
HOUSE BILL 2058

State of Washington

64th Legislature

2015 Regular Session

By Representatives Moscoso, Walsh, and Appleton

Read first time 02/10/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to medical use of cannabis; amending RCW
2 69.51A.010 and 69.51A.050; adding new sections to chapter 69.51A RCW;
3 adding a new section to chapter 42.56 RCW; creating a new section;
4 prescribing penalties; and providing an expiration date.

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

6 PART I

7 LEGISLATIVE DECLARATION AND INTENT

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

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

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

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

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

4 **PART II**
5 **DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~((3))~~ (8) "Labeling" means all labels and other written,
19 printed, or graphic matter (a) upon any cannabis intended for medical
20 use, or (b) accompanying such cannabis.

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

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

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

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

1 ~~((4))~~ (13) "Nonresident" means a person who is temporarily in
2 the state but is not a Washington state resident.

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

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

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

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

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

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

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

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

39 (22) "Public place" includes streets and alleys of incorporated
40 cities and towns; state or county or township highways or roads;

1 buildings and grounds used for school purposes; public dance halls
2 and grounds adjacent thereto; premises where goods and services are
3 offered to the public for retail sale; public buildings, public
4 meeting halls, lobbies, halls and dining rooms of hotels,
5 restaurants, theatres, stores, garages, and filling stations which
6 are open to and are generally used by the public and to which the
7 public is permitted to have unrestricted access; railroad trains,
8 stages, buses, ferries, and other public conveyances of all kinds and
9 character, and the depots, stops, and waiting rooms used in
10 conjunction therewith which are open to unrestricted use and access
11 by the public; publicly owned bathing beaches, parks, or playgrounds;
12 and all other places of like or similar nature to which the general
13 public has unrestricted right of access, and which are generally used
14 by the public.

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

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

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

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

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

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

26 (~~(+5)~~) (24) "Secretary" means the secretary of health.

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

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

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

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

35 (~~(+6)~~) (26) "Terminal or debilitating medical condition" means:

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

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

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

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

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

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

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

19 ~~((7))~~ (27) "THC concentration" means percent of
20 tetrahydrocannabinol content per weight or volume of useable cannabis
21 or cannabis product.

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

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

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

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

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

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

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

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

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

12 PART III

13 PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS

14 NEW SECTION. Sec. 301. 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
20 than twenty-four ounces of useable cannabis, no more cannabis product
21 than reasonably could be produced with no more than twenty-four
22 ounces of useable cannabis, or a combination of useable cannabis and
23 cannabis product that does not exceed a combined total representing
24 possession and processing of no more than twenty-four ounces of
25 useable cannabis;

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

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

35 NEW SECTION. Sec. 302. (1) Except as provided in subsection (2)
36 of this section, a qualifying patient may not be refused housing or
37 evicted from housing solely as a result of his or her possession or

1 use of useable cannabis or cannabis products except that housing
2 providers otherwise permitted to enact and enforce prohibitions
3 against smoking in their housing may apply those prohibitions to
4 smoking cannabis provided that such smoking prohibitions are applied
5 and enforced equally as to the smoking of cannabis and the smoking of
6 all other substances, including without limitation tobacco.

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

10 NEW SECTION. **Sec. 303.** In imposing any criminal sentence,
11 deferred prosecution, stipulated order of continuance, deferred
12 disposition, or dispositional order, any court organized under the
13 laws of Washington state may permit the medical use of cannabis in
14 compliance with the terms of this chapter and exclude it as a
15 possible ground for finding that the offender has violated the
16 conditions or requirements of the sentence, deferred prosecution,
17 stipulated order of continuance, deferred disposition, or
18 dispositional order. This section does not require the accommodation
19 of any on-site medical use of cannabis in any correctional facility.

20 **Sec. 304.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to
21 read as follows:

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

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

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

1 NEW SECTION. **Sec. 404.** (1) On a schedule determined by the
2 department of agriculture, licensed producers and licensed processors
3 must submit representative samples of cannabis grown or processed to
4 a cannabis analysis laboratory for grade, condition, cannabinoid
5 profile, THC concentration, other qualitative measurements of
6 cannabis intended for medical use, and other inspection standards
7 determined by the department of agriculture. Any samples remaining
8 after testing must be destroyed by the laboratory or returned to the
9 licensed producer or licensed processor.

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

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

18 NEW SECTION. **Sec. 405.** The department of agriculture may
19 contract with a cannabis analysis laboratory to conduct independent
20 inspection and testing of cannabis samples to verify testing results
21 provided under section 404 of this act.

22 NEW SECTION. **Sec. 406.** The department of agriculture may adopt
23 rules on:

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

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

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

34 NEW SECTION. **Sec. 407.** The director is authorized to deny,
35 suspend, or revoke a producer's or processor's license after a
36 hearing in any case in which it is determined that there has been a
37 violation or refusal to comply with the requirements of this chapter

1 or rules adopted hereunder. All hearings for the denial, suspension,
2 or revocation of a producer's or processor's license are subject to
3 chapter 34.05 RCW, the administrative procedure act, as enacted or
4 hereafter amended.

5 NEW SECTION. **Sec. 408.** (1) By July 1, 2016, taking into
6 consideration, but not being limited by, the security requirements
7 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
8 rules:

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

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

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

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

22 (ii) THC concentration; and

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 409.** (1) Each licensed producer and licensed
9 processor of cannabis products shall maintain complete records at all
10 times with respect to all cannabis produced, processed, weighed,
11 tested, stored, shipped, or sold. The director shall adopt rules
12 specifying the minimum recordkeeping requirements necessary to comply
13 with this section.

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

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

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

36 NEW SECTION. **Sec. 410.** (1) The department of agriculture may
37 give written notice to a licensed producer or processor of cannabis
38 products to furnish required reports, documents, or other requested

1 information, under such conditions and at such time as the department
2 of agriculture deems necessary if a licensed producer or processor of
3 cannabis products fails to:

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

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

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

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

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

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

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

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

1 (d) Establishing recordkeeping requirements for licensed
2 dispensers;

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

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

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

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

12 (i) Establishing physical standards for cannabis dispensing
13 facilities;

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 503.** A licensed dispenser may not sell
34 cannabis received from any person other than a licensed producer or
35 licensed processor of cannabis products, or sell or deliver cannabis
36 to any person other than a qualifying patient, designated provider,
37 or licensed producer except as provided by court order. Before
38 selling or providing cannabis to a qualifying patient or designated
39 provider, the licensed dispenser must confirm that the patient

1 qualifies for the medical use of cannabis by contacting that
2 patient's health care professional. Violation of this section is a
3 class C felony punishable according to chapter 9A.20 RCW.

4 NEW SECTION. **Sec. 504.** Licensed dispensers must be licensed and
5 approved by the counties and cities in which they are located.

6 NEW SECTION. **Sec. 505.** A licensed dispenser may not sell
7 cannabis in any city, county, or town without first being authorized
8 to do so by the city, county, or town legislative authority.

9 **PART VI**

10 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**

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

12 NEW SECTION. **Sec. 601.** All weighing and measuring instruments
13 and devices used by licensed producers, processors of cannabis
14 products, and dispensers shall comply with the requirements set forth
15 in chapter 19.94 RCW.

16 NEW SECTION. **Sec. 602.** (1) No person, partnership, corporation,
17 association, or agency may advertise cannabis for sale to the general
18 public in any manner that promotes or tends to promote the use or
19 abuse of cannabis. For the purposes of this subsection, displaying
20 cannabis, including artistic depictions of cannabis, is considered to
21 promote or to tend to promote the use or abuse of cannabis.

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

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

31 (4) No broadcast television licensee, radio broadcast licensee,
32 newspaper, magazine, advertising agency, or agency or medium for the
33 dissemination of an advertisement, except the licensed producer,
34 processor of cannabis products, or dispenser to which the
35 advertisement relates, is subject to the penalties of this section by

1 reason of dissemination of advertising in good faith without
2 knowledge that the advertising promotes or tends to promote the use
3 or abuse of cannabis.

4 NEW SECTION. **Sec. 603.** 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 NEW SECTION. **Sec. 604.** A violation of any provision or section
12 of this chapter that relates to the licensing and regulation of
13 producers, processors, or dispensers, where no other penalty is
14 provided for, and the violation of any rule adopted under this
15 chapter constitutes a misdemeanor.

16 NEW SECTION. **Sec. 605.** (1) Every licensed producer or processor
17 of cannabis products who fails to comply with this chapter, or any
18 rule adopted under it, may be subjected to a civil penalty, as
19 determined by the director, in an amount of not more than one
20 thousand dollars for every such violation. Each violation shall be a
21 separate and distinct offense.

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

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

31 NEW SECTION. **Sec. 606.** The department of agriculture or the
32 department of health, as the case may be, must immediately suspend
33 any certification of licensure issued under this chapter if the
34 holder of the certificate has been certified under RCW 74.20A.320 by
35 the department of social and health services as a person who is not
36 in compliance with a support order. If the person has continued to

1 meet all other requirements for certification during the suspension,
2 reissuance of the certificate of licensure shall be automatic upon
3 the department's receipt of a release issued by the department of
4 social and health services stating that the person is in compliance
5 with the order.

6 NEW SECTION. **Sec. 607.** The department of agriculture or the
7 department of health, as the case may be, must suspend the
8 certification of licensure of any person who has been certified by a
9 lending agency and reported to the appropriate department for
10 nonpayment or default on a federally or state-guaranteed educational
11 loan or service-conditional scholarship. Prior to the suspension, the
12 department of agriculture or the department of health, as the case
13 may be, must provide the person an opportunity for a brief
14 adjudicative proceeding under RCW 34.05.485 through 34.05.494 and
15 issue a finding of nonpayment or default on a federally or state-
16 guaranteed educational loan or service-conditional scholarship. The
17 person's license may not be reissued until the person provides the
18 appropriate department a written release issued by the lending agency
19 stating that the person is making payments on the loan in accordance
20 with a repayment agreement approved by the lending agency. If the
21 person has continued to meet all other requirements for certification
22 or registration during the suspension, reinstatement is automatic
23 upon receipt of the notice and payment of any reinstatement fee.

24 **PART VII**
25 **SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS,**
26 **AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

27 NEW SECTION. **Sec. 701.** (1) By July 1, 2016, the department of
28 health shall, in consultation with the department of agriculture,
29 adopt rules for the creation, implementation, maintenance, and timely
30 upgrading of a secure and confidential registration system that
31 allows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (10) The registration system shall maintain a log of each
39 verification query submitted by a peace officer, including the peace
40 officer's name, agency, and identification number, for a period of no

1 less than three years from the date of the query. Personally
2 identifiable information of qualifying patients and designated
3 providers included in the log shall be confidential and exempt from
4 public disclosure, inspection, or copying under chapter 42.56 RCW:
5 PROVIDED, That:

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

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

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

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

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

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

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

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

37 NEW SECTION. **Sec. 702.** (1) Evidence of the presence or use of
38 cannabis may not on its own constitute probable cause for a peace

1 officer to obtain a search or arrest warrant or to conduct a
2 warrantless search or arrest unless the peace officer:

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

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

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

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

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

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

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

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

25 (2) If a peace officer discovers cannabis at a location outside
26 ordinary business hours of the department of health, and no person is
27 present to provide information allowing the officer to ascertain
28 whether the location is the primary residence of a registered
29 qualifying patient or designated provider, the officer shall make
30 reasonable efforts to contact the occupant of the location before
31 seizing cannabis that falls within the limits described in RCW
32 69.51A.040. For the purposes of this section, reasonable efforts
33 include, at a minimum, attempting to contact the qualifying patient
34 or designated provider using the contact information required by RCW
35 69.51A.040(3).

36 NEW SECTION. **Sec. 703.** A new section is added to chapter 42.56
37 RCW to read as follows:

38 Records containing names and other personally identifiable
39 information relating to qualifying patients, designated providers,

1 and persons licensed as producers or dispensers of cannabis for
2 medical use, or as processors of cannabis products, under section 701
3 of this act are exempt from disclosure under this chapter.

4 **PART VIII**
5 **MISCELLANEOUS**

6 NEW SECTION. **Sec. 801.** (1) The legislature recognizes that
7 there are cannabis producers and cannabis dispensaries in operation
8 as of the effective date of this section that are unregulated by the
9 state and who produce and dispense cannabis for medical use by
10 qualifying patients. The legislature intends that these producers and
11 dispensaries become licensed in accordance with the requirements of
12 this chapter and that this licensing provides them with arrest
13 protection so long as they remain in compliance with the requirements
14 of this chapter and the rules adopted under this chapter. The
15 legislature further recognizes that cannabis producers and cannabis
16 dispensaries in current operation are not able to become licensed
17 until the department of agriculture and the department of health
18 adopt rules and, consequently, it is likely they will remain
19 unlicensed until at least July 1, 2016. These producers and
20 dispensary owners and operators run the risk of arrest between the
21 effective date of this section and the time they become licensed.
22 Therefore, the legislature intends to provide them with an
23 affirmative defense if they meet the requirements of this section.

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

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

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

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

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

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

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

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

16 (5) This section expires July 1, 2016.

17 NEW SECTION. **Sec. 802.** Sections 301 through 303, 401 through
18 411, 501 through 505, 601 through 607, 701, 702, and 801 of this act
19 are each added to chapter 69.51A RCW.

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