

NO. 44549-2-II

IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON DIVISION TWO

STATE OF WASHINGTON,

Respondent,

v.

JONATHAN BROOKS,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR MASON COUNTY

The Honorable Toni A. Sheldon, Judge
The Honorable Amber L. Finlay, Judge

REPLY BRIEF OF APPELLANT

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A. ISSUE IN REPLY

Rather than controlling the result in this case, is the holding in State v. Fry¹ now limited to cases occurring before the 2011 amendments to the Medical Use of Marijuana Act (MUMA) took effect?

B. ARGUMENT IN REPLY

UNDER THE CURRENT VERSION OF MUMA, THE OFFICERS' OBSERVATIONS WERE AMBIGUOUS AND DID NOT ESTABLISH PROBABLE CAUSE.

The State argues State v. Fry controls the result in this case. Brief of Respondent (BOR) at 7. In that case, the Washington Supreme Court determined that authorization to possess medical marijuana under MUMA does not negate a finding of probable cause to search for marijuana. Fry, 168 Wn.2d at 6. As outlined in Brooks' opening brief, however, in 2011, the Legislature made substantial changes to MUMA. The new statute provides that "medical use of cannabis in accordance with the terms and conditions of this chapter *does not constitute a crime.*" RCW 69.51A.040 (emphasis added); Laws of 2011, ch. 181, § 401 (eff. July 22, 2011).²

In State v. Kurtz, ___ Wn.2d ___, 309 P.3d 472, 478 (2013), the Court, affirming the existence of an additional necessity defense to marijuana possession and manufacturing, observed that the 2011

¹ 168 Wn.2d 1, 228 P.3d 1 (2010)

² RCW 69.51A.040 is attached to this brief as Appendix A.

amendments to MUMA made marijuana use under the Act “legal” rather than merely providing an affirmative defense. This is the latest word from the Supreme Court on MUMA. While the issue being considered was not identical to the one here, the language appears to limit the application of Court’s prior Fry decision to the prior version of MUMA.

The amended statute now provides an exception to the general prohibition on possession of controlled substances. To obtain a warrant, officers thus must show the exception does not apply. Without such a showing, the officer’s observations do not establish probable cause to believe a crime has been committed.

The State nonetheless argues that the same activity RCW 69.51A.040 purports to decriminalize remains criminal in light of the Governor’s veto of certain sections of the bill. BOR at 7. The vetoed sections involve registry and licensing of patients, providers, and producers of cannabis. The State’s argument should be rejected.

This Court reviews issues of statutory interpretation de novo. State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). Of paramount importance in such analysis is the Legislature’s intent in adopting the statute. Rental Housing Ass’n of Puget Sound v. City of Des Moines, 165 Wn.2d 525, 536, 199 P.3d 393 (2009).

In analyzing a statute, this Court looks first to its plain language. Armendariz, 160 Wn.2d at 110. Under the “plain meaning rule,” this Court examines the language of the statute, other provisions of the same act, and related statutes. City of Seattle v. Allison, 148 Wn.2d 75, 81, 59 P.3d 85 (2002). This Court examines the statute as a whole. In re Detention of Williams, 147 Wn.2d 476, 490, 55 P.3d 597 (2002). If the plain language of the statute is unambiguous, this Court's inquiry ends, and the statute is enforced “in accordance with its plain meaning.” Armendariz, 160 Wn.2d at 110.

If, after this inquiry, the statute remains susceptible to more than one reasonable meaning, the statute is ambiguous. State v. Slattum, 173 Wn. App. 640, 649, 295 P.3d 788, review denied, 178 Wn.2d 1010 (2013). In that case, this Court may resort to construction aids, including legislative history. State ex rel. Citizens Against Tolls v. Murphy, 151 Wn.2d 226, 242-43, 88 P.3d 375 (2004). “The spirit and intent of the statute should prevail over the literal letter of the law.” Morris v. Blaker, 118 Wn.2d 133, 143, 821 P.2d 482 (1992). But the rule of lenity requires that, absent clear legislative intent to the contrary, a statute must be construed in the light most favorable to an accused. Slattum, 173 Wn. App. at 657-58. Finally, this Court attempts to interpret statutes to give effect to all language in the statute

and to render no portion meaningless or superfluous. State v. J.P., 149 Wn.2d 444, 450, 69 P.3d 318 (2003).

The operative language in Brooks' case is this: "The medical use of cannabis in accordance with the terms and conditions of this chapter does not constitute a crime." RCW 69.51A.040. In addition, RCW 69.51A.025 provides that "[n]othing in this chapter . . . precludes a qualifying patient or designated provider from engaging in the private, unlicensed, noncommercial production, possession, transportation, delivery, or administration of cannabis for medical use" Laws of 2011, ch. 181, § 413.³ The earlier versions of the statute contained no such language. Laws of 2007, ch. 371 § 5; 1999 c 2 § 5 (Initiative Measure No. 692, approved November 3, 1998). In enacting the amendments, the Legislature expressed its intent to decriminalize the medical use and provision of cannabis. RCW 69.51A.005(2) ("Purpose and Intent"); Laws of 2011, ch. 181, § 102.⁴

RCW 69.51A.025 and .040 plainly indicate the Legislature's intention to decriminalize the use, delivery, and production of marijuana for medical use under certain circumstances. This language is consistent with the Legislature's intent in adopting the amendments. RCW 69.51A.005(2).

³ RCW 69.51A.025 is attached to this brief as Appendix B.

⁴ RCW 69.51A.005 is attached to this brief as Appendix C.

Although the State would read this language out of MUMA, it is not affected by the Governor's veto of other portions of the statute.

The State seeks to delete the operative language of RCW 69.51A.025 and .040 and negate the Legislature's express intent based on the Governor's veto of other sections of the legislation. This State's position conflicts with the rule that all portions of a statute should be given meaning. J.P., 149 Wn.2d at 450. The Governor's veto was based on concerns that registration- and licensing-related activities could place state employees at risk of federal prosecution. The Governor also took care to veto other provisions she believed were "associated with or dependent upon these licensing sections." See Laws of 2011, ch. 181, § 101 (legislative declaration and intent section, mentioning registry); § 201 (definitions section including registry-related definitions); § 410 (provision limiting refusal of and eviction from housing based on cannabis use, vetoed based on potential conflict with federal law); §§ 601-11 (provisions relating to licensing of producers and processors); §§ 701-05 (provisions relating to licensing of dispensers); §§ 801-08 (miscellaneous provisions applying to producers, processors and dispensers, including prohibition on advertising and establishment of civil penalties); § 901 (requiring state departments of health and agriculture to create registration system); § 1104 (provision requiring legislative review of statutes if medical marijuana authorized by federal statute vetoed based on

connection to licensing provision); § 1201 (licensing of and affirmative defense for preexisting dispensaries); see also Engrossed Second Substitute Senate Bill 5073, “Governor’s explanation of partial veto,” at 42-44, (accessed at <http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/Session%20Laws/Senate/5073-S2.SL.pdf>, and attached to this brief as Appendix D).⁵

But as the above summaries indicate, the Governor did not veto the language decriminalizing the medical use of marijuana. As such, provisions relating to such decriminalization were passed into law. Indeed, the Governor’s “explanation of partial veto” reiterates her support of the original initiative and 2007 amendments expanding the availability of medical marijuana. The Governor’s statement goes on to reassure that “[q]ualifying patients or their designated providers may grow cannabis for the patient’s use or participated in a collective garden *without fear of state criminal prosecutions.*” (Emphasis added.) Appendix D at 42. The Governor’s veto of the registration requirements thus does not support the State’s argument.

⁵ The Governor also vetoed § 407, creating an affirmative defense for non-residents authorized under another state’s scheme, because that 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.” Appendix D at 43.

Similarly, MUMA's post-2011 retention of affirmative defenses does not trump the decriminalization language. Chapter 69.51A RCW does not qualify its post-2011 decriminalization language with a provision such as "medical use of cannabis by an unregistered user limits the user to arguing an affirmative defense." Chapter 69.51A RCW nonetheless retains two affirmative defenses. The second, RCW 69.51A.045, is of little relevance here, as it involves a necessity defense, that the qualifying patient requires more than the amount permitted by statute.

The first, RCW 69.51A.043, provides that an unregistered patient or provider may raise an affirmative defense at trial. But as the trial court this section does not address whether there is, at the outset, probable cause to believe a crime is being committed. As argued in Brooks' opening brief, however, under State v. Neth⁶ an affidavit that does not establish, for example, that the marijuana is beyond the legally permissible amount, does not establish probable cause to believe a crime is being committed. Brief of Appellant at 9-10.

In any event, RCW 69.51A.043 does not conflict with the decriminalization aspects RCW 69.51A.040 and .025. Construed consistently with those provisions, it may be viewed as a second means of protection for authorized patients and providers. J.P., 149 Wn.2d at 450; cf.

⁶ 165 Wn.2d 177, 196 P.3d 658 (2008).

Kurtz, 309 P.3d at 478-79 (affirming continuing existence of necessity defense in addition to statutory defense).

Should this Court find, however, that the veto of the registry provision renders MUMA's decriminalization language ambiguous, the language must be interpreted against the State. See RCW 69.51A.005(2) (statement of legislative intent in adopting the amendments); see also Slattum, 173 Wn. App. at 657-58 (because the word "imprisonment" in statute providing for state-funded post-conviction DNA testing is ambiguous, the rule of lenity required this Court to construe this statute strictly against the State).

Finally, the removal of the registry requirements made it harder, although not impossible, for law enforcement to do its job. But this Court cannot rewrite statutes based on public policy concerns. This situation is, moreover, not a novel one. Certain substances may be possessed only with a prescription. But an officer observing an individual consume a known controlled substance would not have probable cause to arrest that individual even if the individual was not displaying that prescription. More is required. Cf. State v. Gonzales, 46 Wn. App. 388, 400-01, 731 P.2d 1101 (1986) (police had probable cause to believe that capsules and a pill found in a clear vial were controlled substances because they observed drug paraphernalia and a marijuana pipe in defendant's residence).

Contrary to the State's arguments, under the 2011 amendments to MUMA, observations suggesting some amount of marijuana is being grown are insufficient to support that a crime is "probably" being committed. As in the example above, more evidence is required.

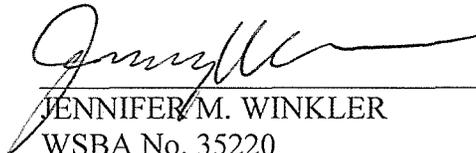
C. CONCLUSION

For the reasons stated above and in the appellant's opening brief, suppression of the evidence was required. The manufacturing and possession charges should therefore be reversed and dismissed. The State appears to have conceded on the remaining issues. BOR at 13, 15-16.

DATED this 10TH day of December, 2013.

Respectfully submitted,

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APPENDIX A



Effective: July 22, 2011

West's Revised Code of Washington Annotated Currentness

Title 69. Food, Drugs, Cosmetics, and Poisons (Refs & Annos)

Chapter 69.51A. Medical Marijuana (Refs & Annos)

→→ 69.51A.040. Compliance with chapter--Qualifying patients and designated providers not subject to penalties--Law enforcement not subject to liability

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

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

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

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

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

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

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

(3) The qualifying patient or designated provider keeps a copy of his or her proof of registration with the re-

gistry established in *section 901 of this act and the qualifying patient or designated provider's contact information posted prominently next to any cannabis plants, cannabis products, or useable cannabis located at his or her residence;

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

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

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

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

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

CREDIT(S)

[2011 c 181 § 401, eff. July 22, 2011; 2007 c 371 § 5, eff. July 22, 2007; 1999 c 2 § 5 (Initiative Measure No. 692, approved November 3, 1998).]

West's RCWA 69.51A.040, WA ST 69.51A.040

END OF DOCUMENT

APPENDIX B

Westlaw.

West's RCWA 69.51A.025

Page 1

Effective: July 22, 2011

West's Revised Code of Washington Annotated Currentness

Title 69. Food, Drugs, Cosmetics, and Poisons (Refs & Annos)

Chapter 69.51A. Medical Marijuana (Refs & Annos)

→ → 69.51A.025. Construction of chapter--Compliance with RCW 69.51A.040

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

CREDIT(S)

[2011 c 181 § 413, eff. July 22, 2011.]

West's RCWA 69.51A.025, WA ST 69.51A.025

Current with 2013 Legislation effective through August 1, 2013

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APPENDIX C

C

Effective: July 22, 2011

West's Revised Code of Washington Annotated Currentness
Title 69. Food, Drugs, Cosmetics, and Poisons (Refs & Annos)
Chapter 69.51A. Medical Marijuana (Refs & Annos)
→ → 69.51A.005. Purpose and intent

(1) The legislature finds that:

(a) There is medical evidence that some patients with terminal or debilitating medical conditions may, under their health care professional's care, benefit from the medical use of cannabis. Some of the conditions for which cannabis appears to be beneficial include, but are not limited to:

(i) Nausea, vomiting, and cachexia associated with cancer, HIV-positive status, AIDS, hepatitis C, anorexia, and their treatments;

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

(iii) Acute or chronic glaucoma;

(iv) Crohn's disease; and

(v) Some forms of intractable pain.

(b) Humanitarian compassion necessitates that the decision to use cannabis by patients with terminal or debilitating medical conditions is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion.

(2) Therefore, the legislature intends that:

(a) Qualifying patients with terminal or debilitating medical conditions who, in the judgment of their health care professionals, may benefit from the medical use of cannabis, shall not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law based solely on their medical use of cannabis, notwithstanding any other provision of law;

(b) Persons who act as designated providers to such patients shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law, notwithstanding any other provision of law, based solely on their assisting with the medical use of cannabis; and

(c) Health care professionals shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law for the proper authorization of medical use of cannabis by qualifying patients for whom, in the health care professional's professional judgment, the medical use of cannabis may prove beneficial.

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

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

CREDIT(S)

[2011 c 181 § 102, eff. July 22, 2011; 2010 c 284 § 1, eff. June 10, 2010; 2007 c 371 § 2, eff. July 22, 2007; 1999 c 2 § 2 (Initiative Measure No. 692, approved November 3, 1998).]

West's RCWA 69.51A.005, WA ST 69.51A.005

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APPENDIX D

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."

NIELSEN, BROMAN & KOCH, PLLC

December 11, 2013 - 12:43 PM

Transmittal Letter

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