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Supreme Court No. 83768-6

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**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

JANE ROE,

Appellant,

v.

**TELETECH CUSTOMER CARE
MANAGEMENT (COLORADO) LLC,**

Respondent.

**RESPONDENT'S SECOND STATEMENT OF ADDITIONAL
AUTHORITIES**

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Attorneys for Respondent

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ORIGINAL

Pursuant to RAP 10.8, Respondent TeleTech Customer Care Management (Colorado) LLC provides the Court with the following additional authority relevant to the issues of whether the original version of RCW 69.51A, the Medical Use of Marijuana Act, created employment protections for users of medical marijuana, and whether the legislature clarified the voters' intent in its 2007 amendments.

During the 2011 regular session, Senate Bill 5073 ("SB 5073") was introduced to the Washington legislature. As originally proposed, that bill would have, *inter alia*, added a new section to the Medical Use of Marijuana Act to expressly confer employment protections to qualified users of medical marijuana. See Exh. A (proposed Section 409). On January 20, 2011, the Health and Long-Term Care committee heard testimony regarding SB 5073. The Senate Bill Report, dated February 23, 2011, summarized public comment on the bill. The "CON" section reads, in relevant part:

The employment provision is problematic for small businesses. The employment section is vague and would lead to litigation. It is unclear if employees [sic] must reasonably accommodate medical use of marijuana. This would require that employers not take action against employees who take part in an illegal act and employers

would face liability by sending an employee home if impaired. This would make Washington a less competitive state in the national business environment.

Exh. B (Senate Bill Report SB 5073) at 4. The version of SB 5073 that was passed by the House on April 11, 2011 and by the Senate on April 21, 2011 no longer contained the section that would have conferred employment protections. *See* Exh. C. On April 29, 2011, Governor Gregoire vetoed large portions of SB 5073. *See* Exh. D. In a letter to the Senate dated April 29, 2011, Governor Gregoire explained that the vetoed portions of SB 5073 would, if enacted, subject public employees and private home owners to federal prosecution. *See* Exh. E. All of the exhibits above are contained in the official legislative history of SB 5073, of which this Court can take judicial notice. *See* ER 201(b); ER 803(a)(8); *CLEAN v. State*, 130 Wn.2d 782, 809, 928 P.2d 1054 (1996).
RESPECTFULLY SUBMITTED this 16th day of May, 2011.

STOEL RIVES LLP


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Attorneys for Respondent

COPY

EXHIBIT A

THOMAS
SUPERIOR COURT
STATE OF IOWA
2011 MAY 17 AM 8:02
D. CARPENTER
CLERK

SENATE BILL 5073

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe, and Chase

Read first time 01/12/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to medical use of cannabis; amending RCW
2 69.51A.005, 69.51A.020, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.050,
3 69.51A.060, and 69.51A.900; adding new sections to chapter 69.51A RCW;
4 adding a new section to chapter 82.08 RCW; adding a new section to
5 chapter 42.56 RCW; adding a new section to chapter 28B.20 RCW; creating
6 a new section; repealing RCW 69.51A.080; prescribing penalties;
7 providing an effective date; and providing an expiration date.

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

9 PART I

10 LEGISLATIVE DECLARATION AND INTENT

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

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

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

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

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

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

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

10 (a) There is medical evidence that some patients with terminal or
11 debilitating ~~((illnesses)) medical conditions may,~~ under their health
12 care professional's care, ~~((may)) benefit from the medical use of~~
13 ~~((marijuana)) cannabis.~~ Some of the ~~((illnesses)) conditions for which~~
14 ~~((marijuana)) cannabis~~ appears to be beneficial include ~~((chemotherapy-~~
15 related)), but are not limited to:

16 (i) Nausea ~~((and)), vomiting ~~((in cancer patients; AIDS wasting~~~~
17 ~~syndrome)), and cachexia associated with cancer, HIV-positive status,~~
18 AIDS, hepatitis C, anorexia, and their treatments;

19 (ii) Severe muscle spasms associated with multiple sclerosis,
20 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy))~~

21 (iii) Acute or chronic glaucoma;

22 (iv) Crohn's disease; and

23 (v) Some forms of intractable pain.

24 ~~((The people find that)) (b) Humanitarian compassion necessitates~~
25 that the decision to ~~((authorize the medical)) use ~~((of marijuana))~~~~
26 cannabis by patients with terminal or debilitating ~~((illnesses))~~
27 medical conditions is a personal, individual decision, based upon their
28 health care professional's professional medical judgment and
29 discretion.

30 (2) Therefore, the ~~((people of the state of Washington))~~
31 legislature intends that:

32 (a) Qualifying patients with terminal or debilitating ~~((illnesses))~~
33 medical conditions who, in the judgment of their health care
34 professionals, may benefit from the medical use of ~~((marijuana))~~
35 cannabis, shall not be ~~((found guilty of a crime under state law for~~
36 their possession and limited use of marijuana)) arrested, prosecuted,

1 or subject to other criminal sanctions or civil consequences under
2 state law based solely on their medical use of cannabis,
3 notwithstanding any other provision of law;

4 (b) Persons who act as designated providers to such patients shall
5 also not be (~~found guilty of a crime under state law for~~) arrested,
6 prosecuted, or subject to other criminal sanctions or civil
7 consequences under state law, notwithstanding any other provision of
8 law, based solely on their assisting with the medical use of
9 (~~marijuana~~) cannabis; and

10 (c) Health care professionals shall also (~~be excepted from~~
11 ~~liability and prosecution~~) not be arrested, prosecuted, or subject to
12 other criminal sanctions or civil consequences under state law for the
13 authorization of (~~marijuana~~) medical use (~~to~~) of cannabis by
14 qualifying patients for whom, in the health care professional's
15 professional judgment, the medical (~~marijuana~~) use of cannabis may
16 prove beneficial.

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

19 Nothing in this chapter shall be construed to supersede Washington
20 state law prohibiting the acquisition, possession, manufacture, sale,
21 or use of (~~marijuana~~) cannabis for nonmedical purposes.

22 **PART II**
23 **DEFINITIONS**

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

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

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

1 extracted therefrom, fiber, oil, or cake, or the sterilized seed of the
2 plant which is incapable of germination. The term "cannabis" includes
3 cannabis products and useable cannabis.

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

10 (3) "Designated provider" means a person who:

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

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

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

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

19 ~~(2))~~ in compliance with the terms and conditions set forth in RCW
20 69.51A.040.

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

24 (4) "Director" means the director of the department of agriculture.

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

28 (6) "Health care professional," for purposes of this chapter only,
29 means a physician licensed under chapter 18.71 RCW, a physician
30 assistant licensed under chapter 18.71A RCW, an osteopathic physician
31 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
32 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
33 18.36A RCW, or an advanced registered nurse practitioner licensed under
34 chapter 18.79 RCW.

35 ~~((3))~~ (7) "Labeling" means all labels and other written, printed,
36 or graphic matter (a) upon any cannabis intended for medical use, or
37 (b) accompanying such cannabis.

1 (8) "Licensed dispenser" means a nonprofit corporation organized
2 under chapter 24.03 RCW and licensed to dispense cannabis for medical
3 use to qualifying patients and designated providers by the department
4 of health in accordance with rules adopted by the department of health
5 pursuant to the terms of this chapter.

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

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

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

21 ((+4)) (12) "Nonresident" means a person who is temporarily in the
22 state but is not a Washington state resident.

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

25 (14) "Person" means an individual or an entity.

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

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

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

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

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

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

25 (21) "Qualifying patient" means a person who:

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

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

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

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

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

35 ((+5+)) (22) "Secretary" means the secretary of health.

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

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

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

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

5 ~~((+6))~~ (24) "Terminal or debilitating medical condition" means:

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

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

10 or

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

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

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

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

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

25 ~~((+7))~~ (25) "THC concentration" means percent of
26 tetrahydrocannabinol content per weight or volume of useable cannabis
27 or cannabis product.

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

34 (27)(a) Until July 1, 2012, "valid documentation" means:

35 ~~((+a))~~ (i) A statement signed and dated by a qualifying patient's
36 health care professional written on tamper-resistant paper, which
37 states that, in the health care professional's professional opinion,

1 the patient may benefit from the medical use of ((~~marijuana~~)) cannabis;
2 ((and

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

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

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

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

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

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

20 **PART III**

21 **PROTECTIONS FOR HEALTH CARE PROFESSIONALS**

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

24 ~~((A health care professional shall be excepted from the state's~~
25 ~~eriminal laws and shall not be penalized in any manner, or denied any~~
26 ~~right or privilege, for)) The following acts do not constitute crimes
27 under state law or unprofessional conduct under chapter 18.130 RCW, and
28 a health care professional may not be arrested, searched, prosecuted,
29 disciplined, or subject to other criminal sanctions or civil
30 consequences or liability under state law, or have real or personal
31 property searched, seized, or forfeited pursuant to state law,
32 notwithstanding any other provision of law:~~

33 (1) Advising a ((~~qualifying~~)) patient about the risks and benefits
34 of medical use of ((~~marijuana~~)) cannabis or that the ((~~qualifying~~))
35 patient may benefit from the medical use of ((~~marijuana where such use~~

1 ~~is within a professional standard of care or in the individual health~~
2 ~~care professional's medical judgment)) cannabis; or~~

3 (2) Providing a ~~((qualifying))~~ patient meeting the criteria
4 established under RCW 69.51A.010(21) with valid documentation, based
5 upon the health care professional's assessment of the ~~((qualifying))~~
6 patient's medical history and current medical condition, ~~((that the~~
7 ~~medical use of marijuana may benefit a particular qualifying patient))~~
8 where such use is within a professional standard of care or in the
9 individual health care professional's medical judgment.

10 **PART IV**

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

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

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

20 ~~(2) If charged with a violation of state law relating to marijuana,~~
21 ~~any qualifying patient who is engaged in the medical use of marijuana,~~
22 ~~or any designated provider who assists a qualifying patient in the~~
23 ~~medical use of marijuana, will be deemed to have established an~~
24 ~~affirmative defense to such charges by proof of his or her compliance~~
25 ~~with the requirements provided in this chapter. Any person meeting the~~
26 ~~requirements appropriate to his or her status under this chapter shall~~
27 ~~be considered to have engaged in activities permitted by this chapter~~
28 ~~and shall not be penalized in any manner, or denied any right or~~
29 ~~privilege, for such actions.~~

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

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

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

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

4 ~~(4) A qualifying patient, if under eighteen years of age at the~~
5 ~~time he or she is alleged to have committed the offense, shall~~
6 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~
7 ~~However, any possession under subsection (3)(b) of this section, as~~
8 ~~well as any production, acquisition, and decision as to dosage and~~
9 ~~frequency of use, shall be the responsibility of the parent or legal~~
10 ~~guardian of the qualifying patient.)) The medical use of cannabis in~~
11 ~~accordance with the terms and conditions of this chapter does not~~
12 ~~constitute a crime and a qualifying patient or designated provider in~~
13 ~~compliance with the terms and conditions of this chapter may not be~~
14 ~~arrested, searched, prosecuted, or subject to other criminal sanctions~~
15 ~~or civil consequences under state law, or have real or personal~~
16 ~~property searched, seized, or forfeited pursuant to state law, and~~
17 ~~investigating peace officers and law enforcement agencies may not be~~
18 ~~held civilly liable for failure to seize cannabis in this circumstance:~~
19 ~~PROVIDED, That:~~

20 ~~(1) The qualifying patient or designated provider possesses no more~~
21 ~~than fifteen cannabis plants and no more than twenty-four ounces of~~
22 ~~useable cannabis, no more cannabis product than reasonably could be~~
23 ~~produced with no more than twenty-four ounces of useable cannabis, or~~
24 ~~a combination of useable cannabis and cannabis product that does not~~
25 ~~exceed a combined total representing possession and processing of no~~
26 ~~more than twenty-four ounces of useable cannabis, or if a person is~~
27 ~~both a qualifying patient and a designated provider for another~~
28 ~~qualifying patient, no more than twice these amounts, whether the~~
29 ~~plants, useable cannabis, and cannabis product are possessed~~
30 ~~individually or in combination between the qualifying patient and his~~
31 ~~or her designated provider;~~

32 ~~(2) The qualifying patient or designated provider presents his or~~
33 ~~her valid documentation, or proof of registration with the department~~
34 ~~of health, to any peace officer who questions the patient or provider~~
35 ~~regarding his or her medical use of cannabis;~~

36 ~~(3) The qualifying patient or designated provider keeps a copy of~~
37 ~~his or her health care professional's authorizing statement and the~~

1 qualifying patient or designated provider's contact information posted
2 prominently next to any cannabis plants, cannabis products, or useable
3 cannabis located at his or her residence;

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

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

10 NEW SECTION. Sec. 402. (1) Qualifying patients may create and
11 participate in collective gardens for the purpose of producing,
12 processing, transporting, and delivering cannabis for medical use
13 subject to the following conditions:

14 (a) No more than twenty-five qualifying patients may participate in
15 a single collective garden at any time;

16 (b) A collective garden may contain no more than fifteen plants per
17 patient up to a total of ninety plants for six patients, and no more
18 than a total of ninety-nine plants if seven or more patients are
19 participating in the collective garden;

20 (c) No more than ninety-six ounces of useable cannabis may be on
21 the premises of a collective garden at any time;

22 (d) A copy of each qualifying patient's valid documentation,
23 including a copy of the patient's proof of identity, must be available
24 at all times on the premises of the collective garden; and

25 (e) No useable cannabis from the collective garden is delivered to
26 anyone other than one of the qualifying patients participating in the
27 collective garden.

28 (2) For purposes of this section, the creation of a "collective
29 garden" means qualifying patients sharing responsibility for acquiring
30 and supplying the resources required to produce and process cannabis
31 for medical use such as, for example, a location for a collective
32 garden; equipment, supplies, and labor necessary to plant, grow, and
33 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,
34 supplies, and labor necessary for proper construction, plumbing,
35 wiring, and ventilation of a garden of cannabis plants.

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

1 NEW SECTION. **Sec. 403.** (1) A qualifying patient may revoke his or
2 her designation of a specific provider and designate a different
3 provider at any time. A revocation of designation must be in writing,
4 signed and dated. The protections of this chapter cease to apply to a
5 person who has served as a designated provider to a qualifying patient
6 seventy-two hours after receipt of that patient's revocation of his or
7 her designation.

8 (2) A person may stop serving as a designated provider to a given
9 qualifying patient at any time. However, that person may not begin
10 serving as a designated provider to a different qualifying patient
11 until fifteen days have elapsed from the date the last qualifying
12 patient designated him or her to serve as a provider.

13 NEW SECTION. **Sec. 404.** A qualifying patient or designated
14 provider in possession of cannabis plants, useable cannabis, or
15 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)
16 but otherwise in compliance with all other terms and conditions of this
17 chapter may establish an affirmative defense to charges of violations
18 of state law relating to cannabis through proof at trial, by a
19 preponderance of the evidence, that the qualifying patient's necessary
20 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An
21 investigating peace officer may seize cannabis plants, useable
22 cannabis, or cannabis product exceeding the amounts set forth in RCW
23 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the
24 qualifying patient or designated provider shall be allowed to select
25 the plants that will remain at the location. The officer and his or
26 her law enforcement agency may not be held civilly liable for failure
27 to seize cannabis in this circumstance.

28 NEW SECTION. **Sec. 405.** A qualifying patient or designated
29 provider who does not present his or her valid documentation, or proof
30 of registration with the department of health, to a peace officer who
31 questions the patient or provider regarding his or her medical use of
32 cannabis but is in compliance with all other terms and conditions of
33 this chapter may establish an affirmative defense to charges of
34 violations of state law relating to cannabis through proof at trial, by
35 a preponderance of the evidence, that he or she was a validly
36 authorized qualifying patient or designated provider at the time of the

1 officer's questioning. A qualifying patient or designated provider who
2 establishes an affirmative defense under the terms of this section may
3 also establish an affirmative defense under section 404 of this act.

4 NEW SECTION. **Sec. 406.** A nonresident who is duly authorized to
5 engage in the medical use of cannabis under the laws of another state
6 or territory of the United States may raise an affirmative defense to
7 charges of violations of Washington state law relating to cannabis,
8 provided that the nonresident:

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

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

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

24 NEW SECTION. **Sec. 407.** A qualifying patient's medical use of
25 cannabis as authorized by a health care professional may not be a sole
26 disqualifying factor in determining the patient's suitability for an
27 organ transplant, unless it is shown that this use poses a significant
28 risk of rejection or organ failure. This section does not preclude a
29 health care professional from requiring that a patient abstain from the
30 medical use of cannabis, for a period of time determined by the health
31 care professional, while waiting for a transplant organ or before the
32 patient undergoes an organ transplant.

33 NEW SECTION. **Sec. 408.** A qualifying patient or designated
34 provider may not have his or her parental rights or residential time
35 with a child restricted solely due to his or her medical use of

1 cannabis in compliance with the terms of this chapter absent written
2 findings supported by evidence that such use has resulted in a long-
3 term impairment that interferes with the performance of parenting
4 functions as defined under RCW 26.09.004.

5 NEW SECTION. **Sec. 409.** (1) A qualifying patient may not be
6 refused employment, discharged from employment, or discriminated
7 against in compensation or in other terms or conditions of employment
8 solely as a result of his or her off-site medical use of cannabis:
9 PROVIDED, That:

10 (a) The employer is not a federal contractor or grant recipient
11 under the drug-free workplace act (41 U.S.C. 701 et seq.);

12 (b) The particular employment does not involve:

13 (i) Public safety responsibilities;

14 (ii) Handling dangerous substances;

15 (iii) Hazardous physical activities;

16 (iv) Routine operation of motor vehicles, heavy equipment, or
17 portable power tools falling within the scope of chapter 296-807 WAC;
18 or

19 (v) Routine performance of other safety-sensitive activities; or

20 (c) The off-site medical use of cannabis by a particular employee
21 does not prevent the proper performance of his or her work.

22 (2) A qualifying patient deeming himself or herself injured by any
23 act in violation of this section is entitled to pursue the remedies and
24 enforcement procedures provided under chapter 49.60 RCW.

25 NEW SECTION. **Sec. 410.** A qualifying patient may not be refused or
26 evicted from housing solely as a result of his or her possession or use
27 of useable cannabis or cannabis products.

28 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,
29 deferred prosecution, stipulated order of continuance, deferred
30 disposition, or dispositional order, any court organized under the laws
31 of Washington state may permit the medical use of cannabis in
32 compliance with the terms of this chapter and exclude it as a possible
33 ground for finding that the offender has violated the conditions or
34 requirements of the sentence, deferred prosecution, stipulated order of

1 continuance, deferred disposition, or dispositional order. This
2 section does not require the accommodation of any on-site medical use
3 of cannabis in any correctional facility.

4 **Sec. 412.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
5 as follows:

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

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

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

22 NEW SECTION. **Sec. 413.** Nothing in this chapter or in the rules
23 adopted to implement it precludes a qualifying patient or designated
24 provider from engaging in the private, unlicensed, noncommercial
25 production, possession, transportation, delivery, or administration of
26 cannabis for medical use as authorized under RCW 69.51A.040.

27 PART V

28 LIMITATIONS ON PROTECTIONS FOR QUALIFYING 29 PATIENTS AND DESIGNATED PROVIDERS

30 **Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to
31 read as follows:

32 (1) ~~((It shall be a misdemeanor to use or display medical marijuana~~
33 ~~in a manner or place which is open to the view of the general public.))~~
34 It is unlawful to open a package containing cannabis or consume

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

10 (2) Nothing in this chapter requires any health insurance provider
11 to be liable for any claim for reimbursement for the medical use of
12 ((marijuana)) cannabis.

13 (3) Nothing in this chapter requires any health care professional
14 to authorize the medical use of ((medical-marijuana)) cannabis for a
15 patient.

16 (4) Nothing in this chapter requires any accommodation of any on-
17 site medical use of ((marijuana)) cannabis in any place of employment,
18 in any school bus or on any school grounds, in any youth center, in any
19 correctional facility, or smoking ((medical-marijuana)) cannabis in any
20 public place as that term is defined in RCW 70.160.020.

21 (5) It is a class C felony to fraudulently produce any record
22 purporting to be, or tamper with the content of any record for the
23 purpose of having it accepted as, valid documentation under RCW
24 69.51A.010((+7)) (27)(a), or to backdate such documentation to a time
25 earlier than its actual date of execution.

26 (6) ~~((No person shall be entitled to claim the affirmative defense~~
27 ~~provided in RCW 69.51A.040 for engaging)) The fact that a qualifying
28 patient has been authorized to engage in the medical use of ((marijuana
29 ~~in a way that endangers the health or well-being of any person through~~
30 ~~the use of a motorized vehicle on a street, road, or highway)) cannabis~~
31 does not constitute a defense against a charge of violating RCW
32 46.61.502 or 46.61.504.~~

33 PART VI

34 LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS

35 NEW SECTION. Sec. 601. A person may not act as a licensed
36 producer without a license for each production facility issued by the

1 department of agriculture. Provided they are acting in compliance with
2 the terms of this chapter and rules adopted to enforce and carry out
3 its purposes, licensed producers and their employees, members,
4 officers, and directors may manufacture, plant, cultivate, grow,
5 harvest, produce, prepare, propagate, process, package, repackage,
6 transport, transfer, deliver, label, relabel, wholesale, or possess
7 cannabis intended for medical use by qualifying patients, including
8 seeds, seedlings, cuttings, plants, and useable cannabis, and may not
9 be arrested, searched, prosecuted, or subject to other criminal
10 sanctions or civil consequences under state law, or have real or
11 personal property searched, seized, or forfeited pursuant to state law,
12 for such activities, notwithstanding any other provision of law.

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

27 NEW SECTION. **Sec. 603.** The director shall administer and carry
28 out the provisions of this chapter relating to licensed producers and
29 licensed processors of cannabis products, and rules adopted hereunder,
30 and he or she may:

31 (1) Inspect the production, processing, weighing, packaging,
32 labeling, storage, and shipping of cannabis produced and processed by
33 licensees;

34 (2) Inspect and grade cannabis produced and processed by licensees;

35 (3) Approve or disapprove the facilities, including scales, of all
36 licensed producers and licensed processors of cannabis products;

1 (4) Investigate all complaints of fraud in the operation of any
2 licensed producer, licensed processor of cannabis products, production
3 facility, or processing facility;

4 (5) Examine, inspect, and audit, during ordinary business hours,
5 any producer or processor licensed under this chapter, including all
6 production facilities, processing facilities, and all cannabis therein
7 and examine, inspect, audit, or record all books, documents, and
8 records;

9 (6) Administer oaths and issue subpoenas to compel the attendance
10 of witnesses, or the production of books, documents, and records
11 anywhere in the state pursuant to a hearing relative to the purposes
12 and provisions of this chapter. Witnesses shall be entitled to fees
13 for attendance and travel, as provided in chapter 2.40 RCW;

14 (7) Adopt rules establishing inspection standards and procedures
15 for cannabis intended for medical use;

16 (8) Adopt rules regarding the identification of cannabis intended
17 for medical use so that such cannabis may be readily identified if
18 stolen or removed in violation of the provisions of this chapter from
19 a production or processing facility, or if otherwise unlawfully
20 transported;

21 (9) Adopt all the necessary rules for carrying out the purposes and
22 provisions of this chapter.

23 NEW SECTION. **Sec. 604.** The director is authorized to deny,
24 suspend, or revoke a producer's or processor's license after a hearing
25 in any case in which it is determined that there has been a violation
26 or refusal to comply with the requirements of this chapter or rules
27 adopted hereunder. All hearings for the denial, suspension, or
28 revocation of a producer's or processor's license are subject to
29 chapter 34.05 RCW, the administrative procedure act, as enacted or
30 hereafter amended.

31 NEW SECTION. **Sec. 605.** (1) By July 1, 2012, taking into
32 consideration, but not being limited by, the security requirements
33 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
34 rules:

35 (a) Prescribing grades and standards which he or she deems suitable

1 for inspection of cannabis intended for medical use in the state of
2 Washington;

3 (b) Providing for inspection or grading and certification of grade,
4 grading factors, condition, cannabinoid profile, THC concentration, or
5 other qualitative measurement of cannabis intended for medical use;

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

9 (d) Establishing labeling requirements for cannabis intended for
10 medical use including information on whether the cannabis was grown
11 using organic, inorganic, or synthetic fertilizers;

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

15 (f) Providing for mandatory inspection of production and processing
16 facilities;

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

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

22 (i) Establishing license application and renewal fees adequate to
23 recapture the cost to the state of implementing, maintaining, and
24 enforcing the provisions of this section and section 902 of this act
25 and the rules adopted to carry out their purposes. Such fees shall
26 reflect a range of classes of licenses, varying in proportion to
27 revenues received by the licensees.

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

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

35 NEW SECTION. **Sec. 606.** (1) Each licensed producer and licensed
36 processor of cannabis products shall maintain complete records at all
37 times with respect to all cannabis produced, processed, weighed,

1 tested, stored, shipped, or sold. The director shall adopt rules
2 specifying the minimum recordkeeping requirements necessary to comply
3 with this section.

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

13 NEW SECTION. **Sec. 607.** Each licensed producer and licensed
14 processor of cannabis products shall report information to the
15 department of agriculture at such times and as may be reasonably
16 required by the director for the necessary enforcement and supervision
17 of a sound, reasonable, and efficient cannabis inspection program for
18 the protection of the health and welfare of qualifying patients.

19 NEW SECTION. **Sec. 608.** The production facilities of a licensed
20 producer, and processing facilities of a licensed processor of cannabis
21 products, shall be maintained in a manner that will provide a
22 reasonable means of ingress and egress to all areas and equipment, and
23 an adequate facility to complete the inspections shall be provided.

24 NEW SECTION. **Sec. 609.** (1) The department of agriculture may give
25 written notice to a licensed producer or processor of cannabis products
26 to submit to inspection, or furnish required reports, documents, or
27 other requested information, under such conditions and at such time as
28 the department of agriculture may deem necessary whenever a licensed
29 producer or processor of cannabis products fails to:

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

32 (b) Submit required reports or documents to the department of
33 agriculture by their due date; or

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

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

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

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

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

28 NEW SECTION. **Sec. 610.** Samples of cannabis drawn by department of
29 agriculture inspectors, unless returned by agreement to the producer or
30 applicant for a license to produce, or to the processor or applicant
31 for a license to process cannabis products, shall become the property
32 of the state and subject to disposition by the department of
33 agriculture. The department of agriculture must adopt rules relating
34 to sample retention and disposal.

35 NEW SECTION. **Sec. 611.** (1) A licensed producer may not sell or
36 deliver cannabis to any person other than a department of agriculture

1 inspector, licensed processor of cannabis products, licensed dispenser,
2 or law enforcement officer except as provided by court order.
3 Violation of this section is a class C felony punishable according to
4 chapter 9A.20 RCW.

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

10 **PART VII**
11 **LICENSED DISPENSERS**

12 NEW SECTION. **Sec. 701.** A person may not act as a licensed
13 dispenser without a license for each place of business issued by the
14 department of health. Provided they are acting in compliance with the
15 terms of this chapter and rules adopted to enforce and carry out its
16 purposes, licensed dispensers and their employees, members, officers,
17 and directors may deliver, distribute, dispense, transfer, prepare,
18 package, repackage, label, relabel, sell at retail, or possess cannabis
19 intended for medical use by qualifying patients, including seeds,
20 seedlings, cuttings, plants, useable cannabis, and cannabis products,
21 and may not be arrested, searched, prosecuted, or subject to other
22 criminal sanctions or civil consequences under state law, or have real
23 or personal property searched, seized, or forfeited pursuant to state
24 law, for such activities, notwithstanding any other provision of law.

25 NEW SECTION. **Sec. 702.** (1) By July 1, 2012, taking into
26 consideration the security requirements described in 21 C.F.R. 1301.71-
27 1301.76, the secretary shall adopt rules:

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

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

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

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 security
8 requirements;

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

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

14 (j) Establishing physical standards for sanitary conditions for
15 cannabis dispensing facilities;

16 (k) Establishing physical and sanitation standards for cannabis
17 dispensing equipment;

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

20 (m) Establishing license application and renewal fees adequate to
21 recapture the cost to the state of implementing, maintaining, and
22 enforcing the provisions of this section and section 903 of this act
23 and the rules adopted to carry out their purposes, pursuant to the
24 secretary's authority under RCW 43.70.250. Such fees shall reflect a
25 range of classes of licenses, varying in proportion to revenues
26 received by the licensees.

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

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

34 NEW SECTION. **Sec. 703.** A new section is added to chapter 82.08
35 RCW to read as follows:

36 The tax levied by RCW 82.08.020 does not apply to sales of useable
37 cannabis or cannabis products intended for medical use that are

1 dispensed to qualifying patients or designated providers by dispensers
2 licensed under chapter 69.51A RCW and the rules adopted to carry out
3 its purposes.

4 NEW SECTION. **Sec. 704.** A licensed dispenser may not sell cannabis
5 received from any person other than a licensed producer or licensed
6 processor of cannabis products, or sell or deliver cannabis to any
7 person other than a qualifying patient, designated provider, or
8 licensed producer except as provided by court order. Violation of this
9 section is a class C felony punishable according to chapter 9A.20 RCW.

10 **PART VIII**
11 **MISCELLANEOUS PROVISIONS APPLYING TO ALL**
12 **LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS**

13 NEW SECTION. **Sec. 801.** All weighing and measuring instruments and
14 devices used by licensed producers, processors of cannabis products,
15 and dispensers shall comply with the requirements set forth in chapter
16 19.94 RCW.

17 NEW SECTION. **Sec. 802.** (1) No licensed producer, processor of
18 cannabis products, or dispenser may advertise cannabis for sale to the
19 general public on broadcast television or radio or on a billboard in
20 any manner that promotes or tends to promote the use or abuse of
21 cannabis. For the purposes of this subsection, displaying cannabis,
22 including artistic depictions of cannabis, is considered to promote or
23 to tend to promote the use or abuse of cannabis.

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

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

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

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

11 (2) Law enforcement shall comply with Article I, section 7 of the
12 Washington state Constitution when accessing the registration system
13 for criminal investigations, which, at a minimum, requires an
14 articulated individualized suspicion of criminal activity.

15 (3) Registration in the system shall be optional for qualifying
16 patients and designated providers, not mandatory. Registrations are
17 valid for one year. The department of health must adopt rules
18 providing for registration renewals and for removing expired
19 registrations from the registry.

20 (4) Fees, including renewal fees, for qualifying patients and
21 designated providers participating in the registration system shall be
22 adequate to recapture the cost to the state of implementing,
23 maintaining, and enforcing the provisions of this section and the rules
24 adopted to carry out its purposes. Reduced fees shall be offered on an
25 income-based sliding scale.

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

32 (6) The registration system shall meet the following requirements:

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

37 (b) Any personally identifiable information included in the

1 registration system must not be susceptible to linkage by use of data
2 external to the registration system;

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

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

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

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

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

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

26 NEW SECTION. **Sec. 902.** The department of agriculture shall, in
27 consultation with the department of health:

28 (1) Create and maintain a secure and confidential list of the
29 persons to whom it has issued a license to produce cannabis for medical
30 use or a license to process cannabis products that meets the
31 requirements set forth in section 901(6) of this act.

32 (a) Except as provided in (b) of this subsection, the list shall be
33 confidential and exempt from public disclosure, inspection, or copying
34 under chapter 42.56 RCW.

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

1 (i) Authorized employees of the department of agriculture as
2 necessary to perform official duties of the department of agriculture;
3 or

4 (ii) Authorized employees of state or local law enforcement
5 agencies, only as necessary to verify that a person is a licensed
6 producer or processor of cannabis products, or that a location is the
7 recorded address of a production or processing facility owned or
8 operated by a licensed producer or processor, and only after the
9 inquiring state or local law enforcement employee has provided adequate
10 identification;

11 (2) Develop a secure and confidential system by which authorized
12 employees of state and local law enforcement agencies may verify at all
13 times, after providing adequate identification, that a person is a
14 licensed producer or processor of cannabis products, or that a location
15 is the recorded address of a production or processing facility owned or
16 operated by a licensed producer or processor;

17 (3) Maintain a log of all requests by employees of state and local
18 law enforcement agencies, including the employee's name, agency, and
19 identification number, for information relating to whether a person is
20 a licensed producer or processor of cannabis products, or that a
21 location is the recorded address of a production or processing facility
22 owned or operated by a licensed producer or processor, and the
23 information supplied, for a period of no less than three years from the
24 date of the request. Personally identifiable information of licensed
25 producers and processors of cannabis products included in the log shall
26 be confidential and exempt from public disclosure, inspection, or
27 copying under chapter 42.56 RCW, provided that:

28 (a) The subject of a request for information may appear during
29 ordinary department of agriculture business hours and inspect or copy
30 log records relating to him or her upon adequate proof of identity; or

31 (b) The subject of a request for information may submit a written
32 request to the department of agriculture, along with adequate proof of
33 identity, for copies of log records relating to him or her;

34 (4) (a) Establish and collect reasonable fees for the dissemination
35 of information to employees of state and local law enforcement agencies
36 relating to whether a person is a licensed producer or processor of
37 cannabis products, or that a location is the recorded address of a
38 production or processing facility owned or operated by a licensed

1 producer or processor, and for the dissemination of log records
2 relating to such requests for information to the subjects of those
3 requests. Fees collected under this section must be deposited into the
4 agricultural local fund created in RCW 43.23.230.

5 (b) Authorized employees of state or local law enforcement agencies
6 who obtain personally identifiable information from the list as
7 authorized under this section may not release or use the information
8 for any purpose other than verification that a person is a licensed
9 producer or processor of cannabis products, or that a location is the
10 recorded address of a production or processing facility owned or
11 operated by a licensed producer or processor.

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

16 NEW SECTION. **Sec. 903.** The department of health shall:

17 (1) Create and maintain a secure and confidential list of the
18 persons to whom it has issued a license to dispense cannabis for
19 medical use that meets the requirements set forth in section 901(6) of
20 this act.

21 (a) Except as provided in (b) of this subsection, the list shall be
22 confidential and exempt from public disclosure, inspection, or copying
23 under chapter 42.56 RCW.

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

26 (i) Authorized employees of the department of health as necessary
27 to perform official duties of the department of health; or

28 (ii) Authorized employees of state or local law enforcement
29 agencies, only as necessary to verify that a person is a licensed
30 dispenser, or that a location is the recorded address of a licensed
31 dispenser, and only after the inquiring state or local law enforcement
32 employee has provided adequate identification;

33 (2) Develop a secure and confidential system by which authorized
34 employees of state and local law enforcement agencies may verify at all
35 times, after providing adequate identification, that a person is a
36 licensed dispenser, or that a location is the recorded address of a
37 licensed dispenser;

1 (3) Maintain a log of all requests by employees of state and local
2 law enforcement agencies, including the employee's name, agency, and
3 identification number, for information relating to whether a person is
4 a licensed dispenser, or that a location is the recorded address of a
5 licensed dispenser, and the information supplied, for a period of no
6 less than three years from the date of the request. Personally
7 identifiable information of licensed dispensers included in the log
8 shall be confidential and exempt from public disclosure, inspection, or
9 copying under chapter 42.56 RCW: PROVIDED, That:

10 (a) The subject of a request for information may appear during
11 ordinary department of health business hours and inspect or copy log
12 records relating to him or her upon adequate proof of identity; or

13 (b) The subject of a request for information may submit a written
14 request to the department of health, along with adequate proof of
15 identity, for copies of log records relating to him or her;

16 (4)(a) Establish and collect reasonable fees for the dissemination
17 of information to employees of state and local law enforcement agencies
18 relating to whether a person is a licensed dispenser, or that a
19 location is the recorded address of a licensed dispenser, and for the
20 dissemination of log records relating to such requests for information
21 to the subjects of those requests. Fees collected under this section
22 must be deposited into the health professions account created in RCW
23 43.70.320.

24 (b) Authorized employees of state or local law enforcement agencies
25 who obtain personally identifiable information from the list as
26 authorized under this section may not release or use the information
27 for any purpose other than verification that a person is a licensed
28 dispenser, or that a location is the recorded address of a licensed
29 dispenser.

30 NEW SECTION. **Sec. 904.** (1) Before making a warrantless arrest or
31 warrantless search or seizure based on probable cause, a peace officer
32 investigating a cannabis-related incident shall ascertain whether the
33 person or location under investigation is registered with: The
34 department of health as a qualifying patient, designated provider,
35 licensed dispenser, or primary residence of a qualifying patient or
36 designated provider; or the department of agriculture as a licensed
37 producer, processor of cannabis products, production facility, or

1 processing facility. Registered persons may not be arrested or
2 searched, or have personal property searched or seized, and registered
3 locations may not be searched or seized, unless evidence exists of
4 conduct that would disqualify the person from the protections of this
5 chapter, or probable cause exists that another criminal offense has
6 been or is being committed.

7 (2) Before seeking a search warrant or arrest warrant, a peace
8 officer investigating a cannabis-related incident shall ascertain
9 whether the location or person under investigation is registered with:
10 The department of health as a qualifying patient, designated provider
11 or licensed dispenser, or primary residence of a qualifying patient or
12 designated provider; or the department of agriculture as a licensed
13 producer, processor of cannabis products, production facility, or
14 processing facility. If either department reports that the location or
15 person is registered, the peace officer may not seek a warrant, unless
16 evidence exists of conduct that would disqualify the location or person
17 from the protections of this chapter, or probable cause exists that
18 another criminal offense has been or is being committed. If the
19 officer seeks a warrant, the affidavit submitted in support of the
20 application for the warrant shall include that registration checks were
21 conducted with the appropriate department, and the results of such
22 checks.

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

34 NEW SECTION. **Sec. 905.** (1) Any person who discloses,
35 disseminates, or allows to be inspected or copied personally
36 identifiable information of a qualifying patient, designated provider,
37 licensed producer, licensed processor of cannabis products, or licensed

1 dispenser contained in a registry or licensing record, except as
2 authorized by this chapter, shall pay a civil penalty of five hundred
3 dollars to the subject of the record containing the personally
4 identifiable information. This penalty applies separately to each such
5 disclosure, dissemination, inspection, or copying of the record.

6 (2) Any peace officer who fails to comply with the requirements of
7 section 904 of this act shall pay a civil penalty of five hundred
8 dollars to any qualifying patient, designated provider, licensed
9 producer, licensed processor of cannabis products, or licensed
10 dispenser who is arrested or searched, or who has real or personal
11 property searched or seized, if such person was currently registered at
12 the time of the arrest, search, or seizure, no evidence existed at the
13 time of conduct that would disqualify the person from the protections
14 of this chapter, and no probable cause existed at the time that another
15 criminal offense had been or was being committed.

16 (3) A qualifying patient, designated provider, licensed producer,
17 licensed processor of cannabis products, or licensed dispenser deeming
18 himself or herself injured by any act subject to the penalties of this
19 section shall be entitled to bring a civil action to pursue the
20 remedies provided by this section. A plaintiff who prevails on a claim
21 brought under this section shall be entitled to recover reasonable
22 attorneys' fees and costs. A defendant who prevails is not allowed to
23 recover fees or costs unless the defendant proves, by a preponderance
24 of the evidence, that the plaintiff initiated the action in bad faith
25 or without any evidence whatsoever that would support a reasonable
26 belief that he or she was entitled to the remedies provided in this
27 section.

28 NEW SECTION. **Sec. 906.** A new section is added to chapter 42.56
29 RCW to read as follows:

30 Records containing names and other personally identifiable
31 information relating to qualifying patients, designated providers, and
32 persons licensed as producers or dispensers of cannabis for medical
33 use, or as processors of cannabis products, under chapter 69.51A RCW
34 and rules adopted to carry out its purposes are exempt from disclosure
35 under this chapter.

PART X
EVALUATION

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

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

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

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

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

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

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

20 (f) Diversion of cannabis intended for medical use to nonmedical
21 uses; and

22 (g) Incidents of home invasion burglaries, robberies, and other
23 violent and property crimes associated with qualifying patients
24 accessing cannabis for medical use.

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

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

32 The University of Washington may conduct scientific research on the
33 efficacy and safety of administering cannabis as part of medical
34 treatment. As part of this research, the University of Washington may
35 develop and conduct studies to ascertain the general medical safety and
36 efficacy of cannabis and may develop medical guidelines for the
37 appropriate administration and use of cannabis.

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PART XI
CONSTRUCTION

3 NEW SECTION. **Sec. 1101.** The state of Washington fully occupies
4 and preempts the entire field of authorizing and regulating the
5 production, processing, dispensing, possession, and use of cannabis for
6 medical purposes. Cities, towns, and counties or other municipalities
7 may enact only those laws, ordinances, regulations, and rules relating
8 to the medical use of cannabis that are consistent with this chapter
9 and state administrative rules adopted pursuant to it. Local laws,
10 ordinances, regulations, and rules that are inconsistent with the
11 requirements of state law and regulations adopted pursuant to this
12 chapter may not be enacted and are preempted and repealed, regardless
13 of the nature of the code, charter, or home rule status of the city,
14 town, county, or municipality. This section does not preempt
15 reasonable zoning requirements for licensed producers, licensed
16 processors of cannabis products, and licensed dispensers that are
17 adopted by cities, towns, and counties or other municipalities pursuant
18 to their authority and duties under chapter 36.70A RCW.

19 NEW SECTION. **Sec. 1102.** If any provision of this act or the
20 application thereof to any person or circumstance is held invalid, the
21 invalidity does not affect other provisions or applications of the act
22 that can be given effect without the invalid provision or application,
23 and to this end the provisions of this act are severable.

24 **Sec. 1103.** RCW 69.51A.900 and 1999 c 2 s 1 are each amended to
25 read as follows:

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

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PART XII
MISCELLANEOUS

30 NEW SECTION. **Sec. 1201.** (1) The legislature recognizes that there
31 are cannabis producers and cannabis dispensaries in operation as of the
32 effective date of this section that are unregulated by the state and
33 who produce and dispense cannabis for medical use by qualifying
34 patients. The legislature intends that these producers and

1 dispensaries become licensed in accordance with the requirements of
2 this chapter and that this licensing provides them with arrest
3 protection so long as they remain in compliance with the requirements
4 of this chapter and the rules adopted under this chapter. The
5 legislature further recognizes that cannabis producers and cannabis
6 dispensaries in current operation are not able to become licensed until
7 the department of agriculture and the department of health adopt rules
8 and, consequently, it is likely they will remain unlicensed until at
9 least July 1, 2012. These producers and dispensary owners and
10 operators run the risk of arrest between the effective date of this
11 section and the time they become licensed. Therefore, the legislature
12 intends to provide them with an affirmative defense if they meet the
13 requirements of this section.

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

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

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

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

26 (c) Be registered with the secretary of state as of January 1,
27 2011;

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

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

37 (4) Upon receiving a letter of intent under subsection (3) of this
38 section, the department of agriculture, the department of health, and

1 the city clerk or county clerk must send a letter of acknowledgment to
2 the producer or dispenser. The producer and dispenser must display
3 this letter of acknowledgment in a prominent place in their facility.
4 (5) This section expires July 1, 2012.

5 NEW SECTION. **Sec. 1202.** RCW 69.51A.080 (Adoption of rules by the
6 department of health--Sixty-day supply for qualifying patients) and
7 2007 c 371 s 8 are each repealed.

8 NEW SECTION. **Sec. 1203.** Sections 402 through 411, 413, 601
9 through 611, 701, 702, 704, 801 through 805, 901 through 905, 1001,
10 1101, 1102, and 1201 of this act are each added to chapter 69.51A RCW.

11 NEW SECTION. **Sec. 1204.** Section 1002 of this act takes effect
12 July 1, 2012.

--- END ---

EXHIBIT B

SENATE BILL REPORT

SB 5073

As of February 23, 2011

Title: An act relating to medical use of cannabis.

Brief Description: Concerning the medical use of cannabis.

Sponsors: Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe and Chase.

Brief History:

Committee Activity: Health & Long-Term Care; 1/20/11.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Kathleen Buchli (786-7488)

Background: In 1998 voters approved I-692 which permitted the use of marijuana for medical purposes by qualifying patients. The Legislature subsequently amended the chapter on medical use of marijuana in 2007 and in 2010. In order to qualify for the use of medical marijuana, patients must have a terminal or debilitating medical condition (cancer, HIV, multiple sclerosis, intractable pain, glaucoma, Crohn's disease, hepatitis C, nausea/seizure diseases, or a disease approved by the Medical Quality Assurance Commission) and the diagnosis of this condition must have been made by a health care professional. Patients are not provided arrest protection. Instead, patients are permitted to assert an affirmative defense at trial with proof of compliance with the medical marijuana law.

Patients may grow medical marijuana for themselves or designate a provider to grow on their behalf. Designated providers may only provide medical marijuana to one patient at a time. Patients and their designated providers are limited to possession of an amount of marijuana that is necessary for the patient's personal medical use, and not exceeding 15 plants and 24 ounces of useable marijuana.

Summary of Bill: Patient protections. Qualifying patients and their designated providers are provided with arrest protection if they possess no more than 15 cannabis plants and 24 ounces of useable cannabis; possess valid documentation provided by their health care professional recommending use of cannabis or possess proof of registration with the Department of Health (DOH); post a copy of their authorization next to cannabis at their

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

residence; and, in the case of designated providers, have not converted cannabis for personal use.

Qualifying patients and their designated providers are provided with protection from warrantless search and arrest if they are registered with DOH. Registered qualifying patients and their property may be searched if probable cause exists that another criminal offense has been or is being committed.

Qualifying patients without valid documentation or proof of registration may assert an affirmative defense at trial if they possess more than the permitted amount of cannabis and are able to demonstrate that this amount is necessary for the patient's medical use; provide evidence that they were qualifying patients at the time of the arrest; or are nonresidents of the state and are authorized by another state to engage in the medical use of cannabis and are otherwise within the provisions of the medical cannabis law.

Parental rights may not be restricted solely due to the medical use of cannabis unless this results in long-term impairment that interferes with the performance of parenting functions. Qualifying patients can not be discriminated against in employment solely as a result of off-site medical use of cannabis if the employer is not a federal contractor or grant recipient under the drug-free workplace act; the employment does not involve public safety; and off-site use does not prevent the proper performance of the work. Qualifying patients may not be refused housing, nor can they be denied an organ transplant solely because of medical cannabis use.

Methods of Obtaining Cannabis. Qualifying patients may grow cannabis for their own use, designate a provider to grow on their behalf, participate in a collective garden with other qualifying patients, or purchase from a licensed dispensary. Collective gardens may consist of up to 25 qualifying patients and contain no more than 15 plants per person and up to 99 plants total.

Licenses. Three types of business licenses are created to license producers, processors of cannabis products, and dispensaries. Producers are licensed to produce cannabis for medical use for wholesale to licensed dispensers and licensed processors of cannabis products. Processors of cannabis products are licensed to manufacture cannabis products including edible products and lotions for wholesale to licensed dispensers. Dispensers must be nonprofit corporations and may sell seeds, plants, usable cannabis, and cannabis products to qualifying patients.

Licensees are prohibited from advertising cannabis on television, radio, or billboards if the advertisement promotes the use or abuse of cannabis. Licensees who sell to unauthorized persons are subject to a class C felony and failure to comply with the law on medical cannabis may result in a \$1000 civil penalty.

Department of Agriculture. The Department of Agriculture (DOA) licenses producers and processors of cannabis products. DOA must adopt rules addressing inspection standards; size and security features on containers used for medical cannabis; labeling requirements; licensing requirements, including fees; enforcement; record keeping; and sample retention and disposal. DOA may inspect the production and processing of all medical cannabis;

approve and inspect facilities, including the books and records of any producers or processor of cannabis products; investigate fraud complaints; and deny, suspend, or revoke licenses. DOA must create and maintain a confidential list of producers and processors, with names to be released only to authorized DOA employees or to law enforcement as necessary to verify licensed producer or processor status.

Department of Health. DOH must adopt rules on licensing requirements, including fees, suspension, and revocation of licenses; inspection requirements; safety standards for containers used to dispense medical cannabis; cannabis storage requirements, including security requirements; labeling requirements; and dispensary facility standards, including equipment standards. DOH must create and maintain a confidential list of dispensaries, with names to be released only to authorized DOH employees as necessary to verify licensed status.

DOH Registry. DOH must establish a secure registration system in which health care professionals may register qualifying patients. Participation in the registry is voluntary for qualifying patients and their designated providers and fees must be established on an income-based sliding scale. Law enforcement must be able to consult the registry to verify whether a person or an address is registered. Any person who discloses confidential registry information and law enforcement officers who fail to consult the registry before seeking a search warrant or making a warrantless arrest are subject to a \$500 civil penalty.

Research and Evaluation. The Washington State Institute for Public Policy must conduct a cost-benefit evaluation of the implementation of the law on medical cannabis. The University of Washington is permitted to conduct scientific research on the safety of administering cannabis as part of a medical treatment and may develop guidelines for the appropriate administration of cannabis.

Transition. Dispensaries and producers who are registered with the Secretary of State as of January 1, 2011, and who file a letter of intent to become licensed with either DOH or DOA may assert an affirmative defense if charged with a cannabis-related crime. The transition period ends July 1, 2012, and they must become licensed at that time to continue in business.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is a result of two years of work, multiple stakeholder meetings, and addresses a bipartisan issue. Pain is not a partisan issue. Most of us know a person or know of a person who has suffered from a very serious condition that could have been assisted by medical marijuana. We need to ensure that people suffering from terminal illnesses get a secure, safe, and reliable source of the plant that helps them. This is a Catch 22 situation; patients are permitted to use marijuana but they have to

grow it for themselves and they have no place to buy seeds or plants. We need to ensure public safety. We need a regulated system in which local jurisdictions enact zoning laws determining where these businesses may be located. We need arrest protection for legally qualifying patients. Law enforcement needs clarity to determine who really is a qualifying patient. We need a method to provide the means for public safety through licensed businesses. Patient privacy and confidentiality are protected by the registry provided for in the bill. We need to have a rational system of delivery which involves a way to regulate growers, producers, and processors so we know that what is delivered to dispensers is safe. Farmers would like to grow a crop they can make money on. Dispensaries that provide marijuana are as close to pharmacies as we can get until the federal government changes the scheduling of marijuana. Dispensaries should be like pharmacies and should be nonprofit. We are at a point where we can go down two roads; we can have accountability, or we can do nothing. Law enforcement is frustrated with what is going on in this area and we have an underground program going on. It is time to bring light to the problem. This bill is a good start and this is the time to have some certainty and some regulation. We do not want the dispensary mess that they have in California. This is an opportune time to address this because the federal government has provided that states may establish rational regulatory systems for medical marijuana in their state. We need to restructure the search and seizure provisions and statutorily redefine probable cause which would eliminate the need for civil penalties. Washington voters continue to support the use of medical cannabis by people with terminal or debilitating conditions. The patient registry will be designed to protect patient privacy. We want clarity for patients and law enforcement with real arrest protections that also protect patient privacy. Dispensaries should be permitted to be incorporated under any business model and the limitation for nonprofit only dispensaries should be removed. Nonprofits do not work for smaller dispensaries or all operations. If people want to run businesses under each license, they will be required to set up multiple corporate structures. It is not about profit margins but about allowing businesses with less overhead.

CON: The employment provision is problematic for small businesses. The employment section is vague and would lead to litigation. It is unclear if employees must reasonably accommodate medical use of marijuana. This would require that employers not take action against employees who take part in an illegal act and employers would face liability by sending an employee home if impaired. This would make Washington a less competitive state in the national business environment. We are concerned with the section relating to advertising which signals out radio, television, and billboards but does not address other areas of advertising. If marijuana is being moved into a medicine category, it should be treated as any new medicine would be and should be tested in clinical trials. This bill encompasses more than pain management for people dying of cancer. The provision relating to designated providers serving one patient at a time should not be implemented until the dispensary system is put in place. The bill removes the presumptive nature of the law and does not provide arrest protection if your doctor recommends more than the amount permitted by the state currently. The registry is voluntary but this is not voluntary if you can get arrested by not signing up on it. Other states with registries have released records showing confidential addresses and patient information. This information can be used to prevent people from purchasing firearms. Evidence shows that cannabis may not be safe. Marijuana can cause the acceleration or aggravation of the very issue it is aimed to treat. Marijuana causes mental health disorders and accidents, vehicular and otherwise.

OTHER: Medical cannabis patients who grow for themselves put themselves at risk for home invasion and with law enforcement. The currently operating dispensaries should be protected but the date when those protections take place should be moved from January 1, 2011, to after the bill takes effect or change the provisions for the one dispenser at a time to take effect when the rules regulating dispensaries are adopted. Posting a patient's authorization by the plants or products would cause a patient to post in multiple places around their homes and this is not practical for patients; at the most, the authorization should be posted where plants are growing. Cannabis limits for dry weight are concerning. By and large, plant counts do not accommodate the needs of patients who do not smoke and who use products that require more plant matter. Patient registry databases are being surrendered to law enforcement regardless of safety measures and law enforcement can already confirm patient status with clinics and authorizers. The registry's database will be broken eventually. Collective gardens should be permitted to continue to exist and to not be limited to 25 patients. The bill needs to address what patients can do with excess product if they have grown more than 15 plants and 24 ounces. Chronic pain patients need to be included.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Senator Delvin, sponsor; Deputy Mayor Lauren Walker, City of Tacoma; Sheryl Gordon McCloud; John Schochet, Seattle City Attorney's Office; Alison Holcomb, American Civil Liberties Union of Washington; Melissa Lunsford, CBR Medical, Inc.; Dr. Gil Mobley; Kent Underwood, Attorney; Matt McCally, Law Enforcement Against Prohibition; Pam Woodard, Urban Garden; Ezra Eickmeyer, Washington Cannabis Association; Jeff Gilmore, Olympia Medical Group.

CON: Dave Harris, Washington State Association of Independent Outpatient Programs; Steve Sarich, Cannacare; Evelyn Bowen-Crawford; Mark Allen, Washington State Association of Broadcasters; Tim O'Connell, Association of Washington Business; Stoel Rives, Patrick Connor, National Federation of Independent Business.

OTHER: Rachel Kurtz; Brian Stone, Northern Waters; Ben Livingston, Cannabis Defense Coalition; Stuart Ostergard, Eastside Medical Cooperative; Richard Zaharie, Martin Martinez, court-appointed expert witnesses; Justin Prince, Tacoma Hempfest; Alison Bigelow, Member of Collective.

Signed In, Unable to Testify & Submitted Written Testimony: PRO: George Rohrbacher, Former Washington State Senator.

CON: John Worthington, American Alliance for Medical Cannabis.

EXHIBIT C

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073

62nd Legislature
2011 Regular Session

Passed by the Senate April 21, 2011
YEAS 27 NAYS 21

President of the Senate

Passed by the House April 11, 2011
YEAS 54 NAYS 43

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Secretary of State
State of Washington

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

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

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

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

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

14 (a) There is medical evidence that some patients with terminal or
15 debilitating ~~((illnesses)) medical conditions may,~~ under their health
16 care professional's care, ~~((may)) benefit from the medical use of~~
17 ~~((marijuana)) cannabis.~~ Some of the ~~((illnesses)) conditions~~ for which
18 ~~((marijuana)) cannabis~~ appears to be beneficial include ~~((chemotherapy-~~
19 related)), but are not limited to:

20 (i) Nausea ~~((and)), vomiting ~~((in cancer patients; AIDS wasting~~~~
21 syndrome)), and cachexia associated with cancer, HIV-positive status,
22 AIDS, hepatitis C, anorexia, and their treatments;

23 (ii) Severe muscle spasms associated with multiple sclerosis,
24 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy))~~

25 (iii) Acute or chronic glaucoma;

26 (iv) Crohn's disease; and

27 (v) Some forms of intractable pain.

28 ~~((The people find that)) (b) Humanitarian compassion necessitates~~
29 that the decision to ~~((authorize the medical)) use ~~((of marijuana))~~~~
30 ~~cannabis~~ by patients with terminal or debilitating ~~((illnesses))~~
31 ~~medical conditions~~ is a personal, individual decision, based upon their
32 health care professional's professional medical judgment and
33 discretion.

34 (2) Therefore, the ~~((people of the state of Washington))~~
35 legislature intends that:

36 (a) Qualifying patients with terminal or debilitating ~~((illnesses))~~
37 ~~medical conditions~~ who, in the judgment of their health care

1 professionals, may benefit from the medical use of ((marijuana))
2 cannabis, shall not be (~~found guilty of a crime under state law for~~
3 ~~their possession and limited use of marijuana~~) arrested, prosecuted,
4 or subject to other criminal sanctions or civil consequences under
5 state law based solely on their medical use of cannabis,
6 notwithstanding any other provision of law;

7 (b) Persons who act as designated providers to such patients shall
8 also not be (~~found guilty of a crime under state law for~~) arrested,
9 prosecuted, or subject to other criminal sanctions or civil
10 consequences under state law, notwithstanding any other provision of
11 law, based solely on their assisting with the medical use of
12 ((marijuana)) cannabis; and

13 (c) Health care professionals shall also (~~be excepted from~~
14 ~~liability and prosecution~~) not be arrested, prosecuted, or subject to
15 other criminal sanctions or civil consequences under state law for the
16 proper authorization of ((marijuana)) medical use ((to)) of cannabis by
17 qualifying patients for whom, in the health care professional's
18 professional judgment, the medical ((marijuana)) use of cannabis may
19 prove beneficial.

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

23 (4) Nothing in this chapter diminishes the authority of
24 correctional agencies and departments, including local governments or
25 jails, to establish a procedure for determining when the use of
26 cannabis would impact community safety or the effective supervision of
27 those on active supervision for a criminal conviction, nor does it
28 create the right to any accommodation of any medical use of cannabis in
29 any correctional facility or jail.

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

32 Nothing in this chapter shall be construed to supersede Washington
33 state law prohibiting the acquisition, possession, manufacture, sale,
34 or use of ((marijuana)) cannabis for nonmedical purposes. Criminal
35 penalties created under this act do not preclude the prosecution or
36 punishment for other crimes, including other crimes involving the
37 manufacture or delivery of cannabis for nonmedical purposes.

1 (6) "Designated provider" means a person who:

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

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

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

9 (d) Is the designated provider to only one patient at any one time.
10 (2)) in compliance with the terms and conditions set forth in RCW
11 69.51A.040.

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

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

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

19 (9) "Health care professional," for purposes of this chapter only,
20 means a physician licensed under chapter 18.71 RCW, a physician
21 assistant licensed under chapter 18.71A RCW, an osteopathic physician
22 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
23 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
24 18.36A RCW, or an advanced registered nurse practitioner licensed under
25 chapter 18.79 RCW.

26 ((+3)) (10) "Jail" has the same meaning as provided in RCW
27 70.48.020.

28 (11) "Labeling" means all labels and other written, printed, or
29 graphic matter (a) upon any cannabis intended for medical use, or (b)
30 accompanying such cannabis.

31 (12) "Licensed dispenser" means a person licensed to dispense
32 cannabis for medical use to qualifying patients and designated
33 providers by the department of health in accordance with rules adopted
34 by the department of health pursuant to the terms of this chapter.

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

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

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

12 ((+4)) (16) "Nonresident" means a person who is temporarily in the
13 state but is not a Washington state resident.

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

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

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

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

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

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

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

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

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

28 (26) "Qualifying patient" means a person who:

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

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

32 ~~((e))~~ (iii) Is a resident of the state of Washington at the time
33 of such diagnosis;

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

37 ~~((e))~~ (v) Has been advised by that health care professional that

1 ((they)) he or she may benefit from the medical use of ((marijuana))
2 cannabis; and

3 (vi) Is otherwise in compliance with the terms and conditions
4 established in this chapter.

5 (b) The term "qualifying patient" does not include a person who is
6 actively being supervised for a criminal conviction by a corrections
7 agency or department that has determined that the terms of this chapter
8 are inconsistent with and contrary to his or her supervision and all
9 related processes and procedures related to that supervision.

10 ((+5)) (27) "Secretary" means the secretary of health.

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

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

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

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

18 ((+6)) (29) "Terminal or debilitating medical condition" means:

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

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

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

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

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

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

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

37 ((+7)) (30) "THC concentration" means percent of

1 tetrahydrocannabinol content per weight or volume of useable cannabis
2 or cannabis product.

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

9 (32)(a) Until January 1, 2013, "valid documentation" means:

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

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

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

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

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

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

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

32 PART III

33 PROTECTIONS FOR HEALTH CARE PROFESSIONALS

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

36 ~~((A health care professional shall be excepted from the state's~~

1 ~~criminal laws and shall not be penalized in any manner, or denied any~~
2 ~~right or privilege, for))~~ (1) The following acts do not constitute
3 crimes under state law or unprofessional conduct under chapter 18.130
4 RCW, and a health care professional may not be arrested, searched,
5 prosecuted, disciplined, or subject to other criminal sanctions or
6 civil consequences or liability under state law, or have real or
7 personal property searched, seized, or forfeited pursuant to state law,
8 notwithstanding any other provision of law as long as the health care
9 professional complies with subsection (2) of this section:

10 ~~((1))~~ (a) Advising a ((qualifying)) patient about the risks and
11 benefits of medical use of ((marijuana)) cannabis or that the
12 ((qualifying)) patient may benefit from the medical use of ((marijuana
13 where such use is within a professional standard of care or in the
14 individual health care professional's medical judgment)) cannabis; or

15 ~~((2))~~ (b) Providing a ((qualifying)) patient meeting the criteria
16 established under RCW 69.51A.010(26) with valid documentation, based
17 upon the health care professional's assessment of the ((qualifying))
18 patient's medical history and current medical condition, ((that the
19 medical use of marijuana may benefit a particular qualifying patient))
20 where such use is within a professional standard of care or in the
21 individual health care professional's medical judgment.

22 (2)(a) A health care professional may only provide a patient with
23 valid documentation authorizing the medical use of cannabis or register
24 the patient with the registry established in section 901 of this act if
25 he or she has a newly initiated or existing documented relationship
26 with the patient, as a primary care provider or a specialist, relating
27 to the diagnosis and ongoing treatment or monitoring of the patient's
28 terminal or debilitating medical condition, and only after:

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

31 (ii) Documenting the terminal or debilitating medical condition of
32 the patient in the patient's medical record and that the patient may
33 benefit from treatment of this condition or its symptoms with medical
34 use of cannabis;

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

37 (iv) Documenting other measures attempted to treat the terminal or

1 debilitating medical condition that do not involve the medical use of
2 cannabis.

3 (b) A health care professional shall not:

4 (i) Accept, solicit, or offer any form of pecuniary remuneration
5 from or to a licensed dispenser, licensed producer, or licensed
6 processor of cannabis products;

7 (ii) Offer a discount or any other thing of value to a qualifying
8 patient who is a customer of, or agrees to be a customer of, a
9 particular licensed dispenser, licensed producer, or licensed processor
10 of cannabis products;

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

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

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

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

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

24 PART IV

25 PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS

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

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

34 ~~(2) If charged with a violation of state law relating to marijuana,~~
35 ~~any qualifying patient who is engaged in the medical use of marijuana,~~
36 ~~or any designated provider who assists a qualifying patient in the~~

1 ~~medical use of marijuana, will be deemed to have established an~~
2 ~~affirmative defense to such charges by proof of his or her compliance~~
3 ~~with the requirements provided in this chapter. Any person meeting the~~
4 ~~requirements appropriate to his or her status under this chapter shall~~
5 ~~be considered to have engaged in activities permitted by this chapter~~
6 ~~and shall not be penalized in any manner, or denied any right or~~
7 ~~privilege, for such actions.~~

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

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

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

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

18 ~~(4) A qualifying patient, if under eighteen years of age at the~~
19 ~~time he or she is alleged to have committed the offense, shall~~
20 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~
21 ~~However, any possession under subsection (3)(b) of this section, as~~
22 ~~well as any production, acquisition, and decision as to dosage and~~
23 ~~frequency of use, shall be the responsibility of the parent or legal~~
24 ~~guardian of the qualifying patient.)) The medical use of cannabis in~~
25 ~~accordance with the terms and conditions of this chapter does not~~
26 ~~constitute a crime and a qualifying patient or designated provider in~~
27 ~~compliance with the terms and conditions of this chapter may not be~~
28 ~~arrested, prosecuted, or subject to other criminal sanctions or civil~~
29 ~~consequences, for possession, manufacture, or delivery of, or for~~
30 ~~possession with intent to manufacture or deliver, cannabis under state~~
31 ~~law, or have real or personal property seized or forfeited for~~
32 ~~possession, manufacture, or delivery of, or for possession with intent~~
33 ~~to manufacture or deliver, cannabis under state law, and investigating~~
34 ~~peace officers and law enforcement agencies may not be held civilly~~
35 ~~liable for failure to seize cannabis in this circumstance, if:~~

36 ~~(1)(a) The qualifying patient or designated provider possesses no~~
37 ~~more than fifteen cannabis plants and:~~

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

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

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

6 (b) If a person is both a qualifying patient and a designated
7 provider for another qualifying patient, the person may possess no more
8 than twice the amounts described in (a) of this subsection, whether the
9 plants, useable cannabis, and cannabis product are possessed
10 individually or in combination between the qualifying patient and his
11 or her designated provider;

12 (2) The qualifying patient or designated provider presents his or
13 her proof of registration with the department of health, to any peace
14 officer who questions the patient or provider regarding his or her
15 medical use of cannabis;

16 (3) The qualifying patient or designated provider keeps a copy of
17 his or her proof of registration with the registry established in
18 section 901 of this act and the qualifying patient or designated
19 provider's contact information posted prominently next to any cannabis
20 plants, cannabis products, or useable cannabis located at his or her
21 residence;

22 (4) The investigating peace officer does not possess evidence that:

23 (a) The designated provider has converted cannabis produced or
24 obtained for the qualifying patient for his or her own personal use or
25 benefit; or

26 (b) The qualifying patient has converted cannabis produced or
27 obtained for his or her own medical use to the qualifying patient's
28 personal, nonmedical use or benefit;

29 (5) The investigating peace officer does not possess evidence that
30 the designated provider has served as a designated provider to more
31 than one qualifying patient within a fifteen-day period; and

32 (6) The investigating peace officer has not observed evidence of
33 any of the circumstances identified in section 901(4) of this act.

34 NEW SECTION. Sec. 402. (1) A qualifying patient or designated
35 provider who is not registered with the registry established in section
36 901 of this act may raise the affirmative defense set forth in
37 subsection (2) of this section, if:

1 (a) The qualifying patient or designated provider presents his or
2 her valid documentation to any peace officer who questions the patient
3 or provider regarding his or her medical use of cannabis;

4 (b) The qualifying patient or designated provider possesses no more
5 cannabis than the limits set forth in RCW 69.51A.040(1);

6 (c) The qualifying patient or designated provider is in compliance
7 with all other terms and conditions of this chapter;

8 (d) The investigating peace officer does not have probable cause to
9 believe that the qualifying patient or designated provider has
10 committed a felony, or is committing a misdemeanor in the officer's
11 presence, that does not relate to the medical use of cannabis;

12 (e) No outstanding warrant for arrest exists for the qualifying
13 patient or designated provider; and

14 (f) The investigating peace officer has not observed evidence of
15 any of the circumstances identified in section 901(4) of this act.

16 (2) A qualifying patient or designated provider who is not
17 registered with the registry established in section 901 of this act,
18 but who presents his or her valid documentation to any peace officer
19 who questions the patient or provider regarding his or her medical use
20 of cannabis, may assert an affirmative defense to charges of violations
21 of state law relating to cannabis through proof at trial, by a
22 preponderance of the evidence, that he or she otherwise meets the
23 requirements of RCW 69.51A.040. A qualifying patient or designated
24 provider meeting the conditions of this subsection but possessing more
25 cannabis than the limits set forth in RCW 69.51A.040(1) may, in the
26 investigating peace officer's discretion, be taken into custody and
27 booked into jail in connection with the investigation of the incident.

28 NEW SECTION. **Sec. 403.** (1) Qualifying patients may create and
29 participate in collective gardens for the purpose of producing,
30 processing, transporting, and delivering cannabis for medical use
31 subject to the following conditions:

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

34 (b) A collective garden may contain no more than fifteen plants per
35 patient up to a total of forty-five plants;

36 (c) A collective garden may contain no more than twenty-four ounces

1 of useable cannabis per patient up to a total of seventy-two ounces of
2 useable cannabis;

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

7 (e) No useable cannabis from the collective garden is delivered to
8 anyone other than one of the qualifying patients participating in the
9 collective garden.

10 (2) For purposes of this section, the creation of a "collective
11 garden" means qualifying patients sharing responsibility for acquiring
12 and supplying the resources required to produce and process cannabis
13 for medical use such as, for example, a location for a collective
14 garden; equipment, supplies, and labor necessary to plant, grow, and
15 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,
16 supplies, and labor necessary for proper construction, plumbing,
17 wiring, and ventilation of a garden of cannabis plants.

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

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

27 (2) A person may stop serving as a designated provider to a given
28 qualifying patient at any time. However, that person may not begin
29 serving as a designated provider to a different qualifying patient
30 until fifteen days have elapsed from the date the last qualifying
31 patient designated him or her to serve as a provider.

32 NEW SECTION. **Sec. 405.** A qualifying patient or designated
33 provider in possession of cannabis plants, useable cannabis, or
34 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)
35 but otherwise in compliance with all other terms and conditions of this
36 chapter may establish an affirmative defense to charges of violations

1 of state law relating to cannabis through proof at trial, by a
2 preponderance of the evidence, that the qualifying patient's necessary
3 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An
4 investigating peace officer may seize cannabis plants, useable
5 cannabis, or cannabis product exceeding the amounts set forth in RCW
6 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the
7 qualifying patient or designated provider shall be allowed to select
8 the plants that will remain at the location. The officer and his or
9 her law enforcement agency may not be held civilly liable for failure
10 to seize cannabis in this circumstance.

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

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

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

35 (2) Is in compliance with all provisions of this chapter other than

1 requirements relating to being a Washington resident or possessing
2 valid documentation issued by a licensed health care professional in
3 Washington;

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

9 (4) Does not possess evidence that the nonresident has converted
10 cannabis produced or obtained for his or her own medical use to the
11 nonresident's personal, nonmedical use or benefit.

12 NEW SECTION. **Sec. 408.** A qualifying patient's medical use of
13 cannabis as authorized by a health care professional may not be a sole
14 disqualifying factor in determining the patient's suitability for an
15 organ transplant, unless it is shown that this use poses a significant
16 risk of rejection or organ failure. This section does not preclude a
17 health care professional from requiring that a patient abstain from the
18 medical use of cannabis, for a period of time determined by the health
19 care professional, while waiting for a transplant organ or before the
20 patient undergoes an organ transplant.

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

28 NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)
29 of this section, a qualifying patient may not be refused housing or
30 evicted from housing solely as a result of his or her possession or use
31 of useable cannabis or cannabis products except that housing providers
32 otherwise permitted to enact and enforce prohibitions against smoking
33 in their housing may apply those prohibitions to smoking cannabis
34 provided that such smoking prohibitions are applied and enforced

1 equally as to the smoking of cannabis and the smoking of all other
2 substances, including without limitation tobacco.

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

6 NEW SECTION. **Sec. 411.** In imposing any criminal sentence,
7 deferred prosecution, stipulated order of continuance, deferred
8 disposition, or dispositional order, any court organized under the laws
9 of Washington state may permit the medical use of cannabis in
10 compliance with the terms of this chapter and exclude it as a possible
11 ground for finding that the offender has violated the conditions or
12 requirements of the sentence, deferred prosecution, stipulated order of
13 continuance, deferred disposition, or dispositional order. This
14 section does not require the accommodation of any medical use of
15 cannabis in any correctional facility or jail.

16 **Sec. 412.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
17 as follows:

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

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

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

34 NEW SECTION. **Sec. 413.** Nothing in this chapter or in the rules
35 adopted to implement it precludes a qualifying patient or designated

1 provider from engaging in the private, unlicensed, noncommercial
2 production, possession, transportation, delivery, or administration of
3 cannabis for medical use as authorized under RCW 69.51A.040.

4 **PART V**
5 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**
6 **PATIENTS AND DESIGNATED PROVIDERS**

7 **Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to
8 read as follows:

9 (1) It shall be a ~~((misdemeanor))~~ class 3 civil infraction to use
10 or display medical ~~((marijuana))~~ cannabis in a manner or place which is
11 open to the view of the general public.

12 (2) Nothing in this chapter ~~((requires any health insurance~~
13 ~~provider))~~ establishes a right of care as a covered benefit or requires
14 any state purchased health care as defined in RCW 41.05.011 or other
15 health carrier or health plan as defined in Title 48 RCW to be liable
16 for any claim for reimbursement for the medical use of ((marijuana))
17 cannabis. Such entities may enact coverage or noncoverage criteria or
18 related policies for payment or nonpayment of medical cannabis in their
19 sole discretion.

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

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

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

32 (6) Employers may establish drug-free work policies. Nothing in
33 this chapter requires an accommodation for the medical use of cannabis
34 if an employer has a drug-free work place.

35 (7) It is a class C felony to fraudulently produce any record
36 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under RCW
2 69.51A.010(~~(+7)~~) (32)(a), or to backdate such documentation to a time
3 earlier than its actual date of execution.

4 (~~(+6)~~) (8) No person shall be entitled to claim the ((affirmative
5 defense provided in RCW 69.51A.040)) protection from arrest and
6 prosecution under RCW 69.51A.040 or the affirmative defense under
7 section 402 of this act for engaging in the medical use of
8 ((marijuana)) cannabis in a way that endangers the health or well-being
9 of any person through the use of a motorized vehicle on a street, road,
10 or highway, including violations of RCW 46.61.502 or 46.61.504, or
11 equivalent local ordinances.

12 PART VI

13 LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS

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

29 NEW SECTION. **Sec. 602.** A person may not act as a licensed
30 processor without a license for each processing facility issued by the
31 department of agriculture and prominently displayed on the premises.
32 Provided they are acting in compliance with the terms of this chapter
33 and rules adopted to enforce and carry out its purposes, licensed
34 processors of cannabis products and their employees, members, officers,
35 and directors may possess useable cannabis and manufacture, produce,

1 prepare, process, package, repackage, transport, transfer, deliver,
2 label, relabel, wholesale, or possess cannabis products intended for
3 medical use by qualifying patients, and may not be arrested, searched,
4 prosecuted, or subject to other criminal sanctions or civil
5 consequences under state law, or have real or personal property
6 searched, seized, or forfeited pursuant to state law, for such
7 activities, notwithstanding any other provision of law.

8 NEW SECTION. **Sec. 603.** The director shall administer and carry
9 out the provisions of this chapter relating to licensed producers and
10 licensed processors of cannabis products, and rules adopted under this
11 chapter.

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

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

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

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

33 NEW SECTION. **Sec. 606.** The department of agriculture may adopt
34 rules on:

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

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

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

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

19 NEW SECTION. **Sec. 608.** (1) By January 1, 2013, taking into
20 consideration, but not being limited by, the security requirements
21 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
22 rules:

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

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

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

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

36 (ii) THC concentration; and

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

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

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

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

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

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

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

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

30 (2) The property, books, records, accounts, papers, and proceedings
31 of every licensed producer and licensed processor of cannabis products
32 shall be subject to inspection by the department of agriculture at any
33 time during ordinary business hours. Licensed producers and licensed
34 processors of cannabis products shall maintain adequate records and
35 systems for the filing and accounting of crop production, product
36 manufacturing and processing, records of weights and measurements,

1 product testing, receipts, canceled receipts, other documents, and
2 transactions necessary or common to the medical cannabis industry.

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

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

14 NEW SECTION. Sec. 610. (1) The department of agriculture may give
15 written notice to a licensed producer or processor of cannabis products
16 to furnish required reports, documents, or other requested information,
17 under such conditions and at such time as the department of agriculture
18 deems necessary if a licensed producer or processor of cannabis
19 products fails to:

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

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

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

26 (2) If the licensed producer or processor of cannabis products
27 fails to comply with the terms of the notice within seventy-two hours
28 from the date of its issuance, or within such further time as the
29 department of agriculture may allow, the department of agriculture
30 shall levy a fine of five hundred dollars per day from the final date
31 for compliance allowed by this section or the department of
32 agriculture. In those cases where the failure to comply continues for
33 more than seven days or where the director determines the failure to
34 comply creates a threat to public health, public safety, or a
35 substantial risk of diversion of cannabis to unauthorized persons or
36 purposes, the department of agriculture may, in lieu of levying further

1 fines, petition the superior court of the county where the licensee's
2 principal place of business in Washington is located, as shown by the
3 license application, for an order:

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

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

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

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

20 NEW SECTION. **Sec. 611.** (1) A licensed producer may not sell or
21 deliver cannabis to any person other than a cannabis analysis
22 laboratory, licensed processor of cannabis products, licensed
23 dispenser, or law enforcement officer except as provided by court
24 order. A licensed producer may also sell or deliver cannabis to the
25 University of Washington or Washington State University for research
26 purposes, as identified in section 1002 of this act. Violation of this
27 section is a class C felony punishable according to chapter 9A.20 RCW.

28 (2) A licensed processor of cannabis products may not sell or
29 deliver cannabis to any person other than a cannabis analysis
30 laboratory, licensed dispenser, or law enforcement officer except as
31 provided by court order. A licensed processor of cannabis products may
32 also sell or deliver cannabis to the University of Washington or
33 Washington State University for research purposes, as identified in
34 section 1002 of this act. Violation of this section is a class C
35 felony punishable according to chapter 9A.20 RCW.

PART VII
LICENSED DISPENSERS

1
2
3 NEW SECTION. **Sec. 701.** A person may not act as a licensed
4 dispenser without a license for each place of business issued by the
5 department of health and prominently displayed on the premises.
6 Provided they are acting in compliance with the terms of this chapter
7 and rules adopted to enforce and carry out its purposes, licensed
8 dispensers and their employees, members, officers, and directors may
9 deliver, distribute, dispense, transfer, prepare, package, repackage,
10 label, relabel, sell at retail, or possess cannabis intended for
11 medical use by qualifying patients, including seeds, seedlings,
12 cuttings, plants, useable cannabis, and cannabis products, and may not
13 be arrested, searched, prosecuted, or subject to other criminal
14 sanctions or civil consequences under state law, or have real or
15 personal property searched, seized, or forfeited pursuant to state law,
16 for such activities, notwithstanding any other provision of law.

17 NEW SECTION. **Sec. 702.** (1) By January 1, 2013, taking into
18 consideration the security requirements described in 21 C.F.R. 1301.71-
19 1301.76, the secretary of health shall adopt rules:

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

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

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

27 (d) Establishing recordkeeping requirements for licensed
28 dispensers;

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

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

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

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

1 (i) Establishing physical standards for cannabis dispensing
2 facilities. The physical standards must require a licensed dispenser
3 to ensure that no cannabis or cannabis paraphernalia may be viewed from
4 outside the facility;

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

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

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

13 (m) Establishing a maximum number of licensed dispensers that may
14 be licensed in each county as provided in this section;

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

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

19 (2) (a) The secretary shall establish a maximum number of licensed
20 dispensers that may operate in each county. Prior to January 1, 2016,
21 the maximum number of licensed dispensers shall be based upon a ratio
22 of one licensed dispenser for every twenty thousand persons in a
23 county. On or after January 1, 2016, the secretary may adopt rules to
24 adjust the method of calculating the maximum number of dispensers to
25 consider additional factors, such as the number of enrollees in the
26 registry established in section 901 of this act and the secretary's
27 experience in administering the program. The secretary may not issue
28 more licenses than the maximum number of licenses established under
29 this section.

30 (b) In the event that the number of applicants qualifying for the
31 selection process exceeds the maximum number for a county, the
32 secretary shall initiate a random selection process established by the
33 secretary in rule.

34 (c) To qualify for the selection process, an applicant must
35 demonstrate to the secretary that he or she meets initial screening
36 criteria that represent the applicant's capacity to operate in
37 compliance with this chapter. Initial screening criteria shall
38 include, but not be limited to:

1 (i) Successful completion of a background check;
2 (ii) A plan to systematically verify qualifying patient and
3 designated provider status of clients;
4 (iii) Evidence of compliance with functional standards, such as
5 ventilation and security requirements; and
6 (iv) Evidence of compliance with facility standards, such as zoning
7 compliance and not using the facility as a residence.

8 (d) The secretary shall establish a schedule to:

9 (i) Update the maximum allowable number of licensed dispensers in
10 each county; and

11 (ii) Issue approvals to operate within a county according to the
12 random selection process.

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

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

20 NEW SECTION. **Sec. 703.** A licensed dispenser may not sell cannabis
21 received from any person other than a licensed producer or licensed
22 processor of cannabis products, or sell or deliver cannabis to any
23 person other than a qualifying patient, designated provider, or law
24 enforcement officer except as provided by court order. A licensed
25 dispenser may also sell or deliver cannabis to the University of
26 Washington or Washington State University for research purposes, as
27 identified in section 1002 of this act. Before selling or providing
28 cannabis to a qualifying patient or designated provider, the licensed
29 dispenser must confirm that the patient qualifies for the medical use
30 of cannabis by contacting, at least once in a one-year period, that
31 patient's health care professional. Violation of this section is a
32 class C felony punishable according to chapter 9A.20 RCW.

33 NEW SECTION. **Sec. 704.** A license to operate as a licensed
34 dispenser is not transferrable.

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

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

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

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

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

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

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

1 rules for the creation, implementation, maintenance, and timely
2 upgrading of a secure and confidential registration system that allows:

3 (a) A peace officer to verify at any time whether a health care
4 professional has registered a person as either a qualifying patient or
5 a designated provider; and

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

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

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

24 (4) Before seeking a nonvehicle search warrant or arrest warrant,
25 a peace officer investigating a cannabis-related incident must make
26 reasonable efforts to ascertain whether the location or person under
27 investigation is registered in the registration system, and include the
28 results of this inquiry in the affidavit submitted in support of the
29 application for the warrant. This requirement does not apply to
30 investigations in which:

31 (a) The peace officer has observed evidence of an apparent cannabis
32 operation that is not a licensed producer, processor of cannabis
33 products, or dispenser;

34 (b) The peace officer has observed evidence of theft of electrical
35 power;

36 (c) The peace officer has observed evidence of illegal drugs other
37 than cannabis at the premises;

1 (d) The peace officer has observed frequent and numerous short-term
2 visits over an extended period that are consistent with commercial
3 activity, if the subject of the investigation is not a licensed
4 dispenser;

5 (e) The peace officer has observed violent crime or other
6 demonstrated dangers to the community;

7 (f) The peace officer has probable cause to believe the subject of
8 the investigation has committed a felony, or a misdemeanor in the
9 officer's presence, that does not relate to cannabis; or

10 (g) The subject of the investigation has an outstanding arrest
11 warrant.

12 (5) Law enforcement may access the registration system only in
13 connection with a specific, legitimate criminal investigation regarding
14 cannabis.

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

24 (7) Fees, including renewal fees, for qualifying patients and
25 designated providers participating in the registration system shall be
26 limited to the cost to the state of implementing, maintaining, and
27 enforcing the provisions of this section and the rules adopted to carry
28 out its purposes. The fee shall also include any costs for the
29 department of health to disseminate information to employees of state
30 and local law enforcement agencies relating to whether a person is a
31 licensed producer, processor of cannabis products, or dispenser, or
32 that a location is the recorded address of a license producer,
33 processor of cannabis products, or dispenser, and for the dissemination
34 of log records relating to such requests for information to the
35 subjects of those requests. No fee may be charged to local law
36 enforcement agencies for accessing the registry.

37 (8) During the rule-making process, the department of health shall
38 consult with stakeholders and persons with relevant expertise, to

1 include, but not be limited to, qualifying patients, designated
2 providers, health care professionals, state and local law enforcement
3 agencies, and the University of Washington computer science and
4 engineering security and privacy research lab.

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

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

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

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

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

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

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

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

33 (ii) Authorized employees of state or local law enforcement
34 agencies, only as necessary to verify that the person or location is a
35 qualified patient, designated provider, licensed producer, licensed
36 processor of cannabis products, or licensed dispenser, and only after
37 the inquiring employee has provided adequate identification.
38 Authorized employees who obtain personally identifiable information

1 under this subsection may not release or use the information for any
2 purpose other than verification that a person or location is a
3 qualified patient, designated provider, licensed producer, licensed
4 processor of cannabis products, or licensed dispenser;

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

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

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

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

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

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

23 Records containing names and other personally identifiable
24 information relating to qualifying patients, designated providers, and
25 persons licensed as producers or dispensers of cannabis for medical
26 use, or as processors of cannabis products, under section 901 of this
27 act are exempt from disclosure under this chapter.

28 **PART X**
29 **EVALUATION**

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

34 (2) The evaluation of the implementation of this act and the rules

1 adopted to carry out its purposes shall include, but not necessarily be
2 limited to, consideration of the following factors:

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

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

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

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

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

13 (f) Diversion of cannabis intended for medical use to nonmedical
14 uses;

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

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

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

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

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

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

32 The University of Washington and Washington State University may
33 conduct scientific research on the efficacy and safety of administering
34 cannabis as part of medical treatment. As part of this research, the
35 University of Washington and Washington State University may develop
36 and conduct studies to ascertain the general medical safety and

1 efficacy of cannabis and may develop medical guidelines for the
2 appropriate administration and use of cannabis.

3 **PART XI**
4 **CONSTRUCTION**

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

9 (2) No civil or criminal liability may be imposed by any court on
10 cities, towns, and counties or other municipalities and their officers
11 and employees for actions taken in good faith under this chapter and
12 within the scope of their assigned duties.

13 NEW SECTION. **Sec. 1102.** (1) Cities and towns may adopt and
14 enforce any of the following pertaining to the production, processing,
15 or dispensing of cannabis or cannabis products within their
16 jurisdiction: Zoning requirements, business licensing requirements,
17 health and safety requirements, and business taxes. Nothing in this
18 act is intended to limit the authority of cities and towns to impose
19 zoning requirements or other conditions upon licensed dispensers, so
20 long as such requirements do not preclude the possibility of siting
21 licensed dispensers within the jurisdiction. If the jurisdiction has
22 no commercial zones, the jurisdiction is not required to adopt zoning
23 to accommodate licensed dispensers.

24 (2) Counties may adopt and enforce any of the following pertaining
25 to the production, processing, or dispensing of cannabis or cannabis
26 products within their jurisdiction in locations outside of the
27 corporate limits of any city or town: Zoning requirements, business
28 licensing requirements, and health and safety requirements. Nothing in
29 this act is intended to limit the authority of counties to impose
30 zoning requirements or other conditions upon licensed dispensers, so
31 long as such requirements do not preclude the possibility of siting
32 licensed dispensers within the jurisdiction. If the jurisdiction has
33 no commercial zones, the jurisdiction is not required to adopt zoning
34 to accommodate licensed dispensers.

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

6 NEW SECTION. **Sec. 1104.** In the event that the federal government
7 authorizes the use of cannabis for medical purposes, within a year of
8 such action, the joint legislative audit and review committee shall
9 conduct a program and fiscal review of the cannabis production and
10 dispensing programs established in this chapter. The review shall
11 consider whether a distinct cannabis production and dispensing system
12 continues to be necessary when considered in light of the federal
13 action and make recommendations to the legislature.

14 NEW SECTION. **Sec. 1105.** (1)(a) The arrest and prosecution
15 protections established in section 401 of this act may not be asserted
16 in a supervision revocation or violation hearing by a person who is
17 supervised by a corrections agency or department, including local
18 governments or jails, that has determined that the terms of this
19 section are inconsistent with and contrary to his or her supervision.

20 (b) The affirmative defenses established in sections 402, 405, 406,
21 and 407 of this act may not be asserted in a supervision revocation or
22 violation hearing by a person who is supervised by a corrections agency
23 or department, including local governments or jails, that has
24 determined that the terms of this section are inconsistent with and
25 contrary to his or her supervision.

26 (2) The provisions of RCW 69.51A.040 and sections 403 and 413 of
27 this act do not apply to a person who is supervised for a criminal
28 conviction by a corrections agency or department, including local
29 governments or jails, that has determined that the terms of this
30 chapter are inconsistent with and contrary to his or her supervision.

31 (3) A person may not be licensed as a licensed producer, licensed
32 processor of cannabis products, or a licensed dispenser under section
33 601, 602, or 701 of this act if he or she is supervised for a criminal
34 conviction by a corrections agency or department, including local
35 governments or jails, that has determined that licensure is
36 inconsistent with and contrary to his or her supervision.

1 (c) Be registered with the secretary of state as of May 1, 2011;
2 (d) File a letter of intent with the department of agriculture or
3 the department of health, as the case may be, asserting that the
4 producer or dispenser intends to become licensed in accordance with
5 this chapter and rules adopted by the appropriate department; and

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

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

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

20 (6) This section expires upon the establishment of the licensing
21 programs of the department of agriculture and the department of health
22 and the commencement of the issuance of licenses for dispensers and
23 producers as provided in this chapter. The department of health and
24 the department of agriculture shall notify the code reviser when the
25 establishment of the licensing programs has occurred.

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

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

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

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

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

1 NEW SECTION. Sec. 1203. (1)(a) On July 1, 2015, the department of
2 health shall report the following information to the state treasurer:

3 (i) The expenditures from the health professions account related to
4 the administration of chapter 69.51A RCW between the effective date of
5 this section and June 30, 2015; and

6 (ii) The amounts deposited into the health professions account
7 under sections 702, 802, and 901 of this act between the effective date
8 of this section and June 30, 2015.

9 (b) If the amount in (a)(i) of this subsection exceeds the amount
10 in (a)(ii) of this subsection, the state treasurer shall transfer an
11 amount equal to the difference from the general fund to the health
12 professions account.

13 (2)(a) Annually, beginning July 1, 2016, the department of health
14 shall report the following information to the state treasurer:

15 (i) The expenditures from the health professions account related to
16 the administration of chapter 69.51A RCW for the preceding fiscal year;
17 and

18 (ii) The amounts deposited into the health professions account
19 under sections 702, 802, and 901 of this act during the preceding
20 fiscal year.

21 (b) If the amount in (a)(i) of this subsection exceeds the amount
22 in (a)(ii) of this subsection, the state treasurer shall transfer an
23 amount equal to the difference from the general fund to the health
24 professions account.

25 NEW SECTION. Sec. 1204. RCW 69.51A.080 (Adoption of rules by the
26 department of health--Sixty-day supply for qualifying patients) and
27 2007 c 371 s 8 are each repealed.

28 NEW SECTION. Sec. 1205. Sections 402 through 411, 413, 601
29 through 611, 701 through 705, 801 through 807, 901, 1001, 1101 through
30 1105, and 1201 of this act are each added to chapter 69.51A RCW.

31 NEW SECTION. Sec. 1206. Section 1002 of this act takes effect
32 January 1, 2013.

--- END ---

EXHIBIT D

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073

Chapter 181, Laws of 2011

(partial veto)

62nd Legislature
2011 Regular Session

MEDICAL CANNABIS

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 21, 2011
YEAS 27 NAYS 21

BRAD OWEN

President of the Senate

Passed by the House April 11, 2011
YEAS 54 NAYS 43

FRANK CHOPP

Speaker of the House of Representatives

Approved April 29, 2011, 3:00 p.m., with
the exception of Sections 101, 201, 407,
410, 411, 412, 601, 602, 603, 604, 605,
606, 607, 608, 609, 610, 611, 701, 702,
703, 704, 705, 801, 802, 803, 804, 805,
806, 807, 901, 902, 1104, 1201, 1202,
1203 and 1206, which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **ENGROSSED SECOND
SUBSTITUTE SENATE BILL 5073** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2011

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe, and Chase)

READ FIRST TIME 02/25/11.

1 AN ACT Relating to medical use of cannabis; amending RCW
2 69.51A.005, 69.51A.020, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.050,
3 69.51A.060, and 69.51A.900; adding new sections to chapter 69.51A RCW;
4 adding new sections to chapter 42.56 RCW; adding a new section to
5 chapter 28B.20 RCW; creating new sections; repealing RCW 69.51A.080;
6 prescribing penalties; and providing an effective date.

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

8 PART I

9 LEGISLATIVE DECLARATION AND INTENT

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

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

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

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

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

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

*Sec. 101 was vetoed. See message at end of chapter.

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

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

14 (a) There is medical evidence that some patients with terminal or
15 debilitating ~~((illnesses))~~ medical conditions may, under their health
16 care professional's care, ~~((may))~~ benefit from the medical use of
17 ~~((marijuana))~~ cannabis. Some of the ~~((illnesses))~~ conditions for which
18 ~~((marijuana))~~ cannabis appears to be beneficial include ~~((chemotherapy-~~
19 related)), but are not limited to:

20 (i) Nausea ~~((and)), vomiting ~~((in cancer patients; AIDS-wasting~~~~
21 syndrome)), and cachexia associated with cancer, HIV-positive status,
22 AIDS, hepatitis C, anorexia, and their treatments;

23 (ii) Severe muscle spasms associated with multiple sclerosis,
24 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy))~~

25 (iii) Acute or chronic glaucoma;

26 (iv) Crohn's disease; and

27 (v) Some forms of intractable pain.

28 ~~((The people find that))~~ (b) Humanitarian compassion necessitates
29 that the decision to ~~((authorize the medical))~~ use ~~((of marijuana))~~
30 cannabis by patients with terminal or debilitating ~~((illnesses))~~
31 medical conditions is a personal, individual decision, based upon their
32 health care professional's professional medical judgment and
33 discretion.

34 (2) Therefore, the ~~((people of the state of Washington))~~
35 legislature intends that:

36 (a) Qualifying patients with terminal or debilitating ~~((illnesses))~~
37 medical conditions who, in the judgment of their health care

1 professionals, may benefit from the medical use of ((marijuana))
2 cannabis, shall not be ((~~found guilty of a crime under state law for~~
3 ~~their possession and limited use of marijuana~~)) arrested, prosecuted,
4 or subject to other criminal sanctions or civil consequences under
5 state law based solely on their medical use of cannabis,
6 notwithstanding any other provision of law;

7 (b) Persons who act as designated providers to such patients shall
8 also not be ((~~found guilty of a crime under state law for~~)) arrested,
9 prosecuted, or subject to other criminal sanctions or civil
10 consequences under state law, notwithstanding any other provision of
11 law, based solely on their assisting with the medical use of
12 ((marijuana)) cannabis; and

13 (c) Health care professionals shall also ((~~be excepted from~~
14 ~~liability and prosecution~~)) not be arrested, prosecuted, or subject to
15 other criminal sanctions or civil consequences under state law for the
16 proper authorization of ((marijuana)) medical use ((~~to~~)) of cannabis by
17 qualifying patients for whom, in the health care professional's
18 professional judgment, the medical ((marijuana)) use of cannabis may
19 prove beneficial.

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

23 (4) Nothing in this chapter diminishes the authority of
24 correctional agencies and departments, including local governments or
25 jails, to establish a procedure for determining when the use of
26 cannabis would impact community safety or the effective supervision of
27 those on active supervision for a criminal conviction, nor does it
28 create the right to any accommodation of any medical use of cannabis in
29 any correctional facility or jail.

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

32 Nothing in this chapter shall be construed to supersede Washington
33 state law prohibiting the acquisition, possession, manufacture, sale,
34 or use of ((marijuana)) cannabis for nonmedical purposes. Criminal
35 penalties created under this act do not preclude the prosecution or
36 punishment for other crimes, including other crimes involving the
37 manufacture or delivery of cannabis for nonmedical purposes.

1 PART II
2 DEFINITIONS

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

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

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

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

20 (3) "Cannabis products" means products that contain cannabis or
21 cannabis extracts, have a measurable THC concentration greater than
22 three-tenths of one percent, and are intended for human consumption or
23 application, including, but not limited to, edible products, tinctures,
24 and lotions. The term "cannabis products" does not include useable
25 cannabis. The definition of "cannabis products" as a measurement of
26 THC concentration only applies to the provisions of this chapter and
27 shall not be considered applicable to any criminal laws related to
28 marijuana or cannabis.

29 (4) "Correctional facility" has the same meaning as provided in RCW
30 72.09.015.

31 (5) "Corrections agency or department" means any agency or
32 department in the state of Washington, including local governments or
33 jails, that is vested with the responsibility to manage those
34 individuals who are being supervised in the community for a criminal
35 conviction and has established a written policy for determining when
36 the medical use of cannabis, including possession, manufacture, or
37 delivery of, or for possession with intent to manufacture or deliver,
38 is inconsistent with and contrary to the person's supervision.

1 (6) "Designated provider" means a person who:

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

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

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

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

10 ~~(2))~~ in compliance with the terms and conditions set forth in RCW
11 69.51A.040.

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

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

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

19 (9) "Health care professional," for purposes of this chapter only,
20 means a physician licensed under chapter 18.71 RCW, a physician
21 assistant licensed under chapter 18.71A RCW, an osteopathic physician
22 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
23 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
24 18.36A RCW, or an advanced registered nurse practitioner licensed under
25 chapter 18.79 RCW.

26 ~~((3))~~ (10) "Jail" has the same meaning as provided in RCW
27 70.48.020.

28 (11) "Labeling" means all labels and other written, printed, or
29 graphic matter (a) upon any cannabis intended for medical use, or (b)
30 accompanying such cannabis.

31 (12) "Licensed dispenser" means a person licensed to dispense
32 cannabis for medical use to qualifying patients and designated
33 providers by the department of health in accordance with rules adopted
34 by the department of health pursuant to the terms of this chapter.

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

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

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

12 ~~((+4))~~ (16) "Nonresident" means a person who is temporarily in the
13 state but is not a Washington state resident.

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

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

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

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

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

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

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

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

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

28 (26) "Qualifying patient" means a person who:

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

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

32 ~~((c))~~ (iii) Is a resident of the state of Washington at the time
33 of such diagnosis;

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

37 ~~((e))~~ (v) Has been advised by that health care professional that

1 ((they)) he or she may benefit from the medical use of ((marijuana))
2 cannabis; and

3 (vi) Is otherwise in compliance with the terms and conditions
4 established in this chapter.

5 (b) The term "qualifying patient" does not include a person who is
6 actively being supervised for a criminal conviction by a corrections
7 agency or department that has determined that the terms of this chapter
8 are inconsistent with and contrary to his or her supervision and all
9 related processes and procedures related to that supervision.

10 ~~((5))~~ (27) "Secretary" means the secretary of health.

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

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

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

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

18 ~~((6))~~ (29) "Terminal or debilitating medical condition" means:

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

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

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

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

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

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

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

37 ~~((7))~~ (30) "THC concentration" means percent of

1 tetrahydrocannabinol content per weight or volume of useable cannabis
2 or cannabis product.

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

9 (32) (a) Until January 1, 2013, "valid documentation" means:

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

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

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

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

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

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

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

*Sec. 201 was vetoed. See message at end of chapter.

PART III

PROTECTIONS FOR HEALTH CARE PROFESSIONALS

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

36 ~~((A health care professional shall be excepted from the state's~~

1 ~~criminal laws and shall not be penalized in any manner, or denied any~~
2 ~~right or privilege, for)) (1) The following acts do not constitute~~
3 ~~crimes under state law or unprofessional conduct under chapter 18.130~~
4 ~~RCW, and a health care professional may not be arrested, searched,~~
5 ~~prosecuted, disciplined, or subject to other criminal sanctions or~~
6 ~~civil consequences or liability under state law, or have real or~~
7 ~~personal property searched, seized, or forfeited pursuant to state law,~~
8 ~~notwithstanding any other provision of law as long as the health care~~
9 ~~professional complies with subsection (2) of this section:~~

10 ~~((1)) (a) Advising a ((qualifying)) patient about the risks and~~
11 ~~benefits of medical use of ((marijuana)) cannabis or that the~~
12 ~~((qualifying)) patient may benefit from the medical use of ((marijuana~~
13 ~~where such use is within a professional standard of care or in the~~
14 ~~individual health care professional's medical judgment)) cannabis; or~~

15 ~~((2)) (b) Providing a ((qualifying)) patient meeting the criteria~~
16 ~~established under RCW 69.51A.010(26) with valid documentation, based~~
17 ~~upon the health care professional's assessment of the ((qualifying))~~
18 ~~patient's medical history and current medical condition, ((that the~~
19 ~~medical use of marijuana may benefit a particular qualifying patient))~~
20 ~~where such use is within a professional standard of care or in the~~
21 ~~individual health care professional's medical judgment.~~

22 ~~(2) (a) A health care professional may only provide a patient with~~
23 ~~valid documentation authorizing the medical use of cannabis or register~~
24 ~~the patient with the registry established in section 901 of this act if~~
25 ~~he or she has a newly initiated or existing documented relationship~~
26 ~~with the patient, as a primary care provider or a specialist, relating~~
27 ~~to the diagnosis and ongoing treatment or monitoring of the patient's~~
28 ~~terminal or debilitating medical condition, and only after:~~

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

31 ~~(ii) Documenting the terminal or debilitating medical condition of~~
32 ~~the patient in the patient's medical record and that the patient may~~
33 ~~benefit from treatment of this condition or its symptoms with medical~~
34 ~~use of cannabis;~~

35 ~~(iii) Informing the patient of other options for treating the~~
36 ~~terminal or debilitating medical condition; and~~

37 ~~(iv) Documenting other measures attempted to treat the terminal or~~

1 debilitating medical condition that do not involve the medical use of
2 cannabis.

3 (b) A health care professional shall not:

4 (i) Accept, solicit, or offer any form of pecuniary remuneration
5 from or to a licensed dispenser, licensed producer, or licensed
6 processor of cannabis products;

7 (ii) Offer a discount or any other thing of value to a qualifying
8 patient who is a customer of, or agrees to be a customer of, a
9 particular licensed dispenser, licensed producer, or licensed processor
10 of cannabis products;

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

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

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

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

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

24 **PART IV**

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

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

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

34 ~~(2) If charged with a violation of state law relating to marijuana,~~
35 ~~any qualifying patient who is engaged in the medical use of marijuana,~~
36 ~~or any designated provider who assists a qualifying patient in the~~

1 ~~medical use of marijuana, will be deemed to have established an~~
2 ~~affirmative defense to such charges by proof of his or her compliance~~
3 ~~with the requirements provided in this chapter. Any person meeting the~~
4 ~~requirements appropriate to his or her status under this chapter shall~~
5 ~~be considered to have engaged in activities permitted by this chapter~~
6 ~~and shall not be penalized in any manner, or denied any right or~~
7 ~~privilege, for such actions.~~

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

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

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

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

18 ~~(4) A qualifying patient, if under eighteen years of age at the~~
19 ~~time he or she is alleged to have committed the offense, shall~~
20 ~~demonstrate compliance with subsection (3) (a) and (c) of this section.~~
21 ~~However, any possession under subsection (3) (b) of this section, as~~
22 ~~well as any production, acquisition, and decision as to dosage and~~
23 ~~frequency of use, shall be the responsibility of the parent or legal~~
24 ~~guardian of the qualifying patient.)~~ The medical use of cannabis in
25 accordance with the terms and conditions of this chapter does not
26 constitute a crime and a qualifying patient or designated provider in
27 compliance with the terms and conditions of this chapter may not be
28 arrested, prosecuted, or subject to other criminal sanctions or civil
29 consequences, for possession, manufacture, or delivery of, or for
30 possession with intent to manufacture or deliver, cannabis under state
31 law, or have real or personal property seized or forfeited for
32 possession, manufacture, or delivery of, or for possession with intent
33 to manufacture or deliver, cannabis under state law, and investigating
34 peace officers and law enforcement agencies may not be held civilly
35 liable for failure to seize cannabis in this circumstance, if:

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

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

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

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

6 (b) If a person is both a qualifying patient and a designated
7 provider for another qualifying patient, the person may possess no more
8 than twice the amounts described in (a) of this subsection, whether the
9 plants, useable cannabis, and cannabis product are possessed
10 individually or in combination between the qualifying patient and his
11 or her designated provider;

12 (2) The qualifying patient or designated provider presents his or
13 her proof of registration with the department of health, to any peace
14 officer who questions the patient or provider regarding his or her
15 medical use of cannabis;

16 (3) The qualifying patient or designated provider keeps a copy of
17 his or her proof of registration with the registry established in
18 section 901 of this act and the qualifying patient or designated
19 provider's contact information posted prominently next to any cannabis
20 plants, cannabis products, or useable cannabis located at his or her
21 residence;

22 (4) The investigating peace officer does not possess evidence that:

23 (a) The designated provider has converted cannabis produced or
24 obtained for the qualifying patient for his or her own personal use or
25 benefit; or

26 (b) The qualifying patient has converted cannabis produced or
27 obtained for his or her own medical use to the qualifying patient's
28 personal, nonmedical use or benefit;

29 (5) The investigating peace officer does not possess evidence that
30 the designated provider has served as a designated provider to more
31 than one qualifying patient within a fifteen-day period; and

32 (6) The investigating peace officer has not observed evidence of
33 any of the circumstances identified in section 901(4) of this act.

34 **NEW SECTION. Sec. 402.** (1) A qualifying patient or designated
35 provider who is not registered with the registry established in section
36 901 of this act may raise the affirmative defense set forth in
37 subsection (2) of this section, if:

1 (a) The qualifying patient or designated provider presents his or
2 her valid documentation to any peace officer who questions the patient
3 or provider regarding his or her medical use of cannabis;

4 (b) The qualifying patient or designated provider possesses no more
5 cannabis than the limits set forth in RCW 69.51A.040(1);

6 (c) The qualifying patient or designated provider is in compliance
7 with all other terms and conditions of this chapter;

8 (d) The investigating peace officer does not have probable cause to
9 believe that the qualifying patient or designated provider has
10 committed a felony, or is committing a misdemeanor in the officer's
11 presence, that does not relate to the medical use of cannabis;

12 (e) No outstanding warrant for arrest exists for the qualifying
13 patient or designated provider; and

14 (f) The investigating peace officer has not observed evidence of
15 any of the circumstances identified in section 901(4) of this act.

16 (2) A qualifying patient or designated provider who is not
17 registered with the registry established in section 901 of this act,
18 but who presents his or her valid documentation to any peace officer
19 who questions the patient or provider regarding his or her medical use
20 of cannabis, may assert an affirmative defense to charges of violations
21 of state law relating to cannabis through proof at trial, by a
22 preponderance of the evidence, that he or she otherwise meets the
23 requirements of RCW 69.51A.040. A qualifying patient or designated
24 provider meeting the conditions of this subsection but possessing more
25 cannabis than the limits set forth in RCW 69.51A.040(1) may, in the
26 investigating peace officer's discretion, be taken into custody and
27 booked into jail in connection with the investigation of the incident.

28 NEW SECTION. **Sec. 403.** (1) Qualifying patients may create and
29 participate in collective gardens for the purpose of producing,
30 processing, transporting, and delivering cannabis for medical use
31 subject to the following conditions:

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

34 (b) A collective garden may contain no more than fifteen plants per
35 patient up to a total of forty-five plants;

36 (c) A collective garden may contain no more than twenty-four ounces

1 of useable cannabis per patient up to a total of seventy-two ounces of
2 useable cannabis;

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

7 (e) No useable cannabis from the collective garden is delivered to
8 anyone other than one of the qualifying patients participating in the
9 collective garden.

10 (2) For purposes of this section, the creation of a "collective
11 garden" means qualifying patients sharing responsibility for acquiring
12 and supplying the resources required to produce and process cannabis
13 for medical use such as, for example, a location for a collective
14 garden; equipment, supplies, and labor necessary to plant, grow, and
15 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,
16 supplies, and labor necessary for proper construction, plumbing,
17 wiring, and ventilation of a garden of cannabis plants.

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

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

27 (2) A person may stop serving as a designated provider to a given
28 qualifying patient at any time. However, that person may not begin
29 serving as a designated provider to a different qualifying patient
30 until fifteen days have elapsed from the date the last qualifying
31 patient designated him or her to serve as a provider.

32 NEW SECTION. **Sec. 405.** A qualifying patient or designated
33 provider in possession of cannabis plants, useable cannabis, or
34 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)
35 but otherwise in compliance with all other terms and conditions of this
36 chapter may establish an affirmative defense to charges of violations

1 of state law relating to cannabis through proof at trial, by a
2 preponderance of the evidence, that the qualifying patient's necessary
3 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An
4 investigating peace officer may seize cannabis plants, useable
5 cannabis, or cannabis product exceeding the amounts set forth in RCW
6 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the
7 qualifying patient or designated provider shall be allowed to select
8 the plants that will remain at the location. The officer and his or
9 her law enforcement agency may not be held civilly liable for failure
10 to seize cannabis in this circumstance.

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

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

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

35 *(2) Is in compliance with all provisions of this chapter other than*

1 requirements relating to being a Washington resident or possessing
2 valid documentation issued by a licensed health care professional in
3 Washington;

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

9 (4) Does not possess evidence that the nonresident has converted
10 cannabis produced or obtained for his or her own medical use to the
11 nonresident's personal, nonmedical use or benefit.

**Sec. 407 was vetoed. See message at end of chapter.*

12 NEW SECTION. Sec. 408. A qualifying patient's medical use of
13 cannabis as authorized by a health care professional may not be a sole
14 disqualifying factor in determining the patient's suitability for an
15 organ transplant, unless it is shown that this use poses a significant
16 risk of rejection or organ failure. This section does not preclude a
17 health care professional from requiring that a patient abstain from the
18 medical use of cannabis, for a period of time determined by the health
19 care professional, while waiting for a transplant organ or before the
20 patient undergoes an organ transplant.

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

28 *NEW SECTION. Sec. 410. (1) Except as provided in subsection (2)
29 of this section, a qualifying patient may not be refused housing or
30 evicted from housing solely as a result of his or her possession or use
31 of useable cannabis or cannabis products except that housing providers
32 otherwise permitted to enact and enforce prohibitions against smoking
33 in their housing may apply those prohibitions to smoking cannabis
34 provided that such smoking prohibitions are applied and enforced

1 equally as to the smoking of cannabis and the smoking of all other
2 substances, including without limitation tobacco.

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

*Sec. 410 was vetoed. See message at end of chapter.

6 *NEW SECTION. Sec. 411. In imposing any criminal sentence,
7 deferred prosecution, stipulated order of continuance, deferred
8 disposition, or dispositional order, any court organized under the laws
9 of Washington state may permit the medical use of cannabis in
10 compliance with the terms of this chapter and exclude it as a possible
11 ground for finding that the offender has violated the conditions or
12 requirements of the sentence, deferred prosecution, stipulated order of
13 continuance, deferred disposition, or dispositional order. This
14 section does not require the accommodation of any medical use of
15 cannabis in any correctional facility or jail.

*Sec. 411 was vetoed. See message at end of chapter.

16 *Sec. 412. RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
17 as follows:

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

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

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

*Sec. 412 was vetoed. See message at end of chapter.

34 NEW SECTION. Sec. 413. Nothing in this chapter or in the rules
35 adopted to implement it precludes a qualifying patient or designated

1 provider from engaging in the private, unlicensed, noncommercial
2 production, possession, transportation, delivery, or administration of
3 cannabis for medical use as authorized under RCW 69.51A.040.

4 **PART V**
5 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**
6 **PATIENTS AND DESIGNATED PROVIDERS**

7 **Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to
8 read as follows:

9 (1) It shall be a (~~misdemeanor~~) class 3 civil infraction to use
10 or display medical (~~marijuana~~) cannabis in a manner or place which is
11 open to the view of the general public.

12 (2) Nothing in this chapter (~~requires any health insurance~~
13 ~~provider~~) establishes a right of care as a covered benefit or requires
14 any state purchased health care as defined in RCW 41.05.011 or other
15 health carrier or health plan as defined in Title 48 RCW to be liable
16 for any claim for reimbursement for the medical use of (~~marijuana~~)
17 cannabis. Such entities may enact coverage or noncoverage criteria or
18 related policies for payment or nonpayment of medical cannabis in their
19 sole discretion.

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

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

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

32 (6) Employers may establish drug-free work policies. Nothing in
33 this chapter requires an accommodation for the medical use of cannabis
34 if an employer has a drug-free work place.

35 (7) It is a class C felony to fraudulently produce any record
36 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under RCW
2 69.51A.010(~~(+7)~~) (32)(a), or to backdate such documentation to a time
3 earlier than its actual date of execution.

4 (~~(+6)~~) (8) No person shall be entitled to claim the ((affirmative
5 defense—provided—in—RCW—69.51A.040)) protection from arrest and
6 prosecution under RCW 69.51A.040 or the affirmative defense under
7 section 402 of this act for engaging in the medical use of
8 ((marijuana)) cannabis in a way that endangers the health or well-being
9 of any person through the use of a motorized vehicle on a street, road,
10 or highway, including violations of RCW 46.61.502 or 46.61.504, or
11 equivalent local ordinances.

12 PART VI

13 LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS

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

**Sec. 601 was vetoed. See message at end of chapter.*

29 *NEW SECTION. Sec. 602. A person may not act as a licensed
30 processor without a license for each processing facility issued by the
31 department of agriculture and prominently displayed on the premises.
32 Provided they are acting in compliance with the terms of this chapter
33 and rules adopted to enforce and carry out its purposes, licensed
34 processors of cannabis products and their employees, members, officers,
35 and directors may possess useable cannabis and manufacture, produce,

1 prepare, process, package, repackage, transport, transfer, deliver,
2 label, relabel, wholesale, or possess cannabis products intended for
3 medical use by qualifying patients, and may not be arrested, searched,
4 prosecuted, or subject to other criminal sanctions or civil
5 consequences under state law, or have real or personal property
6 searched, seized, or forfeited pursuant to state law, for such
7 activities, notwithstanding any other provision of law.

*Sec. 602 was vetoed. See message at end of chapter.

8 *NEW SECTION. Sec. 603. The director shall administer and carry
9 out the provisions of this chapter relating to licensed producers and
10 licensed processors of cannabis products, and rules adopted under this
11 chapter.

*Sec. 603 was vetoed. See message at end of chapter.

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

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

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

*Sec. 604 was vetoed. See message at end of chapter.

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

*Sec. 605 was vetoed. See message at end of chapter.

33 *NEW SECTION. Sec. 606. The department of agriculture may adopt
34 rules on:

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

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

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

*Sec. 606 was vetoed. See message at end of chapter.

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

*Sec. 607 was vetoed. See message at end of chapter.

19 *NEW SECTION. Sec. 608. (1) By January 1, 2013, taking into
20 consideration, but not being limited by, the security requirements
21 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
22 rules:

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

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

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

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

36 (ii) THC concentration; and

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

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

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

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

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

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

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

*Sec. 608 was vetoed. See message at end of chapter.

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

30 (2) The property, books, records, accounts, papers, and proceedings
31 of every licensed producer and licensed processor of cannabis products
32 shall be subject to inspection by the department of agriculture at any
33 time during ordinary business hours. Licensed producers and licensed
34 processors of cannabis products shall maintain adequate records and
35 systems for the filing and accounting of crop production, product
36 manufacturing and processing, records of weights and measurements,

1 product testing, receipts, canceled receipts, other documents, and
2 transactions necessary or common to the medical cannabis industry.

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

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

*Sec. 609 was vetoed. See message at end of chapter.

14 ***NEW SECTION.** Sec. 610. (1) The department of agriculture may give
15 written notice to a licensed producer or processor of cannabis products
16 to furnish required reports, documents, or other requested information,
17 under such conditions and at such time as the department of agriculture
18 deems necessary if a licensed producer or processor of cannabis
19 products fails to:

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

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

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

26 (2) If the licensed producer or processor of cannabis products
27 fails to comply with the terms of the notice within seventy-two hours
28 from the date of its issuance, or within such further time as the
29 department of agriculture may allow, the department of agriculture
30 shall levy a fine of five hundred dollars per day from the final date
31 for compliance allowed by this section or the department of
32 agriculture. In those cases where the failure to comply continues for
33 more than seven days or where the director determines the failure to
34 comply creates a threat to public health, public safety, or a
35 substantial risk of diversion of cannabis to unauthorized persons or
36 purposes, the department of agriculture may, in lieu of levying further

1 fines, petition the superior court of the county where the licensee's
2 principal place of business in Washington is located, as shown by the
3 license application, for an order:

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

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

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

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

*Sec. 610 was vetoed. See message at end of chapter.

20 *NEW SECTION. Sec. 611. (1) A licensed producer may not sell or
21 deliver cannabis to any person other than a cannabis analysis
22 laboratory, licensed processor of cannabis products, licensed
23 dispenser, or law enforcement officer except as provided by court
24 order. A licensed producer may also sell or deliver cannabis to the
25 University of Washington or Washington State University for research
26 purposes, as identified in section 1002 of this act. Violation of this
27 section is a class C felony punishable according to chapter 9A.20 RCW.

28 (2) A licensed processor of cannabis products may not sell or
29 deliver cannabis to any person other than a cannabis analysis
30 laboratory, licensed dispenser, or law enforcement officer except as
31 provided by court order. A licensed processor of cannabis products may
32 also sell or deliver cannabis to the University of Washington or
33 Washington State University for research purposes, as identified in
34 section 1002 of this act. Violation of this section is a class C
35 felony punishable according to chapter 9A.20 RCW.

*Sec. 611 was vetoed. See message at end of chapter.

1 PART VII
2 LICENSED DISPENSERS

3 *NEW SECTION. Sec. 701. A person may not act as a licensed
4 dispenser without a license for each place of business issued by the
5 department of health and prominently displayed on the premises.
6 Provided they are acting in compliance with the terms of this chapter
7 and rules adopted to enforce and carry out its purposes, licensed
8 dispensers and their employees, members, officers, and directors may
9 deliver, distribute, dispense, transfer, prepare, package, repackage,
10 label, relabel, sell at retail, or possess cannabis intended for
11 medical use by qualifying patients, including seeds, seedlings,
12 cuttings, plants, useable cannabis, and cannabis products, and may not
13 be arrested, searched, prosecuted, or subject to other criminal
14 sanctions or civil consequences under state law, or have real or
15 personal property searched, seized, or forfeited pursuant to state law,
16 for such activities, notwithstanding any other provision of law.

*Sec. 701 was vetoed. See message at end of chapter.

17 *NEW SECTION. Sec. 702. (1) By January 1, 2013, taking into
18 consideration the security requirements described in 21 C.F.R. 1301.71-
19 1301.76, the secretary of health shall adopt rules:

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

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

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

27 (d) Establishing recordkeeping requirements for licensed
28 dispensers;

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

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

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

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

1 (i) Establishing physical standards for cannabis dispensing
2 facilities. The physical standards must require a licensed dispenser
3 to ensure that no cannabis or cannabis paraphernalia may be viewed from
4 outside the facility;

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

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

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

13 (m) Establishing a maximum number of licensed dispensers that may
14 be licensed in each county as provided in this section;

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

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

19 (2) (a) The secretary shall establish a maximum number of licensed
20 dispensers that may operate in each county. Prior to January 1, 2016,
21 the maximum number of licensed dispensers shall be based upon a ratio
22 of one licensed dispenser for every twenty thousand persons in a
23 county. On or after January 1, 2016, the secretary may adopt rules to
24 adjust the method of calculating the maximum number of dispensers to
25 consider additional factors, such as the number of enrollees in the
26 registry established in section 901 of this act and the secretary's
27 experience in administering the program. The secretary may not issue
28 more licenses than the maximum number of licenses established under
29 this section.

30 (b) In the event that the number of applicants qualifying for the
31 selection process exceeds the maximum number for a county, the
32 secretary shall initiate a random selection process established by the
33 secretary in rule.

34 (c) To qualify for the selection process, an applicant must
35 demonstrate to the secretary that he or she meets initial screening
36 criteria that represent the applicant's capacity to operate in
37 compliance with this chapter. Initial screening criteria shall
38 include, but not be limited to:

- 1 (i) Successful completion of a background check;
2 (ii) A plan to systematically verify qualifying patient and
3 designated provider status of clients;
4 (iii) Evidence of compliance with functional standards, such as
5 ventilation and security requirements; and
6 (iv) Evidence of compliance with facility standards, such as zoning
7 compliance and not using the facility as a residence.

8 (d) The secretary shall establish a schedule to:

- 9 (i) Update the maximum allowable number of licensed dispensers in
10 each county; and
11 (ii) Issue approvals to operate within a county according to the
12 random selection process.

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

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

**Sec. 702 was vetoed. See message at end of chapter.*

20 *NEW SECTION. Sec. 703. A licensed dispenser may not sell cannabis
21 received from any person other than a licensed producer or licensed
22 processor of cannabis products, or sell or deliver cannabis to any
23 person other than a qualifying patient, designated provider, or law
24 enforcement officer except as provided by court order. A licensed
25 dispenser may also sell or deliver cannabis to the University of
26 Washington or Washington State University for research purposes, as
27 identified in section 1002 of this act. Before selling or providing
28 cannabis to a qualifying patient or designated provider, the licensed
29 dispenser must confirm that the patient qualifies for the medical use
30 of cannabis by contacting, at least once in a one-year period, that
31 patient's health care professional. Violation of this section is a
32 class C felony punishable according to chapter 9A.20 RCW.

**Sec. 703 was vetoed. See message at end of chapter.*

33 *NEW SECTION. Sec. 704. A license to operate as a licensed
34 dispenser is not transferrable.

**Sec. 704 was vetoed. See message at end of chapter.*

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

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

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

*Sec. 803 was vetoed. See message at end of chapter.

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

*Sec. 804 was vetoed. See message at end of chapter.

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

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

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

*Sec. 805 was vetoed. See message at end of chapter.

1 rules for the creation, implementation, maintenance, and timely
2 upgrading of a secure and confidential registration system that allows:

3 (a) A peace officer to verify at any time whether a health care
4 professional has registered a person as either a qualifying patient or
5 a designated provider; and

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

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

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

24 (4) Before seeking a nonvehicle search warrant or arrest warrant,
25 a peace officer investigating a cannabis-related incident must make
26 reasonable efforts to ascertain whether the location or person under
27 investigation is registered in the registration system, and include the
28 results of this inquiry in the affidavit submitted in support of the
29 application for the warrant. This requirement does not apply to
30 investigations in which:

31 (a) The peace officer has observed evidence of an apparent cannabis
32 operation that is not a licensed producer, processor of cannabis
33 products, or dispenser;

34 (b) The peace officer has observed evidence of theft of electrical
35 power;

36 (c) The peace officer has observed evidence of illegal drugs other
37 than cannabis at the premises;

1 (d) The peace officer has observed frequent and numerous short-term
2 visits over an extended period that are consistent with commercial
3 activity, if the subject of the investigation is not a licensed
4 dispenser;

5 (e) The peace officer has observed violent crime or other
6 demonstrated dangers to the community;

7 (f) The peace officer has probable cause to believe the subject of
8 the investigation has committed a felony, or a misdemeanor in the
9 officer's presence, that does not relate to cannabis; or

10 (g) The subject of the investigation has an outstanding arrest
11 warrant.

12 (5) Law enforcement may access the registration system only in
13 connection with a specific, legitimate criminal investigation regarding
14 cannabis.

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

24 (7) Fees, including renewal fees, for qualifying patients and
25 designated providers participating in the registration system shall be
26 limited to the cost to the state of implementing, maintaining, and
27 enforcing the provisions of this section and the rules adopted to carry
28 out its purposes. The fee shall also include any costs for the
29 department of health to disseminate information to employees of state
30 and local law enforcement agencies relating to whether a person is a
31 licensed producer, processor of cannabis products, or dispenser, or
32 that a location is the recorded address of a license producer,
33 processor of cannabis products, or dispenser, and for the dissemination
34 of log records relating to such requests for information to the
35 subjects of those requests. No fee may be charged to local law
36 enforcement agencies for accessing the registry.

37 (8) During the rule-making process, the department of health shall
38 consult with stakeholders and persons with relevant expertise, to

1 include, but not be limited to, qualifying patients, designated
2 providers, health care professionals, state and local law enforcement
3 agencies, and the University of Washington computer science and
4 engineering security and privacy research lab.

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

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

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

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

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

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

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

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

33 (ii) Authorized employees of state or local law enforcement
34 agencies, only as necessary to verify that the person or location is a
35 qualified patient, designated provider, licensed producer, licensed
36 processor of cannabis products, or licensed dispenser, and only after
37 the inquiring employee has provided adequate identification.
38 Authorized employees who obtain personally identifiable information

1 under this subsection may not release or use the information for any
2 purpose other than verification that a person or location is a
3 qualified patient, designated provider, licensed producer, licensed
4 processor of cannabis products, or licensed dispenser;

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

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

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

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

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

**Sec. 901 was vetoed. See message at end of chapter.*

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

23 Records containing names and other personally identifiable
24 information relating to qualifying patients, designated providers, and
25 persons licensed as producers or dispensers of cannabis for medical
26 use, or as processors of cannabis products, under section 901 of this
27 act are exempt from disclosure under this chapter.

**Sec. 902 was vetoed. See message at end of chapter.*

28 **PART X**
29 **EVALUATION**

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

34 (2) The evaluation of the implementation of this act and the rules

1 adopted to carry out its purposes shall include, but not necessarily be
2 limited to, consideration of the following factors:

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

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

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

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

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

13 (f) Diversion of cannabis intended for medical use to nonmedical
14 uses;

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

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

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

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

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

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

32 The University of Washington and Washington State University may
33 conduct scientific research on the efficacy and safety of administering
34 cannabis as part of medical treatment. As part of this research, the
35 University of Washington and Washington State University may develop
36 and conduct studies to ascertain the general medical safety and

1 efficacy of cannabis and may develop medical guidelines for the
2 appropriate administration and use of cannabis.

3 **PART XI**
4 **CONSTRUCTION**

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

9 (2) No civil or criminal liability may be imposed by any court on
10 cities, towns, and counties or other municipalities and their officers
11 and employees for actions taken in good faith under this chapter and
12 within the scope of their assigned duties.

13 NEW SECTION. **Sec. 1102.** (1) Cities and towns may adopt and
14 enforce any of the following pertaining to the production, processing,
15 or dispensing of cannabis or cannabis products within their
16 jurisdiction: Zoning requirements, business licensing requirements,
17 health and safety requirements, and business taxes. Nothing in this
18 act is intended to limit the authority of cities and towns to impose
19 zoning requirements or other conditions upon licensed dispensers, so
20 long as such requirements do not preclude the possibility of siting
21 licensed dispensers within the jurisdiction. If the jurisdiction has
22 no commercial zones, the jurisdiction is not required to adopt zoning
23 to accommodate licensed dispensers.

24 (2) Counties may adopt and enforce any of the following pertaining
25 to the production, processing, or dispensing of cannabis or cannabis
26 products within their jurisdiction in locations outside of the
27 corporate limits of any city or town: Zoning requirements, business
28 licensing requirements, and health and safety requirements. Nothing in
29 this act is intended to limit the authority of counties to impose
30 zoning requirements or other conditions upon licensed dispensers, so
31 long as such requirements do not preclude the possibility of siting
32 licensed dispensers within the jurisdiction. If the jurisdiction has
33 no commercial zones, the jurisdiction is not required to adopt zoning
34 to accommodate licensed dispensers.

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

6 *NEW SECTION. **Sec. 1104.** *In the event that the federal government*
7 *authorizes the use of cannabis for medical purposes, within a year of*
8 *such action, the joint legislative audit and review committee shall*
9 *conduct a program and fiscal review of the cannabis production and*
10 *dispensing programs established in this chapter. The review shall*
11 *consider whether a distinct cannabis production and dispensing system*
12 *continues to be necessary when considered in light of the federal*
13 *action and make recommendations to the legislature.*

**Sec. 1104 was vetoed. See message at end of chapter.*

14 NEW SECTION. **Sec. 1105.** (1)(a) The arrest and prosecution
15 protections established in section 401 of this act may not be asserted
16 in a supervision revocation or violation hearing by a person who is
17 supervised by a corrections agency or department, including local
18 governments or jails, that has determined that the terms of this
19 section are inconsistent with and contrary to his or her supervision.

20 (b) The affirmative defenses established in sections 402, 405, 406,
21 and 407 of this act may not be asserted in a supervision revocation or
22 violation hearing by a person who is supervised by a corrections agency
23 or department, including local governments or jails, that has
24 determined that the terms of this section are inconsistent with and
25 contrary to his or her supervision.

26 (2) The provisions of RCW 69.51A.040 and sections 403 and 413 of
27 this act do not apply to a person who is supervised for a criminal
28 conviction by a corrections agency or department, including local
29 governments or jails, that has determined that the terms of this
30 chapter are inconsistent with and contrary to his or her supervision.

31 (3) A person may not be licensed as a licensed producer, licensed
32 processor of cannabis products, or a licensed dispenser under section
33 601, 602, or 701 of this act if he or she is supervised for a criminal
34 conviction by a corrections agency or department, including local
35 governments or jails, that has determined that licensure is
36 inconsistent with and contrary to his or her supervision.

1 (c) Be registered with the secretary of state as of May 1, 2011;

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

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

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

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

20 (6) This section expires upon the establishment of the licensing
21 programs of the department of agriculture and the department of health
22 and the commencement of the issuance of licenses for dispensers and
23 producers as provided in this chapter. The department of health and
24 the department of agriculture shall notify the code reviser when the
25 establishment of the licensing programs has occurred.

*Sec. 1201 was vetoed. See message at end of chapter.

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

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

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

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

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

*Sec. 1202 was vetoed. See message at end of chapter.

1 ***NEW SECTION. Sec. 1203.** (1) (a) On July 1, 2015, the department of
2 health shall report the following information to the state treasurer:

3 (i) The expenditures from the health professions account related to
4 the administration of chapter 69.51A RCW between the effective date of
5 this section and June 30, 2015; and

6 (ii) The amounts deposited into the health professions account
7 under sections 702, 802, and 901 of this act between the effective date
8 of this section and June 30, 2015.

9 (b) If the amount in (a) (i) of this subsection exceeds the amount
10 in (a) (ii) of this subsection, the state treasurer shall transfer an
11 amount equal to the difference from the general fund to the health
12 professions account.

13 (2) (a) Annually, beginning July 1, 2016, the department of health
14 shall report the following information to the state treasurer:

15 (i) The expenditures from the health professions account related to
16 the administration of chapter 69.51A RCW for the preceding fiscal year;
17 and

18 (ii) The amounts deposited into the health professions account
19 under sections 702, 802, and 901 of this act during the preceding
20 fiscal year.

21 (b) If the amount in (a) (i) of this subsection exceeds the amount
22 in (a) (ii) of this subsection, the state treasurer shall transfer an
23 amount equal to the difference from the general fund to the health
24 professions account.

**Sec. 1203 was vetoed. See message at end of chapter.*

25 **NEW SECTION. Sec. 1204.** RCW 69.51A.080 (Adoption of rules by the
26 department of health--Sixty-day supply for qualifying patients) and
27 2007 c 371 s 8 are each repealed.

28 **NEW SECTION. Sec. 1205.** Sections 402 through 411, 413, 601
29 through 611, 701 through 705, 801 through 807, 901, 1001, 1101 through
30 1105, and 1201 of this act are each added to chapter 69.51A RCW.

31 ***NEW SECTION. Sec. 1206.** Section 1002 of this act takes effect
32 January 1, 2013.

**Sec. 1206 was vetoed. See message at end of chapter.*

Passed by the Senate April 21, 2011.

Passed by the House April 11, 2011.

Approved by the Governor April 29, 2011, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 29, 2011.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

"AN ACT Relating to medical use of cannabis."

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients' physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient's use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers,

processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a 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. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for

registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved."

EXHIBIT E

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

P.O. Box 40002 · Olympia, Washington 98504-0002 · (360) 902-4111 · www.governor.wa.gov

April 29, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

“AN ACT Relating to medical use of cannabis.”

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients’ physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient’s use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers, processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a 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. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

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Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved.

Sincerely,

/s/

Christine O. Gregoire
Governor