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## Regulated Substances & Gaming Committee

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### HB 1563

**Brief Description:** Concerning arrest protections for the medical use of cannabis.

**Sponsors:** Representatives Kloba, Simmons, Cheney, Peterson, Ramel, Ormsby, Reeves, Reed, Macri, Fitzgibbon, Gregerson, Rude and Wylie.

#### Brief Summary of Bill

- Provides criminal and civil protections, rather than an affirmative defense, to qualifying patients and designated providers who have a valid authorization for the medical use of cannabis.
- Specifies the cannabis possession limit for a person who is both a qualifying patient and a designated provider for another qualifying patient.

**Hearing Date:** 1/31/23

**Staff:** Matt Sterling (786-7289).

#### **Background:**

##### Medical Use of Cannabis.

State law allows persons over 21 years of age to possess and purchase limited quantities of cannabis products and plants from a licensed retailer for recreational use. Specific types of healthcare professionals may authorize a qualifying patient's medical use of cannabis, which increases the patient's possession limit, permits home cultivation of cannabis plants, and provides certain legal protections not afforded to recreational users. An authorization is a form developed by the Department of Health that is completed and signed by the health care professional and

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A qualifying patient is a person who:

- is a patient of a health care professional who has been diagnosed by the health care professional as having a terminal or debilitating medical condition;
- is a Washington resident at the time of diagnosis;
- has been advised by the health care professional about the risks and benefits of the medical use of cannabis and that the person may benefit from the medical use of cannabis; and
- has an authorization from the health care professional.

A designated provider is a person who:

- is at least 21 years old;
- is designated in writing by a qualifying patient to serve as the designated provider for the patient or, if the qualifying patient is under age 18, is the qualifying patient's parent or guardian; and
- has an authorization from the qualifying patient's health care professional.

#### Medical Cannabis Authorization Database.

A qualifying patient or designated provider who has a valid authorization may choose whether to enter into the Medical Cannabis Authorization Database (Database) and receive a recognition card. The recognition card includes the qualifying patient or designated provider's photograph, the amount of cannabis products and plants the qualifying patient or designated provider may possess, the name of the health care professional who authorized the qualifying patient or designated provider, and other relevant information.

A qualifying patient or designated provider who is entered into the Database and has a recognition card may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for certain violations of state law relating to the use and possession of cannabis.

To receive these protections, the qualifying patient or designated provider must:

- possess no more than the authorized amount of cannabis products and plants;
- present the recognition card upon the request of any investigating law enforcement officer; and
- have a copy of the recognition card and the qualifying patient or designated provider's contact information posted prominently next to any cannabis products and plants.

A qualifying patient or designated provider who has a valid authorization, but is not entered into the Database and does not have a recognition card is not granted the same criminal and civil protections. However, under certain circumstances, such a qualifying patient may raise an affirmative defense at trial for certain violations of state law relating to use and possession of cannabis. A qualifying patient or designated provider asserting the affirmative defense must prove, by a preponderance of the evidence, compliance with all other provisions of state law governing medical use of cannabis by a qualifying patient or designated provider.

### Qualifying Patient or Designated Provider Possession Limits.

The authorized amount of cannabis for a qualifying patient or designated provider to possess is a combination of:

- forty-eight ounces of cannabis-infused product in solid form;
- three ounces of useable cannabis;
- two hundred sixteen ounces of cannabis-infused product in liquid form; or
- twenty-one grams of cannabis concentrates.

The qualifying patient or designated provider may also grow up to six plants for the personal medical use of the qualifying patient and possess up to eight ounces of useable cannabis produced from such plants. If a health care professional determines that the medical needs of a qualifying patient exceed these amounts, the health care professional must specify on the authorization that it is recommended that the patient may grow up to 15 plants and possess up to 16 ounces of useable cannabis for the personal medical use of the patient. The number of plants must be entered into the medical cannabis authorization database by the cannabis retailer with a medical cannabis endorsement and specified on the recognition card that is issued to the qualifying patient or designated provider.

A person who is both a qualifying patient and a designated provider for another qualifying patient may possess no more than twice the authorized amount of cannabis product for the qualifying patient and designated provider.

### **Summary of Bill:**

A qualifying patient or designated provider who has a valid authorization but is not entered into the Database and does not have a recognition card may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for certain violations of state law relating to use and possession of cannabis.

To receive these protections, the qualifying patient or designated provider must:

- possess no more than the authorized amount of marijuana products and plants;
- present the authorization upon the request of any investigating law enforcement officer; and
- have a copy of the authorization and the qualifying patient or designated provider's contact information posted prominently next to any marijuana products and plants.

A person who is both a qualifying patient and a designated provider for another qualifying patient may possess no more than 15 cannabis plants that are located in any one housing unit other than an authorized cooperative.

The affirmative defense afforded to qualifying patients and designated providers who have a valid authorization but are not entered into the Database and do not have a recognition card is eliminated.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.