under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, for such activities, notwithstanding any other provision of law.

NEW SECTION. **Sec.**  (1) By July 1, 2016, taking into consideration the security requirements described in 21 C.F.R. 1301.71- 1301.76, the secretary shall adopt rules:

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

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

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

(d) Establishing recordkeeping requirements for licensed dispensers;

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

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

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

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

(i) Establishing physical standards for cannabis dispensing facilities;

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  Licensed dispensers must be licensed and approved by the counties and cities in which they are located.

NEW SECTION. **Sec.**  A licensed dispenser may not sell cannabis in any city, county, or town without first being authorized to do so by the city, county, or town legislative authority.

**PART VI**

**MISCELLANEOUS PROVISIONS APPLYING TO ALL**

**LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

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

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

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

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

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

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

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

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

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

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

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

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

**PART VII**

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

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

NEW SECTION. **Sec.**  (1) By July 1, 2016, the department of health shall, in consultation with the department of agriculture, adopt rules for the creation, implementation, maintenance, and timely upgrading of a secure and confidential registration system that allows:

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

(b) A peace officer to verify at any time during ordinary business hours of the department of health whether a health care professional has registered a person as either a qualifying patient or a designated provider, or an address as the primary residence of a qualifying patient or designated provider; and

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

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

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

(4) Law enforcement shall comply with Article I, section 7 of the state Constitution when accessing the registration system for criminal investigations, which, at a minimum, requires an articulated individualized suspicion of: (a) Criminal activity; or (b) the possession, use, manufacture, production, processing, delivery, transport, or distribution of cannabis, whether criminal or noncriminal.

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

(6) Fees, including renewal fees, for qualifying patients and designated providers participating in the registration system shall be limited to the cost to the state of implementing, maintaining, and enforcing the provisions of this section and the rules adopted to carry out its purposes.

(7) The department of health, in conjunction with the department of agriculture, must establish and collect reasonable fees for the dissemination of information to employees of state and local law enforcement agencies relating to whether a person is a licensed producer, processor of cannabis products, or dispenser, or that a location is the recorded address of a license producer, processor of cannabis products, or dispenser, and for the dissemination of log records relating to such requests for information to the subjects of those requests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  (1) Evidence of the presence or use of cannabis may not on its own constitute probable cause for a peace officer to obtain a search or arrest warrant or to conduct a warrantless search or arrest unless the peace officer:

(a) Ascertains that the person or location under investigation is not registered with:

(i) The department of health as a qualifying patient, designated provider, licensed dispenser, or the primary residence of a qualifying patient or designated provider; or

(ii) The department of agriculture as a licensed producer, licensed processor of cannabis products, physical address of a production facility, or physical address of a processing facility;

(b) After making efforts reasonable under the circumstances, is unable to ascertain whether the person or location under investigation is registered with:

(i) The department of health as a qualifying patient, designated provider, licensed dispenser, or primary residence of a qualifying patient or designated provider; or

(ii) The department of agriculture as a licensed producer, licensed processor of cannabis products, physical address of a production facility, or physical address of a processing facility;

(c) Has probable cause to believe that the person or location is disqualified from the protections of this chapter or is not complying with the provisions of this chapter; or

(d) Has probable cause to believe that a cannabis-related traffic offense is being committed.

(2) If a peace officer discovers cannabis at a location outside ordinary business hours of the department of health, and no person is present to provide information allowing the officer to ascertain whether the location is the primary residence of a registered qualifying patient or designated provider, the officer shall make reasonable efforts to contact the occupant of the location before seizing cannabis that falls within the limits described in RCW 69.51A.040. For the purposes of this section, reasonable efforts include, at a minimum, attempting to contact the qualifying patient or designated provider using the contact information required by RCW 69.51A.040(3).

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

Records containing names and other personally identifiable information relating to qualifying patients, designated providers, and persons licensed as producers or dispensers of cannabis for medical use, or as processors of cannabis products, under section 701 of this act are exempt from disclosure under this chapter.

**PART VIII**

**MISCELLANEOUS**

NEW SECTION. **Sec.**  (1) The legislature recognizes that there are cannabis producers and cannabis dispensaries in operation as of the effective date of this section that are unregulated by the state and who produce and dispense cannabis for medical use by qualifying patients. The legislature intends that these producers and dispensaries become licensed in accordance with the requirements of this chapter and that this licensing provides them with arrest protection so long as they remain in compliance with the requirements of this chapter and the rules adopted under this chapter. The legislature further recognizes that cannabis producers and cannabis dispensaries in current operation are not able to become licensed until the department of agriculture and the department of health adopt rules and, consequently, it is likely they will remain unlicensed until at least July 1, 2016. These producers and dispensary owners and operators run the risk of arrest between the effective date of this section and the time they become licensed. Therefore, the legislature intends to provide them with an affirmative defense if they meet the requirements of this section.

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

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

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

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

(c) Be registered with the secretary of state as of May 1, 2015;

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

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

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

(5) This section expires July 1, 2016.

NEW SECTION. **Sec.**  Sections 301 through 303, 401 through 411, 501 through 505, 601 through 607, 701, 702, and 801 of this act are each added to chapter 69.51A RCW.

**--- END ---**