
SENATE BILL 5608

State of Washington

68th Legislature

2023 Regular Session

By Senators Kuderer, Nguyen, Stanford, and C. Wilson

Read first time 01/27/23. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to arrest protections for the medical use of
2 cannabis; amending RCW 69.51A.040, 69.51A.055, and 69.51A.060; and
3 repealing RCW 69.51A.043.

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

5 **Sec. 1.** RCW 69.51A.040 and 2022 c 16 s 118 are each amended to
6 read as follows:

7 The medical use of cannabis in accordance with the terms and
8 conditions of this chapter does not constitute a crime and a
9 qualifying patient or designated provider in compliance with the
10 terms and conditions of this chapter may not be arrested, prosecuted,
11 or subject to other criminal sanctions or civil consequences for
12 possession, manufacture, or delivery of, or for possession with
13 intent to manufacture or deliver, cannabis under state law, or have
14 real or personal property seized or forfeited for possession,
15 manufacture, or delivery of, or for possession with intent to
16 manufacture or deliver, cannabis under state law, and investigating
17 law enforcement officers and agencies may not be held civilly liable
18 for failure to seize cannabis in this circumstance, if:

19 (1)(a)(i) The qualifying patient or designated provider has been
20 entered into the medical cannabis authorization database and holds a
21 valid recognition card ~~((and))~~ or the qualifying patient or

1 designated provider holds a valid authorization if the qualifying
2 patient or designated provider has not been entered into the medical
3 cannabis authorization database and has not been issued a recognition
4 card, and the qualifying patient or designated provider possesses no
5 more than the amount of cannabis concentrates, useable cannabis,
6 plants, or cannabis-infused products authorized under RCW 69.51A.210.

7 (ii) If a person is both a qualifying patient and a designated
8 provider for another qualifying patient, the person may possess no
9 more than twice the amounts described in RCW 69.51A.210 for the
10 qualifying patient and designated provider, whether the plants,
11 cannabis concentrates, useable cannabis, or cannabis-infused products
12 are possessed individually or in combination between the qualifying
13 patient and his or her designated provider. However, in accordance
14 with RCW 69.51A.260, no more than 15 plants may be grown or located
15 in any one housing unit other than a cooperative established pursuant
16 to RCW 69.51A.250;

17 (b) The qualifying patient or designated provider presents his or
18 her recognition card or, if the qualifying patient or designated
19 provider does not have a recognition card, then his or her
20 authorization, to any law enforcement officer who questions the
21 patient or provider regarding his or her medical use of cannabis;

22 (c) The qualifying patient or designated provider keeps a copy of
23 his or her recognition card (~~and~~) if the qualifying patient or
24 designated provider has a recognition card, or keeps a copy of his or
25 her authorization if the qualifying patient or designated provider
26 does not have a recognition card, and keeps a copy of the qualifying
27 patient or designated provider's contact information posted
28 prominently next to any plants, cannabis concentrates, cannabis-
29 infused products, or useable cannabis located at his or her
30 residence;

31 (d) The investigating law enforcement officer does not possess
32 evidence that:

33 (i) The designated provider has converted cannabis produced or
34 obtained for the qualifying patient for his or her own personal use
35 or benefit; or

36 (ii) The qualifying patient sold, donated, or supplied cannabis
37 to another person; and

38 (e) The designated provider has not served as a designated
39 provider to more than one qualifying patient within a fifteen-day
40 period; or

1 (2) The qualifying patient or designated provider participates in
2 a cooperative as provided in RCW 69.51A.250.

3 **Sec. 2.** RCW 69.51A.055 and 2015 c 70 s 30 are each amended to
4 read as follows:

5 (1)(a) The arrest and prosecution protections established in RCW
6 69.51A.040 may not be asserted in a supervision revocation or
7 violation hearing by a person who is supervised by a corrections
8 agency or department, including local governments or jails, that has
9 determined that the terms of this section are inconsistent with and
10 contrary to his or her supervision.

11 (b) The affirmative (~~defenses~~) defense established in RCW
12 (~~69.51A.043 and~~) 69.51A.045 may not be asserted in a supervision
13 revocation or violation hearing by a person who is supervised by a
14 corrections agency or department, including local governments or
15 jails, that has determined that the terms of this section are
16 inconsistent with and contrary to his or her supervision.

17 (2) RCW 69.51A.040 does not apply to a person who is supervised
18 for a criminal conviction by a corrections agency or department,
19 including local governments or jails, that has determined that the
20 terms of this chapter are inconsistent with and contrary to his or
21 her supervision.

22 **Sec. 3.** RCW 69.51A.060 and 2022 c 16 s 122 are each amended to
23 read as follows:

24 (1) It shall be a class 3 civil infraction to use or display
25 medical cannabis in a manner or place which is open to the view of
26 the general public.

27 (2) Nothing in this chapter establishes a right of care as a
28 covered benefit or requires any state purchased health care as
29 defined in RCW 41.05.011 or other health carrier or health plan as
30 defined in Title 48 RCW to be liable for any claim for reimbursement
31 for the medical use of cannabis. Such entities may enact coverage or
32 noncoverage criteria or related policies for payment or nonpayment of
33 medical cannabis in their sole discretion.

34 (3) Nothing in this chapter requires any health care professional
35 to authorize the medical use of cannabis for a patient.

36 (4) Nothing in this chapter requires any accommodation of any on-
37 site medical use of cannabis in any place of employment, in any youth

1 center, in any correctional facility, or smoking cannabis in any
2 public place or hotel or motel.

3 (5) Nothing in this chapter authorizes the possession or use of
4 cannabis, cannabis concentrates, useable cannabis, or cannabis-
5 infused products on federal property.

6 (6) Nothing in this chapter authorizes the use of medical
7 cannabis by any person who is subject to the Washington code of
8 military justice in chapter 38.38 RCW.

9 (7) Employers may establish drug-free work policies. Nothing in
10 this chapter requires an accommodation for the medical use of
11 cannabis if an employer has a drug-free workplace.

12 (8) No person shall be entitled to claim the protection from
13 arrest and prosecution under RCW 69.51A.040 (~~or the affirmative~~
14 ~~defense under RCW 69.51A.043~~) for engaging in the medical use of
15 cannabis in a way that endangers the health or well-being of any
16 person through the use of a motorized vehicle on a street, road, or
17 highway, including violations of RCW 46.61.502 or 46.61.504, or
18 equivalent local ordinances.

19 NEW SECTION. **Sec. 4.** RCW 69.51A.043 (Failure to enter into the
20 medical cannabis authorization database—Affirmative defense) and 2022
21 c 16 s 119, 2015 c 70 s 25, & 2011 c 181 s 402 are each repealed.

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