

**CITY COUNCIL  
AGENDA BILL  
AB 13-46**

**Meeting Date: December 2, 2013**

**AGENDA ITEM INFORMATION**

<b>SUBJECT:</b> <i>Required Findings for Ordinance No. 895, a 6-month Moratorium on all Marijuana Land Uses</i>	<b>Originator:</b>	
	Mayor	
	City Council	
	City Administrator	
	City Attorney	
	City Clerk	
	City Engineer	
	Community Development Director	GB
	Finance Director	
	Fire Chief	
	Police Chief	
	Streets/Parks/Drainage Supervisor	
	Water/Wastewater Supervisor	
<b>COST:</b> N/A	Other:	
<b>SUMMARY STATEMENT:</b> The City has adopted Ordinance No. 895, a moratorium on marijuana-related land uses. The City has also conducted a public hearing on the matter. The City is required to adopt Findings of Fact for this moratorium, after considering the entire record made available to the Council on this topic. The findings are the underpinning of the decision. The Findings of Fact and relevant information are in the packet, not including any public input the Council may have received tonight from the public hearing.		
<b>RECOMMENDED ACTION:</b> <i>Adopt the Findings of Fact.</i>		



**Findings of Fact Regarding Adoption of Ordinance No. 895\***, passed by the Long Beach City Council on October 7, 2013, an interim ordinance of the city of Long Beach, Washington enacting a moratorium on any and all land uses related to cannabis (marijuana); prohibiting issuance of licenses or permits for land uses related to cannabis (marijuana); referring the matter to the Long Beach Planning Commission; ordering transmittal to the department of commerce; providing for a public hearing; providing for severability; and declaring an emergency and establishing an effective date.

(note: \* denotes an attachment)

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**This matter came before the Long Beach City Council on December 2, 2013 and the City Council conducted a public hearing, reviewed all materials provided by staff, as well as public comments. Based on these materials and comments, the Council makes the following Findings of Fact.**

1. In November 1998, the voters of Washington state passed Initiative 692\*, legalizing the use, possession, and cultivation of cannabis for patients with a medical certificate.
2. Medical cannabis is regulated by the state of Washington via RCW 69.51A\*.
3. In April 2011, the Washington state legislature passed Engrossed Second Substitute Senate Bill 5073\*, allowing for collective gardens whereby up to ten (10) qualifying patients may participate together to produce, process, transport, and deliver cannabis for medical use. Governor Gregoire vetoed\* a significant portion of ESSSB 5073.
4. Medical collective cannabis gardens are regulated by the state of Washington via 69.51A.085\*.
5. In November 2012, the voters of Washington state passed Initiative 502\*, legalizing cannabis for recreational use.
6. On August 29, 2013, the U.S. Department of Justice, Office of the Attorney General, issued guidance\* to all U.S. Attorneys stating that strong and effective state and local regulatory systems including robust controls and procedures on paper and in practice are critical to controlling the threats that legalizing cannabis may pose to public safety, public health, and other law enforcement issues. Such systems must also not undermined federal enforcement priorities, which include preventing the following:
  - Distribution of marijuana to minors;
  - Revenue from sale of marijuana going to criminal enterprises, gangs, and cartels;
  - Diversion of marijuana from states where it is legal under state law in some form to other states;
  - State-authorized marijuana activity being used as a cover or pretext for the trafficking of other illegal drugs or illegal activity;
  - Violence and the use of firearms in the cultivation and distribution of marijuana;



- Drugged driving and exacerbation of other adverse public health consequences associated with marijuana use;
- Growing of marijuana on public lands and their attendant public safety and environmental dangers posed by marijuana on public lands; and
- Marijuana possession or use on federal property.

The Attorney General's memo advises U.S. attorneys that in using their prosecutorial discretion to take into consideration not only the size of a marijuana operation, but rather to review facts and operations on a case-by-case basis and weigh all information and evidence, including but not limited to, whether a marijuana operation is demonstrably in compliance with a strong and effective regulatory system. According to the memo, the prime question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or another of the enforcement priorities (listed above).

7. On October 21, 2013 The Washington State Department of Health, the Department of Revenue, and the Liquor Control Board issued draft recommendations\* for regulating medical marijuana. This work group suggested their recommendations go into effect no sooner than January 1, 2015. While they are subject to change, major issues covered by these draft recommendations for new regulations are as follows:
  - Medical marijuana collective gardens and dispensaries would be eliminated and medical marijuana sales would be folded into the recreational marijuana system. Licensed retail marijuana stores with a state license endorsement could sell medical marijuana to authorized medical marijuana patients. Home-growing would not be permitted for medical marijuana patients.
  - A medical marijuana registry would be set up and maintained by the state. A rigorous health care professional process would be established to authorize a medical marijuana patient, with required medical follow-up. Medical marijuana authorizations must be renewed annually.
  - Sales to medical marijuana patients would be exempt from the state/local retail sales and use tax. The excise taxes would be the same as for recreational marijuana.
  - Labeling of medical marijuana would include the levels of THC and cannabinoids.
  - If a medical marijuana patient is under the age of 18, the child's parent or guardian would need to consent, and the child could not have more than one dose in their possession.
8. In November 2013, the Washington State Liquor Control Board issued rules (WAC 314-55)\* for the application process, qualifications, and requirements to obtain and maintain a marijuana license, the reporting requirements for a marijuana license, and license violations and penalties. These rules appear on paper to constitute a strong and effective state regulatory system. This system has not been tested in practice.



9. On November 18, 2013 the Washington Stet Liquor Control Board opened the application window for Washington producers, processors, and retailers of recreational marijuana. That application window closes December 19, 2013.
10. Ineffective regulation by the City of marijuana production, processing, or retailing could have negative consequences on the citizens, businesses, and institutions of Long Beach, including but not limited to the following:
- Exposure of minor children to drugs;
  - Unwanted drug activity at the beach approaches, on City rights-of-way, or on other City- or publicly-controlled properties;
  - Unwanted exposure of citizens to drugs;
  - Unwanted exposure of business clientele to drugs;
  - Strain on policing resources; and/or
  - Undermining of federal enforcement priorities.
11. The City requires sufficient time to understand issues surrounding both medical and recreational marijuana production, processing, and retailing, as well as the interaction of these marijuana systems and activities, and to develop a strong and effective regulatory system, including robust controls and procedures on paper and in practice.
12. A moratorium on marijuana-related land uses is necessary to gain sufficient time to understand issues of both medical and recreational marijuana production, processing, and retailing, and to allow the State of Washington to develop regulations to control medical marijuana and to create a state system of regulation for both medical and recreational marijuana. This will ensure the City's enforcement system will not conflict with the State system, and will be at least as effective as the State system.

**ADOPTED** this 2<sup>nd</sup> day of December, 2013.

AYES \_\_

NAYS \_\_

ABSENT \_\_

ABSTENTIONS \_\_

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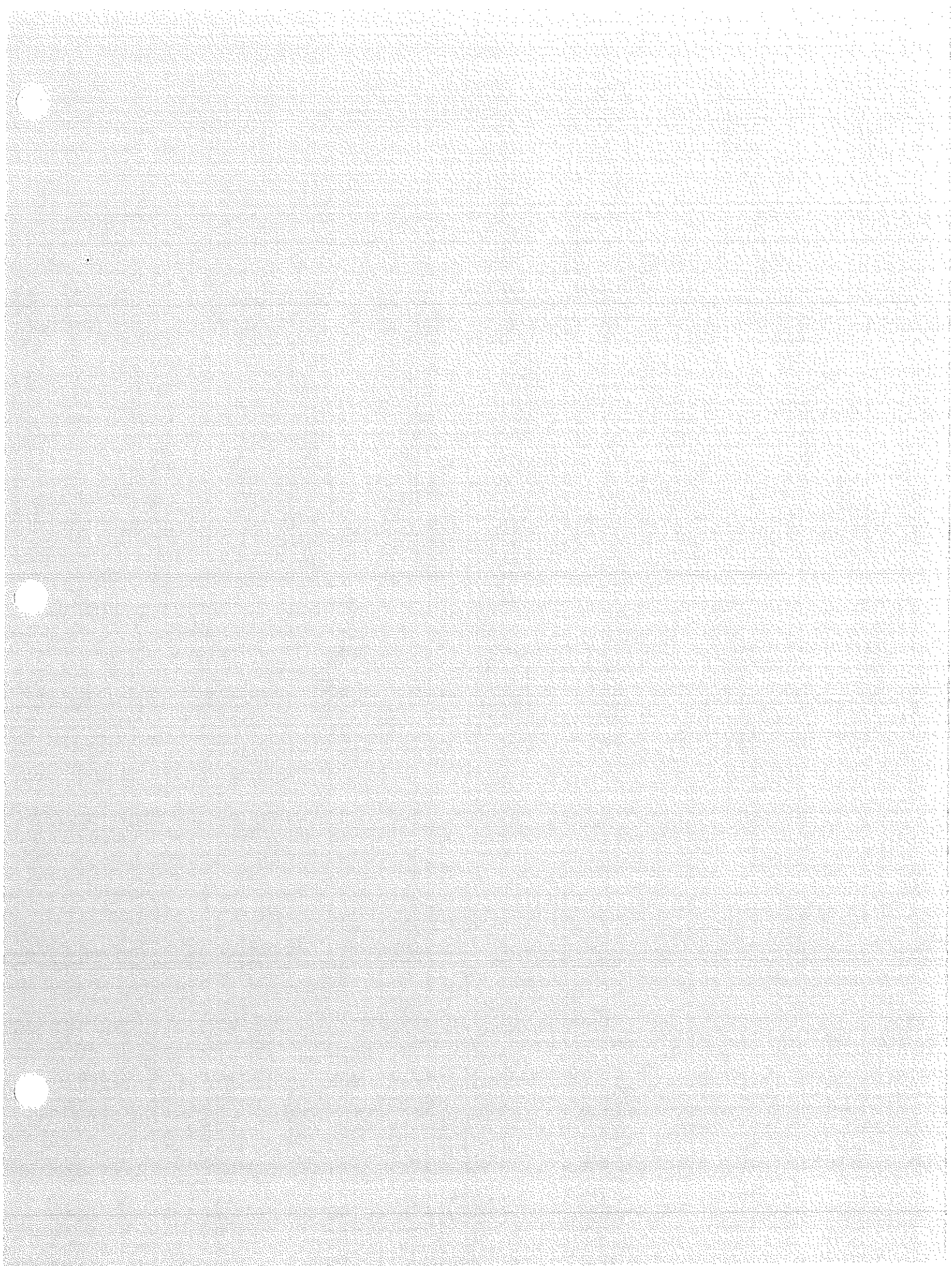
Robert Andrew, Mayor

**ATTEST:**

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David Glasson, City Clerk







## ORDINANCE No. 895

**AN INTERIM ORDINANCE OF THE CITY OF LONG BEACH, WASHINGTON  
ENACTING A MORATORIUM ON ANY AND ALL LAND USES RELATED TO  
CANNABIS (MARIJUANA); PROHIBITING ISSUANCE OF LICENSES OR PERMITS  
FOR LAND USES RELATED TO CANNABIS (MARIJUANA); REFERRING THE  
MATTER TO THE LONG BEACH PLANNING COMMISSION; ORDERING  
TRANSMITTAL TO THE DEPARTMENT OF COMMERCE; PROVIDING FOR A  
PUBLIC HEARING; PROVIDING FOR SEVERABILITY; AND DECLARING AN  
EMERGENCY AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of *Cannabis* (marijuana), and

**WHEREAS**, the City acknowledges the right of qualified health care professionals to recommend the medical use of *Cannabis* (marijuana), acknowledges the affirmative defense available to qualifying patients for the possession of *Cannabis* (marijuana) as well as the right of patients to designate a “designated provider” who can “provide” rather than sell *Cannabis* (marijuana) to only one patient at any one time, and

**WHEREAS**, the Legislature has passed Engrossed Second Substitute Senate Bill [E2SSB] 5073 (the Act) and the Governor has signed the bill but has vetoed several sections of the bill, and

**WHEREAS**, E2SSB 5073 was effective on July 22, 2011, and

**WHEREAS**, the Act authorizes “collective gardens” in which certain qualifying patients or their providers may produce, grow, and deliver *Cannabis* (marijuana) for medical use, and

**WHEREAS**, the citizens of the State of Washington passed Initiative 502, allowing the use of marijuana for non-medical purposes, and

**WHEREAS**, Initiative 502 in part directed the Washington State Liquor Control Board (SLCB) to develop rules and regulations to accomplish the following:

1. Determine the number of producers, processors and retailers of marijuana by county; and
2. Develop licensing and other regulatory measures; and
3. Issue licenses to producers, processors, and retailers at locations which comply with the Initiative’s distancing requirements prohibiting such uses within one thousand feet of schools and other designated public facilities; and
4. Establish a process for the City to comment prior to the issuance of such licenses; and
5. The SLCB has recently announced a delay in the implementation of its rules until December 2013 and a delay in license issuance until approximately June 2014;
6. The SLCB is presently considering whether to conduct environmental review under SEPA; and
7. Upon the SLCB’s completion of its implementation process, the City intends to prepare and effectuate a formal work plan to expeditiously develop a legally- compliant permanent local regulatory framework for marijuana-related uses, and

**WHEREAS**, the growth, processing, delivery/sale and use of *Cannabis* (marijuana) present immediate potential issues of public safety for surrounding properties as well as for the property on which such activities occur. Furthermore, the location of these activities near schools, day care facilities and other lawful uses presents immediate issues relating to the public welfare and the protection of minors resulting in a public emergency, and

**WHEREAS**, the City's zoning, licensing, and other development regulations do not address the potential impacts from *Cannabis*- (marijuana-) related land uses and the City needs adequate time to consider what such regulations should be and how to enact them, and

**WHEREAS**, on August 29, 2013 the United States Department of Justice, Office of the Deputy Attorney General, issued to all U.S. Attorneys a memorandum under the heading "Guidance Regarding Marijuana Enforcement" as a guide to the exercise of investigative and prosecutorial discretion as they relate to *Cannabis* (marijuana) prosecution that modified and directed the Justice Department's focus to those circumstances where *Cannabis* (marijuana) production, processing, or use are allowed but are either not accompanied by a strong and effective state regulatory system, or where such a regulatory system exists, but is not complied with, and

**WHEREAS**, the City Council of Long Beach deems it to be in the public interest to establish a zoning moratorium pending local review of the changes in laws regarding both medical and personal use marijuana, and

**WHEREAS**, pursuant to RCW 36.70A.390 a public hearing must be held within 60 days of the passage of this ordinance

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LONG BEACH, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Moratorium Enacted**

Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Long Beach prohibiting the licensing, establishment, maintenance or continuation of any *Cannabis*- (marijuana-) related land use. This includes the growing, processing, sale/delivery or use of marijuana or marijuana-related products.

**Section 2. Cannabis- (Marijuana-) Related Land Uses Prohibited**

*Cannabis*- (marijuana-) related land uses as defined in Section 1. herein are hereby designated as prohibited uses and activities under the ordinances of the City of Long Beach. In accordance with the provisions of RCW 35A.82.020, no license, land use permit, or building permit shall be issued to any person or entity for any *Cannabis*- (marijuana-) related land use or activity.

**Section 3. Referral to Planning Commission**

This ordinance shall be referred to the Long Beach Planning Commission for its review, public hearing, and recommendation for inclusion to the zoning ordinance of the City of Long Beach.

**Section 4. Ordinance to be Transmitted to Department of Commerce**

Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

**Section 5. Public Hearing Set**

Pursuant to RCW 36.70A.390, the City Council of Long Beach hereby sets its regularly-scheduled meeting of November 18, 2013, which begins at 7:00 PM at 115 Bolstad West, as the date and time for a public hearing on the continuation of this moratorium. The City Clerk is directed to cause appropriate notice of such hearing to be given.

**Section 6. Severability**

If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 7. Emergency Declared; Effective Date**

This ordinance is for the best interest of the City of Long Beach and an emergency is declared to exist, making passage of this ordinance urgent and necessary to the public peace, health, safety and welfare and immediate preservation of the public order of the City of Long Beach, and the same shall take effect immediately upon its passage as provided by law.

**Section 8. Adoption Date**

**ADOPTED** on first reading by at least a majority plus one of the whole membership of the City Council of the City of Long Beach, Washington at a regularly scheduled public meeting and executed by its Mayor this 7<sup>th</sup> day of October, 2013.

AYES 5

NAYS 0

ABSENT 0

ABSTENTIONS 0

**APPROVED** this 7<sup>th</sup> day of October, 2013.

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Robert Andrew, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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David Glasson, City Clerk

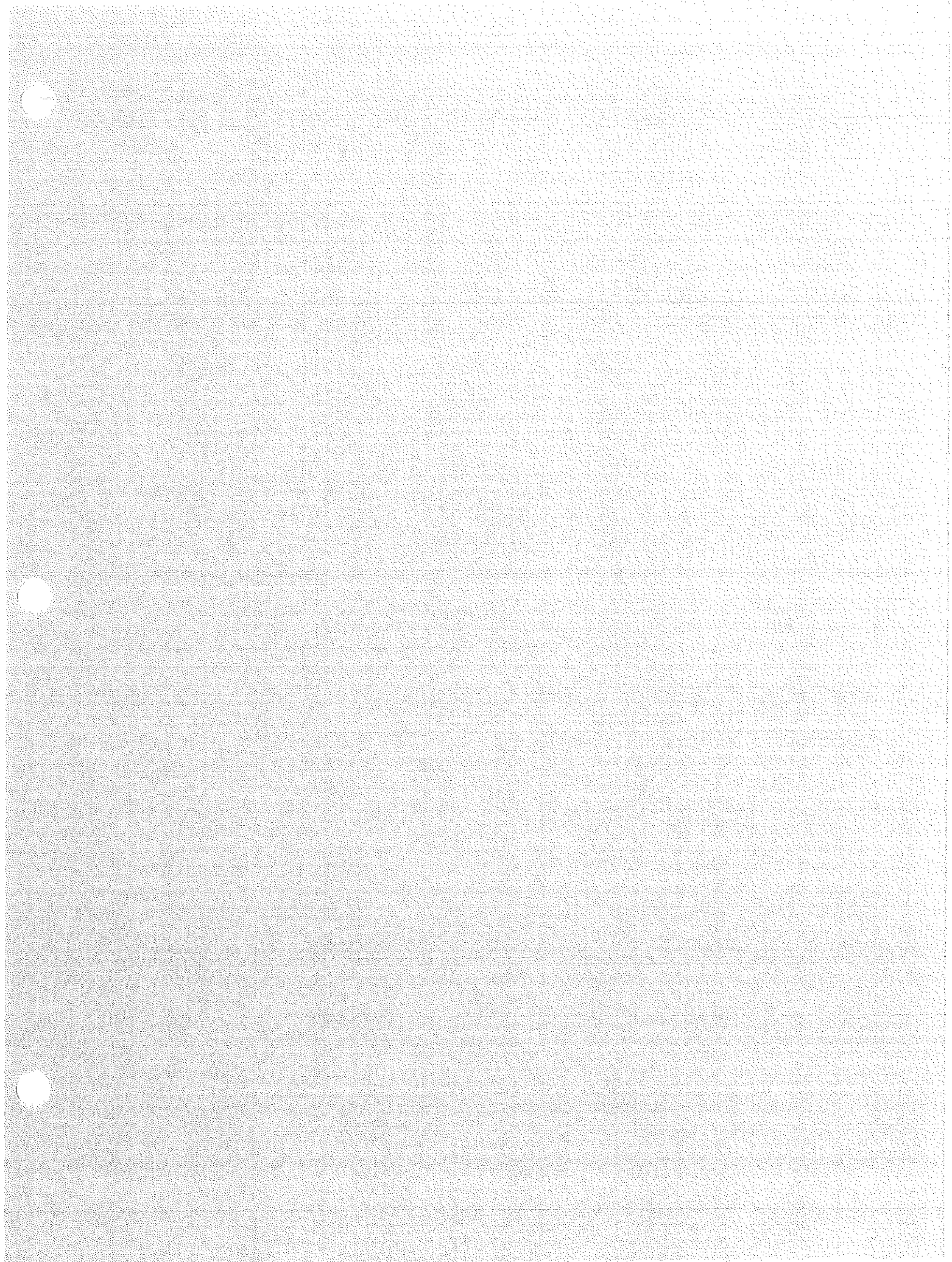
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Douglas Goelz, City Attorney

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INITIATIVE 692

AN ACT Relating to the medical use of marijuana; adding a new chapter to Title 69 RCW; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION: Sec. 1. TITLE.

This chapter may be known and cited as the Washington state medical use of marijuana act.

NEW SECTION. Sec. 2. PURPOSE AND INTENT.

The People of Washington state find that some patients with terminal or debilitating illnesses, under their physician's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The People find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their physicians' professional medical judgment and discretion.

Therefore, The people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as primary caregivers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

Physicians also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the physician's professional judgment, medical marijuana may prove beneficial.

NEW SECTION. Sec. 3. NON-MEDICAL PURPOSES PROHIBITED.

Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of marijuana for non-medical purposes.

NEW SECTION. Sec. 4. PROTECTING PHYSICIANS AUTHORIZING THE USE OF MEDICAL MARIJUANA.

A physician licensed under chapter 18.71 RCW or chapter 18.57 RCW shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

1. Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual physician's

- medical judgment; or
2. Providing a qualifying patient with valid documentation, based upon the physician's assessment of the qualifying patient's medical history and current medical condition, that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular qualifying patient.

NEW SECTION. Sec. 5. PROTECTING QUALIFYING PATIENTS AND PRIMARY CAREGIVERS.

1. If charged with a violation of state law relating to marijuana, any qualifying patient who is engaged in the medical use of marijuana, or any designated primary caregiver who assists a qualifying patient in the medical use of marijuana, will be deemed to have established an affirmative defense to such charges by proof of his or her compliance with the requirements provided in this chapter. Any person meeting the requirements appropriate to his or her status under this chapter shall be considered to have engaged in activities permitted by this chapter and shall not be penalized in any manner, or denied any right or privilege, for such actions.
2. The qualifying patient, if eighteen years of age or older, shall:
  - (a) Meet all criteria for status as a qualifying patient;
  - (b) Possess no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty day supply; and
  - (c) Present his or her valid documentation to any law enforcement official who questions the patient regarding his or her medical use of marijuana.
3. The qualifying patient, if under eighteen years of age, shall comply with subsection (2) (a) and (c) of this section. However, any possession under subsection (2) (b) of this act, as well as any production, acquisition, and decision as to dosage and frequency of use, shall be the responsibility of the parent or legal guardian of the qualifying patient.
4. The designated primary caregiver shall:
  - (a) Meet all criteria for status as a primary caregiver to a qualifying patient;
  - (b) Possess, in combination with and as an agent for the qualifying patient, no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty day supply;
  - (c) Present a copy of the qualifying patient's valid documentation required by this chapter, as well as evidence of designation to act as primary caregiver by the patient, to any law enforcement official requesting such information;
  - (d) Be prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as primary caregiver; and
  - (e) Be the primary caregiver to only one patient at any one time.

NEW SECTION. Sec. 6. DEFINITIONS.

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

1. "Medical use of marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.
2. "Primary caregiver" means a person who:

- (a) Is eighteen years of age or older;
  - (b) Is responsible for the housing, health, or care of the patient;
  - (c) Has been designated in writing by a patient to perform the duties of primary caregiver under this chapter.
3. "Qualifying Patient" means a person who:
- (a) Is a patient of a physician licensed under chapter 18.71 or 18.57 RCW;
  - (b) Has been diagnosed by that physician as having a terminal or debilitating medical condition;
  - (c) Is a resident of the state of Washington at the time of such diagnosis;
  - (d) Has been advised by that physician about the risks and benefits of the medical use of marijuana; and
  - (e) Has been advised by that physician that they may benefit from the medical use of marijuana.
4. "Terminal or Debilitating Medical Condition" means:
- (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
  - (b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or
  - (c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
  - (d) Any other medical condition duly approved by the Washington state medical quality assurance board as directed in this chapter.
5. "Valid Documentation" means:
- (a) A statement signed by a qualifying patient's physician, or a copy of the qualifying patient's pertinent medical records, which states that, in the physician's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for a particular qualifying patient; and
  - (b) Proof of Identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035.

NEW SECTION. Sec. 7. ADDITIONAL PROTECTIONS.

- 1. The lawful possession or manufacture of medical marijuana as authorized by this chapter shall not result in the forfeiture or seizure of any property.
- 2. No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of medical marijuana or its use as authorized by this chapter.
- 3. The state shall not be held liable for any deleterious outcomes from the medical use of marijuana by any qualifying patient.

NEW SECTION. Sec. 8. RESTRICTIONS, AND LIMITATIONS REGARDING THE MEDICAL USE OF MARIJUANA.

- 1. It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.
- 2. Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

3. Nothing in this chapter requires any physician to authorize the use of medical marijuana for a patient.
4. Nothing in this chapter requires any accommodation of any medical use of marijuana in any place of employment, in any school bus or on any school grounds, or in any youth center.
5. It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under section 6 (5)(a) of this act.
6. No person shall be entitled to claim the affirmative defense provided in Section 5 of this act for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway.

NEW SECTION. Sec. 9. ADDITION OF MEDICAL CONDITIONS.

The Washington state medical quality assurance board, or other appropriate agency as designated by the governor, shall accept for consideration petitions submitted by physicians or patients to add terminal or debilitating conditions to those included in this chapter. In considering such petitions, the Washington state medical quality assurance board shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Washington state medical quality assurance board shall, after hearing, approve or deny such petitions within one hundred eighty days of submission. The approval or denial of such a petition shall be considered a final agency action, subject to judicial review.

NEW SECTION. Sec. 10. SEVERABILITY.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. CAPTIONS NOT LAW.

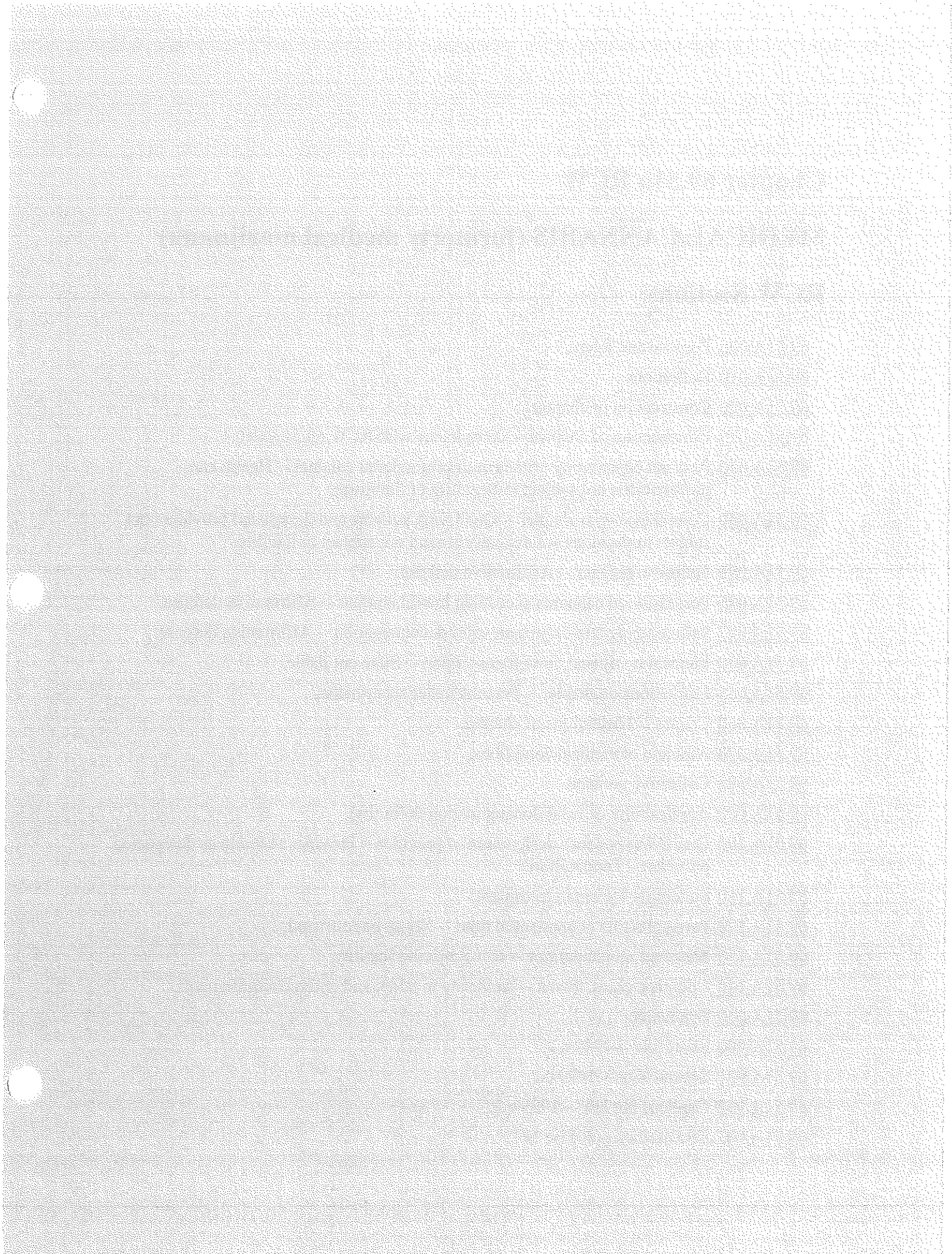
Captions used in this chapter are not any part of the law.

NEW SECTION. Sec. 12.

Sections 1 through 11 of this act constitute a new chapter in Title 69 RCW.

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7/30/98



## **Chapter 69.51a RCW**

### **MEDICAL CANNABIS (formerly medical marijuana)**

#### **RCW Sections**

69.51A.005 Purpose and intent.

69.51A.010 Definitions.

69.51A.020 Construction of chapter.

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

69.51A.030 Acts not constituting crimes or unprofessional conduct -- Health care professionals not subject to penalties or liabilities.

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

69.51A.043 Failure to register -- Affirmative defense.

69.51A.045 Possession of cannabis exceeding lawful amount -- Affirmative defense.

69.51A.047 Failure to register or present valid documentation -- Affirmative defense.

69.51A.050 Medical marijuana, lawful possession -- State not liable.

69.51A.055 Limitations of chapter -- Persons under supervision.

69.51A.060 Crimes -- Limitations of chapter.

69.51A.070 Addition of medical conditions.

69.51A.085 Collective gardens.

69.51A.090 Applicability of valid documentation definition.

69.51A.100 Qualifying patient's designation of provider -- Provider's service as designated provider -- Termination.

69.51A.110 Suitability for organ transplant.

69.51A.120 Parental rights or residential time -- Not to be restricted.

69.51A.130 State and municipalities -- Not subject to liability.

69.51A.140 Counties, cities, towns -- Authority to adopt and enforce requirements.

69.51A.200 Evaluation.

69.51A.900 Short title -- 1999 c 2.

69.51A.901 Severability -- 1999 c 2.

69.51A.902 Captions not law -- 1999 c 2.

69.51A.903 Severability -- 2011 c 181.

## **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.

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

**Notes:**

**Intent -- 2007 c 371:** "The legislature intends to clarify the law on medical marijuana so that the lawful use of this substance is not impaired and medical practitioners are able to exercise their best professional judgment in the delivery of medical treatment, qualifying patients may fully participate in the medical use of marijuana, and designated providers may assist patients in the manner provided by this act without fear of state criminal prosecution. This act is also intended to provide clarification to law enforcement and to all participants in the judicial system." [2007 c 371 § 1.]

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**69.51A.010**

**Definitions.**

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

- (1) "Designated provider" means a person who:
  - (a) Is eighteen years of age or older;
  - (b) Has been designated in writing by a patient to serve as a designated provider under this chapter;
  - (c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and
  - (d) Is the designated provider to only one patient at any one time.
- (2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) "Medical use of marijuana" means the production, possession, or administration of marijuana, as defined in \*RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

(4) "Qualifying patient" means a person who:

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

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

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

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

(e) Has been advised by that health care professional that they may benefit from the medical use of marijuana.

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

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

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

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

(6) "Terminal or debilitating medical condition" means:

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

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

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

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

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

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

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

(7) "Valid documentation" means:

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

(b) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035.

[2010 c 284 § 2; 2007 c 371 § 3; 1999 c 2 § 6 (Initiative Measure No. 692, approved November 3, 1998).]

#### Notes:

**\*Reviser's note:** RCW 69.50.101 was amended by 2013 c 3 § 2, changing subsection (q) to subsection (s). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (s) to subsection (t).

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

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## 69.51A.020

### Construction of chapter.

Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of cannabis for nonmedical purposes. Criminal penalties created under chapter 181, Laws of 2011 do not preclude the prosecution or punishment for other crimes, including other crimes involving the manufacture or delivery of cannabis for nonmedical purposes.

[2011 c 181 § 103; 1999 c 2 § 3 (Initiative Measure No. 692, approved November 3, 1998).]

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## **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.

[2011 c 181 § 413.]

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## **69.51A.030**

### **Acts not constituting crimes or unprofessional conduct — Health care professionals not subject to penalties or liabilities.**

(1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of cannabis or that the patient may benefit from the medical use of cannabis; or

(b) Providing a patient meeting the criteria established under \*RCW 69.51A.010(26) with valid documentation, based upon the health care professional's assessment of the patient's medical history and current medical condition, where such use is within a professional standard of care or in the individual health care professional's medical judgment.

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

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

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

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

(iv) Documenting other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of cannabis.

(b) A health care professional shall not:

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

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

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

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

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

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

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

[2011 c 181 § 301; 2010 c 284 § 3; 2007 c 371 § 4; 1999 c 2 § 4 (Initiative Measure No. 692, approved November 3, 1998).]

**Notes:**

**Reviser's note:** \*(1) RCW 69.51A.010(26) is a reference to the definition of "qualifying patient" which was amended and renumbered by 2011 c 181 § 201, but the section was vetoed by the governor.

\*\* (2) The section creating a registry, 2011 c 181 § 901, was vetoed by the governor.

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

**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 registry 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.

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

**Notes:**

**\*Reviser's note:** Section 901 of this act was vetoed by the governor.

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

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**69.51A.043**

**Failure to register — Affirmative defense.**

(1) A qualifying patient or designated provider who is not registered with the registry established in \*section 901 of this act may raise the affirmative defense set forth in subsection (2) of this section, if:

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

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

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

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

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

(f) The investigating peace officer has not observed evidence of any of the circumstances

identified in \*section 901(4) of this act.

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

[2011 c 181 § 402.]

**Notes:**

**\*Reviser's note:** Section 901 of this act was vetoed by the governor.

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**69.51A.045**

**Possession of cannabis exceeding lawful amount — Affirmative defense.**

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

[2011 c 181 § 405.]

#### **69.51A.047**

##### **Failure to register or present valid documentation — Affirmative defense.**

A qualifying patient or designated provider who is not registered with the registry established in \*section 901 of this act or does not present his or her valid documentation to a peace officer who questions the patient or provider regarding his or her medical use of cannabis but is in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to cannabis through proof at trial, by a preponderance of the evidence, that he or she was a validly authorized qualifying patient or designated provider at the time of the officer's questioning. A qualifying patient or designated provider who establishes an affirmative defense under the terms of this section may also establish an affirmative defense under RCW 69.51A.045.

[2011 c 181 § 406.]

##### **Notes:**

**\*Reviser's note:** The section creating a registry, 2011 c 181 § 901, was vetoed by the governor.

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#### **69.51A.050**

##### **Medical marijuana, lawful possession — State not liable.**

(1) The lawful possession or manufacture of medical marijuana as authorized by this chapter shall not result in the forfeiture or seizure of any property.

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

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

[1999 c 2 § 7 (Initiative Measure No. 692, approved November 3, 1998).]

## **69.51A.055**

### **Limitations of chapter — Persons under supervision.**

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

(b) The affirmative defenses established in RCW 69.51A.043, 69.51A.045, 69.51A.047, and \*section 407 of this act may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) The provisions of RCW 69.51A.040, 69.51A.085, and 69.51A.025 do not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision.

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

[2011 c 181 § 1105.]

#### **Notes:**

**\*Reviser's note:** Sections 407, 601, 602, and 701 were vetoed by the governor.

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## **69.51A.060**

### **Crimes — Limitations of chapter.**

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

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

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

(4) Nothing in this chapter requires any accommodation of any on-site medical use of cannabis in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking cannabis in any public place or hotel or motel.

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

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

(7) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under \*RCW 69.51A.010(32)(a), or to backdate such documentation to a time earlier than its actual date of execution.

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

[2011 c 181 § 501; 2010 c 284 § 4; 2007 c 371 § 6; 1999 c 2 § 8 (Initiative Measure No. 692, approved November 3, 1998).]

**Notes:**

\***Reviser's note:** RCW 69.51A.010(32) is a reference to the definition of "valid documentation" which was amended and renumbered by 2011 c 181 § 201, but the section was vetoed by the governor.

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

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**69.51A.070**

**Addition of medical conditions.**

The Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery, or other appropriate agency as designated by the governor, shall accept for consideration petitions submitted to add terminal or debilitating conditions to those included in this chapter. In considering such petitions, the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery

shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery shall, after hearing, approve or deny such petitions within one hundred eighty days of submission. The approval or denial of such a petition shall be considered a final agency action, subject to judicial review.

[2007 c 371 § 7; 1999 c 2 § 9 (Initiative Measure No. 692, approved November 3, 1998).]

**Notes:**

**Intent -- 2007 c 371:** See note following RCW 69.51A.005.

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**69.51A.085**

**Collective gardens.**

(1) Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:

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

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

(c) A collective garden may contain no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;

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

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

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

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

[2011 c 181 § 403.]

**Notes:**

**\*Reviser's note:** The section creating a registry, 2011 c 181 § 901, was vetoed by the governor.

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**69.51A.090**

**Applicability of valid documentation definition.**

The provisions of RCW 69.51A.010, relating to the definition of "valid documentation," apply prospectively only, not retroactively, and do not affect valid documentation obtained prior to June 10, 2010.

[2010 c 284 § 5.]

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**69.51A.100**

**Qualifying patient's designation of provider — Provider's service as designated provider — Termination.**

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

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

[2011 c 181 § 404.]

#### **69.51A.110**

##### **Suitability for organ transplant.**

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

[2011 c 181 § 408.]

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#### **69.51A.120**

##### **Parental rights or residential time — Not to be restricted.**

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

[2011 c 181 § 409.]

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#### **69.51A.130**

##### **State and municipalities — Not subject to liability.**

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

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

[2011 c 181 § 1101.]

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**69.51A.140****Counties, cities, towns — Authority to adopt and enforce requirements.**

(1) Cities and towns may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction: Zoning requirements, business licensing requirements, health and safety requirements, and business taxes. Nothing in chapter 181, Laws of 2011 is intended to limit the authority of cities and towns to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.

(2) Counties may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction in locations outside of the corporate limits of any city or town: Zoning requirements, business licensing requirements, and health and safety requirements. Nothing in chapter 181, Laws of 2011 is intended to limit the authority of counties to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.

[2011 c 181 § 1102.]

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**69.51A.200****Evaluation.**

(1) By July 1, 2014, the Washington state institute for public policy shall, within available funds, conduct a cost-benefit evaluation of the implementation of chapter 181, Laws of 2011 and the rules adopted to carry out its purposes.

(2) The evaluation of the implementation of chapter 181, Laws of 2011 and the rules adopted to carry out its purposes shall include, but not necessarily be limited to, consideration of the following factors:

- (a) Qualifying patients' access to an adequate source of cannabis for medical use;
- (b) Qualifying patients' access to a safe source of cannabis for medical use;
- (c) Qualifying patients' access to a consistent source of cannabis for medical use;

- (d) Qualifying patients' access to a secure source of cannabis for medical use;
  - (e) Qualifying patients' and designated providers' contact with law enforcement and involvement in the criminal justice system;
  - (f) Diversion of cannabis intended for medical use to nonmedical uses;
  - (g) Incidents of home invasion burglaries, robberies, and other violent and property crimes associated with qualifying patients accessing cannabis for medical use;
  - (h) Whether there are health care professionals who make a disproportionately high amount of authorizations in comparison to the health care professional community at large;
  - (i) Whether there are indications of health care professionals in violation of RCW 69.51A.030; and
  - (j) Whether the health care professionals making authorizations reside in this state or out of this state.
- (3) For purposes of facilitating this evaluation, the departments of health and agriculture will make available to the Washington state institute for public policy requested data, and any other data either department may consider relevant, from which all personally identifiable information has been redacted.

[2011 c 181 § 1001.]

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## **69.51A.900**

### **Short title — 1999 c 2.**

This chapter may be known and cited as the Washington state medical use of cannabis act.

[2011 c 181 § 1106; 1999 c 2 § 1 (Initiative Measure No. 692, approved November 3, 1998).]

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**69.51A.901****Severability — 1999 c 2.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1999 c 2 § 10 (Initiative Measure No. 692, approved November 3, 1998).]

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**69.51A.902****Captions not law — 1999 c 2.**

Captions used in this chapter are not any part of the law.

[1999 c 2 § 11 (Initiative Measure No. 692, approved November 3, 1998).]

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**69.51A.903****Severability — 2011 c 181.**

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

[2011 c 181 § 1103.]





# FINAL BILL REPORT

## E2SSB 5073

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### PARTIAL VETO

#### C 181 L 11

#### Synopsis as Enacted

**Brief Description:** Concerning the medical use of cannabis.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe and Chase).

**Senate Committee on Health & Long-Term Care**

**Senate Committee on Ways & Means**

**House Committee on Health Care & Wellness**

**House Committee on Ways & Means**

**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:** Health Care Professionals. In order to provide valid documentation, demonstrating that the patient is a qualifying patient, a health care professional must examine the patient, document the terminal or debilitating medical condition of the patient, inform the patient of other options for treating the terminal or debilitating medical condition, and document other measures attempted to treat the terminal or debilitating medical condition. The health care professional may not have a business which consists solely of authorizing the medical use of cannabis and may not advertise the medical use of cannabis.

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*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.*

Patient Protections. Qualifying patients may assert an affirmative defense, whether or not the patient possesses valid documentation, if the patient possess no more than the permissible levels of cannabis; the patient exceeds the permissible levels of cannabis but is able to establish a medical need for the additional amounts; and an investigating peace officer does not possess evidence of an unlicensed cannabis operation, theft of electrical power, illegal drugs, frequent visits consistent with commercial activity, violent crime, or that the subject of the investigation has an outstanding arrest warrant.

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 may not be denied an organ transplant solely because of the use of medical cannabis.

Collective Gardens. Qualifying patients and their designated providers may form collective gardens to produce cannabis for the medical use of members of the collective gardens. Collective gardens are limited to ten qualifying patients and a total of 45 plants and 72 ounces of useable cannabis.

Designated Providers. Qualifying patients may revoke a designation of a designated provider at any time. A person may stop serving as a designated provider at any time but may not serve another patient until 15 days have elapsed.

Limitations. Health insurers are not required to provide cannabis as a covered benefit. The National Guard is not required to permit the medical use of cannabis of its employees. Drug-free workplaces are permitted and medical use of cannabis workplace accommodations are not required.

Evaluation and Study. The Washington State Institute for Public Policy must conduct a cost-benefit evaluation of the act and report its results to the Legislature by July 1, 2014. The University of Washington and the Washington State University may conduct scientific research on the efficacy and safety of administering cannabis as part of medical treatment.

Local Governments. Cities, towns, and counties may adopt zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of cannabis or cannabis productions within their jurisdictions.

**Votes on Final Passage:**

Senate	29	20	
House	54	43	(House amended)
Senate	27	21	(Senate concurred)

**Effective:** July 22, 2011.

**Partial Veto Summary:** The Governor vetoed provisions that would establish a patient registry within the Department of Health (DOH) and provide arrest protection for those patients who register. Licensing provisions for producers, processors, and dispensaries were

vetoed as well as the section providing current producers and dispensaries with an affirmative defense if they register with the Secretary of State and file a letter of intent with DOH or the Department of Agriculture (DOA). Also vetoed, are the sections prohibiting the advertising of medical cannabis and the requirement that the Joint Legislative Audit and Review Committee review the licensing programs if the federal government authorizes the medical use of cannabis and the requirement that if expenditures from the Health Professions Account exceed receipts, the amount will be made up by the General Fund. Housing protections for medical cannabis patients are also vetoed.

VEETO MESSAGE ON E2SSB 5073

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.

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.

Respectfully submitted,  
Christine Gregoire  
Governor

Vetoes in red  
- Strike out, others as  
are part of work up  
process

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

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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073

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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.~~

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.

PART II  
DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 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  
5 **PART V**  
6 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**  
7 **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, repackaging, 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 ~~finer, 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

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

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

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

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

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

(d) Establishing recordkeeping requirements for licensed dispensers;

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

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

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

(h) Establishing cannabis labeling requirements, to include information on whether the cannabis was grown using organic, inorganic, 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. 705. The secretary of health shall not issue or~~  
2       ~~renew a license to an applicant or licensed dispenser located within~~  
3       ~~five hundred feet of a community center, child care center, elementary~~  
4       ~~or secondary school, or another licensed dispenser.~~

5                               PART VIII

6                   MISCELLANEOUS PROVISIONS APPLYING TO ALL  
7       LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS

8       ~~NEW SECTION. Sec. 801. All weighing and measuring instruments and~~  
9       ~~devices used by licensed producers, processors of cannabis products,~~  
10      ~~and dispensers shall comply with the requirements set forth in chapter~~  
11      ~~19.94 RCW.~~

12      ~~NEW SECTION. Sec. 802. (1) No person, partnership, corporation,~~  
13      ~~association, or agency may advertise cannabis for sale to the general~~  
14      ~~public in any manner that promotes or tends to promote the use or abuse~~  
15      ~~of cannabis. For the purposes of this subsection, displaying cannabis,~~  
16      ~~including artistic depictions of cannabis, is considered to promote or~~  
17      ~~to tend to promote the use or abuse of cannabis.~~

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

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

27      ~~(4) No broadcast television licensee, radio broadcast licensee,~~  
28      ~~newspaper, magazine, advertising agency, or agency or medium for the~~  
29      ~~dissemination of an advertisement, except the licensed producer,~~  
30      ~~processor of cannabis products, or dispenser to which the advertisement~~  
31      ~~relates, is subject to the penalties of this section by reason of~~  
32      ~~dissemination of advertising in good faith without knowledge that the~~  
33      ~~advertising promotes or tends to promote the use or abuse of cannabis.~~

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.~~

NEW SECTION. Sec. 806. The department of agriculture or the department of health, as the case may be, must immediately suspend any certification of licensure issued under this chapter if the holder of the certificate has been certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of licensure shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

NEW SECTION. Sec. 807. The department of agriculture or the department of health, as the case may be, must suspend the certification of licensure of any person who has been certified by a lending agency and reported to the appropriate department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the department of agriculture or the department of health, as the case may be, must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license may not be reissued until the person provides the appropriate department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or registration during the suspension, reinstatement is automatic upon receipt of the notice and payment of any reinstatement fee.

~~PART IV~~

~~SECURE REGISTRATION OF QUALIFYING PATIENTS, DESIGNATED PROVIDERS,  
AND LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS~~

~~NEW SECTION. Sec. 901. (1) By January 1, 2013, the department of health shall, in consultation with the department of agriculture, adopt~~

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.









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IN THE MATTER OF THE PROPOSED  
INITIATIVE TO THE LEGISLATURE  
Relating to marijuana law reform

PETITIONER: Alison Holcomb  
P.O. Box 2084  
Seattle, WA 98111

**CERTIFICATE OF REVIEW (pursuant to RCW 29A.72.020)**

I hereby certify that petitioner's proposal (I-2465.1/11) was received in the office of the Code Reviser on June 24, 2011, that I have reviewed the proposal for form and style, and that any recommendations thereon, if any, have been communicated to the petitioner.

Dated July 6, 2011

K. Kyle Thiessen  
Code Reviser

By

Alice S. Im  
Assistant Code Reviser

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BILL REQUEST - CODE REVISER'S OFFICE

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BILL REQ. #: I-2465.1/11

ATTY/TYPIST: AI:crs

BRIEF DESCRIPTION:

# Initiative Measure No. 502

filed July 8, 2011

AN ACT Relating to marijuana; amending RCW 69.50.101, 69.50.401, 69.50.4013, 69.50.412, 69.50.4121, 69.50.500, 46.20.308, 46.61.502, 46.61.504, 46.61.50571, and 46.61.506; reenacting and amending RCW 69.50.505, 46.20.3101, and 46.61.503; adding a new section to chapter 46.04 RCW; adding new sections to chapter 69.50 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

## PART I

### INTENT

NEW SECTION. **Sec. 1.** The people intend to stop treating adult marijuana use as a crime and try a new approach that:

(1) Allows law enforcement resources to be focused on violent and property crimes;

(2) Generates new state and local tax revenue for education, health care, research, and substance abuse prevention; and

(3) Takes marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.

This measure authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana.

## PART II

### DEFINITIONS

**Sec. 2.** RCW 69.50.101 and 2010 c 177 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the state board of pharmacy.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(o) "Isomer" means an optical isomer, but in RCW 69.50.101(~~((x))~~) (x)(5), 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(p) "Lot" means a definite quantity of marijuana, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(q) "Lot number" shall identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, useable marijuana, or marijuana-infused product.

(r) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

~~((+q))~~ (s) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

~~((+r))~~ (t) "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

(u) "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(v) "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

(w) "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

(x) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable

origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

~~((+t))~~ (y) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

~~((+t))~~ (z) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

~~((+u))~~ (aa) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, Code Rev/AI:crs

government, governmental subdivision or agency, or any other legal or commercial entity.

((~~v~~)) (bb) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

((~~w~~)) (cc) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

((~~\*~~)) (dd) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in Code Rev/AI:crs

the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

~~((+y+))~~ (ee) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~((+z+))~~ (ff) "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

(gg) "Secretary" means the secretary of health or the secretary's designee.

~~((+aa+))~~ (hh) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

~~((+bb+))~~ (ii) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product.

(jj) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

~~((+ee+))~~ (kk) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

(ll) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.04 RCW to read as follows:

"THC concentration" means nanograms of delta-9 tetrahydrocannabinol per milliliter of a person's whole blood. THC concentration does not include measurement of the metabolite THC-COOH, also known as carboxy-THC.

### **PART III**

#### **LICENSING AND REGULATION OF MARIJUANA PRODUCERS, PROCESSORS, AND RETAILERS**

NEW SECTION. **Sec. 4.** (1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to annual renewal. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, regulated by the state liquor control board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, and marijuana-infused products in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana processor, shall not be a

criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3) There shall be a marijuana retailer's license to sell useable marijuana and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. The possession, delivery, distribution, and sale of useable marijuana and marijuana-infused products in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell useable marijuana and marijuana-infused products.

NEW SECTION. **Sec. 5.** Neither a licensed marijuana producer nor a licensed marijuana processor shall have a direct or indirect financial interest in a licensed marijuana retailer.

NEW SECTION. **Sec. 6.** (1) For the purpose of considering any application for a license to produce, process, or sell marijuana, or

for the renewal of a license to produce, process, or sell marijuana, the state liquor control board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor control board and a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases. Subject to the provisions of this section, the state liquor control board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (9) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor control board to any staff member the board designates in writing. Conditions for granting this authority shall be adopted by rule. No license of any kind may be issued to:

- (a) A person under the age of twenty-one years;
- (b) A person doing business as a sole proprietor who has not lawfully resided in the state for at least three months prior to applying to receive a license;
- (c) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this

state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(d) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor control board may, in its discretion, subject to the provisions of section 7 of this act, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, or selling marijuana, useable marijuana, or marijuana-infused products thereunder shall be suspended or terminated, as the case may be.

(b) The state liquor control board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the state liquor control board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor control board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor control board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor control board or a subpoena issued by the state liquor control board, or any of its members, or administrative law

judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the state liquor control board. Where the license has been suspended only, the state liquor control board shall return the license to the licensee at the expiration or termination of the period of suspension. The state liquor control board shall notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this act shall be subject to all conditions and restrictions imposed by this act or by rules adopted by the state liquor control board to implement and enforce this act. All conditions and restrictions imposed by the state liquor control board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee shall employ any person under the age of twenty-one years.

(7)(a) Before the state liquor control board issues a new or renewed license to an applicant it shall give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the state liquor control board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor control board may extend the time period for submitting written objections.

(c) The written objections shall include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor control board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor control board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor control board representatives shall present and defend the state liquor control board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor control board shall send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8) The state liquor control board shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(9) In determining whether to grant or deny a license or renewal of any license, the state liquor control board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

NEW SECTION. **Sec. 7.** The action, order, or decision of the state liquor control board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as

provided in subsection (4) of this section, prior to the suspension of any license.

(3) No hearing shall be required until demanded by the applicant or licensee.

(4) The state liquor control board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor control board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor control board.

NEW SECTION.     **Sec. 8.**     (1) If the state liquor control board approves, a license to produce, process, or sell marijuana may be transferred, without charge, to the surviving spouse or domestic partner of a deceased licensee if the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party to receive a marijuana producer's, marijuana processor's, or marijuana retailer's license, the state liquor control board may require a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding or issued stock of a corporation licensed under this act, or any proposed change in the officers of such a corporation, must be reported to the state liquor control board, and state liquor control board approval must be obtained before the changes are made. A fee of seventy-five dollars will be charged for the processing of the change of stock ownership or corporate officers.

NEW SECTION. **Sec. 9.** For the purpose of carrying into effect the provisions of this act according to their true intent or of supplying any deficiency therein, the state liquor control board may adopt rules not inconsistent with the spirit of this act as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor control board is empowered to adopt rules regarding the following:

(1) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises;

(2) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor control board, and inspection of the books and records;

(3) Methods of producing, processing, and packaging marijuana, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(4) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(5) Screening, hiring, training, and supervising employees of licensees;

(6) Retail outlet locations and hours of operation;

(7) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, and marijuana-infused products;

(8) Forms to be used for purposes of this act or the rules adopted to implement and enforce it, the terms and conditions to be contained in licenses issued under this act, and the qualifications for receiving a license issued under this act, including a criminal history record information check. The state liquor control board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(9) Application, reinstatement, and renewal fees for licenses issued under this act, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this act;

(10) The manner of giving and serving notices required by this act or rules adopted to implement or enforce it;

(11) Times and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, useable marijuana, and marijuana-infused products within the state;

(12) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this act or the rules adopted to implement and enforce it: PROVIDED, That nothing in this act shall be construed as authorizing the state liquor control board to seize, confiscate, destroy, or donate to law enforcement marijuana, useable marijuana, or marijuana-infused products produced, processed, sold, offered for sale, or possessed in compliance with the Washington state medical use of cannabis act, chapter 69.51A RCW.

NEW SECTION. **Sec. 10.** The state liquor control board, subject to the provisions of this act, must adopt rules by December 1, 2013, that

establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues; and

(c) The provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of useable marijuana and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by subsections (3) through (5) of this section, the state liquor control board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, useable marijuana, and marijuana-infused products, and their labeling requirements, to include but not be limited to:

(a) The business or trade name and Washington state unified business identifier number of the licensees that grew, processed, and sold the marijuana, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, useable marijuana, or marijuana-infused product;

(c) THC concentration of the marijuana, useable marijuana, or marijuana-infused product;

(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(e) Language required by RCW 69.04.480;

(8) In consultation with the department of agriculture, establishing classes of marijuana, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, or other qualitative measurements deemed appropriate by the state liquor control board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this act, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising; and

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor control board, and prescribing methods of producing, processing, and packaging marijuana, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this act or the rules of the state liquor control board.

NEW SECTION. **Sec. 11.** (1) On a schedule determined by the state liquor control board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state liquor control board, for inspection and testing to certify compliance with standards adopted by the state liquor control board. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee.

(2) Licensees must submit the results of this inspection and testing to the state liquor control board on a form developed by the state liquor control board.

(3) If a representative sample inspected and tested under this section does not meet the applicable standards adopted by the state liquor control board, the entire lot from which the sample was taken must be destroyed.

NEW SECTION. **Sec. 12.** Except as provided by chapter 42.52 RCW, no member of the state liquor control board and no employee of the

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state liquor control board shall have any interest, directly or indirectly, in the producing, processing, or sale of marijuana, useable marijuana, or marijuana-infused products, or derive any profit or remuneration from the sale of marijuana, useable marijuana, or marijuana-infused products other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with the business.

NEW SECTION.    **Sec. 13.**    There may be licensed, in no greater number in each of the counties of the state than as the state liquor control board shall deem advisable, retail outlets established for the purpose of making useable marijuana and marijuana-infused products available for sale to adults aged twenty-one and over. Retail sale of useable marijuana and marijuana-infused products in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law.

NEW SECTION.    **Sec. 14.**    (1) Retail outlets shall sell no products or services other than useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of useable marijuana or marijuana-infused products.

(2) Licensed marijuana retailers shall not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet.

(3) Licensed marijuana retailers shall not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name.

(4) Licensed marijuana retailers shall not display useable marijuana or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

(5) No licensed marijuana retailer or employee of a retail outlet shall open or consume, or allow to be opened or consumed, any useable marijuana or marijuana-infused product on the outlet premises.

(6) The state liquor control board shall fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana fund created under section 26 of this act.

NEW SECTION. **Sec. 15.** The following acts, when performed by a validly licensed marijuana retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the state liquor control board to implement and enforce this act, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of useable marijuana or marijuana-infused products that have been properly packaged and labeled from a marijuana processor validly licensed under this act;

(2) Possession of quantities of useable marijuana or marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under section 10(5) of this act; and

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of useable marijuana or marijuana-infused product to any person twenty-one years of age or older:

(a) One ounce of useable marijuana;

(b) Sixteen ounces of marijuana-infused product in solid form; or

(c) Seventy-two ounces of marijuana-infused product in liquid form.

NEW SECTION. **Sec. 16.** The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the state liquor control board to implement and enforce this act, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under this act;

(2) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under section 10(4) of this act; and

(3) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under this act.

NEW SECTION.     **Sec. 17.**   The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the state liquor control board to implement and enforce this act, shall not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the state liquor control board under section 10(3) of this act; and

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under this act.

NEW SECTION.     **Sec. 18.**   (1) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter;  
or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor control board shall fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana fund created under section 26 of this act.

**Sec. 19.** RCW 69.50.401 and 2005 c 218 s 1 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the

fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana in compliance with the terms set forth in section 15, 16, or 17 of this act shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

**Sec. 20.** RCW 69.50.4013 and 2003 c 53 s 334 are each amended to read as follows:

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) The possession, by a person twenty-one years of age or older, of useable marijuana or marijuana-infused products in amounts that do not exceed those set forth in section 15(3) of this act is not a violation of this section, this chapter, or any other provision of Washington state law.

NEW SECTION.     **Sec. 21.**     It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

**Sec. 22.**     RCW 69.50.412 and 2002 c 213 s 1 are each amended to read as follows:

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing bloodborne diseases.

**Sec. 23.** RCW 69.50.4121 and 2002 c 213 s 2 are each amended to read as follows:

(1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than marijuana. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing (~~((marihuana,))~~) cocaine(~~((, hashish, or hashish oil))~~) into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) (~~((Reach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;~~

~~—((f)))~~ Miniature cocaine spoons and cocaine vials;

(~~((g)))~~ (f) Chamber pipes;

(~~((h)))~~ (g) Carburetor pipes;

(~~((i)))~~ (h) Electric pipes;

(~~((j)))~~ (i) Air-driven pipes;

~~((k) Chillums,~~

~~(l) Bonggs))~~ and

~~((m))~~ (j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs, and pharmacies.

**Sec. 24.** RCW 69.50.500 and 1989 1st ex.s. c 9 s 437 are each amended to read as follows:

(a) It is hereby made the duty of the state board of pharmacy, the department, the state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) Employees of the department of health, who are so designated by the board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter.

**Sec. 25.** RCW 69.50.505 and 2009 c 479 s 46 and 2009 c 364 s 1 are each reenacted and amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia<sup>21</sup> other than paraphernalia possessed, sold, or used solely to facilitate marijuana-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell marijuana, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to

any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of

seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of

competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the Code Rev/AI:crs.

department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(13) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the

county auditor's records in the county in which the real property is located.

(15)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

((+a+)) (i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

((+b+)) (ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

((+i+)) (A) Only if the funds applied under ((+b+)) (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

((+ii+)) (B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

((+e+)) (b) For any claim filed under ((+b+)) (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

#### **PART IV**

#### **DEDICATED MARIJUANA FUND**

NEW SECTION. **Sec. 26.** (1) There shall be a fund, known as the dedicated marijuana fund, which shall consist of all marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the state liquor control board from marijuana-related activities. The state treasurer shall be custodian of the fund.

(2) All moneys received by the state liquor control board or any employee thereof from marijuana-related activities shall be deposited each day in a depository approved by the state treasurer and

transferred to the state treasurer to be credited to the dedicated marijuana fund.

(3) Disbursements from the dedicated marijuana fund shall be on authorization of the state liquor control board or a duly authorized representative thereof.

NEW SECTION.     **Sec. 27.**     (1) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana by a licensed marijuana producer to a licensed marijuana processor or another licensed marijuana producer. This tax is the obligation of the licensed marijuana producer.

(2) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of useable marijuana or marijuana-infused product by a licensed marijuana processor to a licensed marijuana retailer. This tax is the obligation of the licensed marijuana processor.

(3) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each retail sale in this state of useable marijuana and marijuana-infused products. This tax is the obligation of the licensed marijuana retailer, is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is part of the total retail price to which general state and local sales and use taxes apply.

(4) All revenues collected from the marijuana excise taxes imposed under subsections (1) through (3) of this section shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.

(5) The state liquor control board shall regularly review the tax levels established under this section and make recommendations to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

NEW SECTION. **Sec. 28.** All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under section 27 of this act, and the license fees, penalties, and forfeitures derived under this act from marijuana producer, marijuana processor, and marijuana retailer licenses shall every three months be disbursed by the state liquor control board as follows:

(1) One hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor control board. The survey shall be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(2) Fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in section 30 of this act. This appropriation shall end after production of the final report required by section 30 of this act;

(3) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(4) An amount not exceeding one million two hundred fifty thousand dollars to the state liquor control board as is necessary for administration of this act;

(5) Of the funds remaining after the disbursements identified in subsections (1) through (4) of this section:

(a) Fifteen percent to the department of social and health services division of behavioral health and recovery for implementation and maintenance of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance-use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation; PROVIDED, That:

(i) Of the funds disbursed under (a) of this subsection, at least eighty-five percent must be directed to evidence-based and cost-beneficial programs and practices that produce objectively measurable results; and

(ii) Up to fifteen percent of the funds disbursed under (a) of this subsection may be directed to research-based and emerging best practices or promising practices.

In deciding which programs and practices to fund, the secretary of the department of social and health services shall consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute;

(b) Ten percent to the department of health for the creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(i) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;



implementation of this act. A preliminary report, and recommendations to appropriate committees of the legislature, shall be made by September 1, 2015, and the first final report with recommendations by September 1, 2017. Subsequent reports shall be due September 1, 2022, and September 1, 2032.

(2) The evaluation of the implementation of this act shall include, but not necessarily be limited to, consideration of the following factors:

(a) Public health, to include but not be limited to:

(i) Health costs associated with marijuana use;

(ii) Health costs associated with criminal prohibition of marijuana, including lack of product safety or quality control regulations and the relegation of marijuana to the same illegal market as potentially more dangerous substances; and

(iii) The impact of increased investment in the research, evaluation, education, prevention and intervention programs, practices, and campaigns identified in section 16 of this act on rates of marijuana-related maladaptive substance use and diagnosis of marijuana-related substance-use disorder, substance abuse, or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders;

(b) Public safety, to include but not be limited to:

(i) Public safety issues relating to marijuana use; and

(ii) Public safety issues relating to criminal prohibition of marijuana;

(c) Youth and adult rates of the following:

(i) Marijuana use;

(ii) Maladaptive use of marijuana; and

(iii) Diagnosis of marijuana-related substance-use disorder, substance abuse, or substance dependence, including primary, secondary, and tertiary choices of substance;

(d) Economic impacts in the private and public sectors, including but not limited to:

(i) Jobs creation;

(ii) Workplace safety;

(iii) Revenues; and

(iv) Taxes generated for state and local budgets;

(e) Criminal justice impacts, to include but not be limited to:

(i) Use of public resources like law enforcement officers and equipment, prosecuting attorneys and public defenders, judges and court staff, the Washington state patrol crime lab and identification and criminal history section, jails and prisons, and misdemeanor and felon supervision officers to enforce state criminal laws regarding marijuana; and

(ii) Short and long-term consequences of involvement in the criminal justice system for persons accused of crimes relating to marijuana, their families, and their communities; and

(f) State and local agency administrative costs and revenues.

## **PART V**

### **DRIVING UNDER THE INFLUENCE OF MARIJUANA**

**Sec. 31.** RCW 46.20.308 and 2008 c 282 s 2 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration, THC concentration, or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of

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intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol or THC in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath or blood is 0.08 or more((~~7~~)) or that the THC concentration of the driver's blood is 5.00 or more; or ((~~if~~))

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath or blood is 0.02 or more((~~7~~)) or that the THC concentration of the driver's blood is above 0.00; or ((~~if~~))

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where

applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her

blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of two hundred dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required two hundred dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required two hundred dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice

is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor

vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the

department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the

period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath or blood test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 32.** RCW 46.20.3101 and 2004 c 95 s 4 and 2004 c 68 s 3 are each reenacted and amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within seven years, or for a first refusal where there has been one or more previous incidents within seven years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.08 or more, or that the THC concentration of the person's blood was 5.00 or more:

(a) For a first incident within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, suspension for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more, or that the THC concentration of the person's blood was above 0.00:

(a) For a first incident within seven years, suspension or denial for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

(4) The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this section for a suspension, revocation, or denial imposed under RCW 46.61.5055 arising out of the same incident.

**Sec. 33.** RCW 46.61.502 and 2011 c 293 s 2 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

~~((e))~~ (d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) (a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant

notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(~~(b) or~~) (c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

**Sec. 34.** RCW 46.61.503 and 1998 c 213 s 4, 1998 c 207 s 5, and 1998 c 41 s 8 are each reenacted and amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving or being in physical control of a motor vehicle after consuming alcohol or marijuana if the person operates or is in physical control of a motor vehicle within this state and the person:

(a) Is under the age of twenty-one; and

(b) Has, within two hours after operating or being in physical control of the motor vehicle, either:

(i) An alcohol concentration of at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(ii) A THC concentration above 0.00 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol or marijuana after the time of driving or being in physical control and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol or THC concentration to be in violation of subsection (1) of this section within two hours after driving or being in physical control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving or being in physical control may be used as evidence that within two hours of the alleged driving or being in physical control, a person had an alcohol or THC concentration in violation of subsection (1) of this section.

(4) A violation of this section is a misdemeanor.

**Sec. 35.** RCW 46.61.504 and 2011 c 293 s 3 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506;  
or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

~~((e))~~ (d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of

the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) (a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(~~(b)~~ or ~~ex~~) (c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

**Sec. 36.** RCW 46.61.50571 and 2000 c 52 s 1 are each amended to read as follows:

(1) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol or marijuana as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, shall be required to appear in person before a judicial officer within one judicial day after the arrest if the defendant is served with a citation or complaint at the time of the arrest. A court may by local court rule waive the requirement for appearance within one judicial day if it provides for the appearance at the earliest practicable day following arrest and establishes the method for identifying that day in the rule.

(2) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol or marijuana as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and who is not served with a citation or complaint at the time of the incident, shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of an appearance required by this section, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

(4) Appearances required by this section are mandatory and may not be waived.

**Sec. 37.** RCW 46.61.506 and 2010 c 53 s 1 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08 or the person's THC concentration is less than 5.00, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2)(a) The breath analysis of the person's alcohol concentration shall be based upon grams of alcohol per two hundred ten liters of breath.

(b) The blood analysis of the person's THC concentration shall be based upon nanograms per milliliter of whole blood.

(c) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4)(a) A breath test performed by any instrument approved by the state toxicologist shall be admissible at trial or in an administrative proceeding if the prosecution or department produces prima facie evidence of the following:

(i) The person who performed the test was authorized to perform such test by the state toxicologist;

(ii) The person being tested did not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test;

(iii) The person being tested did not have any foreign substances, not to include dental work, fixed or removable, in his or her mouth at the beginning of the fifteen-minute observation period;

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

(v) The internal standard test resulted in the message "verified";

(vi) The two breath samples agree to within plus or minus ten percent of their mean to be determined by the method approved by the state toxicologist;

(vii) The result of the test of the liquid simulator solution external standard or dry gas external standard result did lie between .072 to .088 inclusive; and

(viii) All blank tests gave results of .000.

(b) For purposes of this section, "prima facie evidence" is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal is to assume the truth of the prosecution's or department's evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.

(c) Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection. Instead, such challenges may be considered by the trier of fact in determining what weight to give to the test result.

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its

alcoholic or drug content may be performed only by a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A RCW, a physician assistant as defined in chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW, an emergency medical technician as defined in chapter 18.73 RCW, a health care assistant as defined in chapter 18.135 RCW, or any technician trained in withdrawing blood. This limitation shall not apply to the taking of breath specimens.

(6) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The test will be admissible if the person establishes the general acceptability of the testing technique or method. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(7) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

## **PART VI**

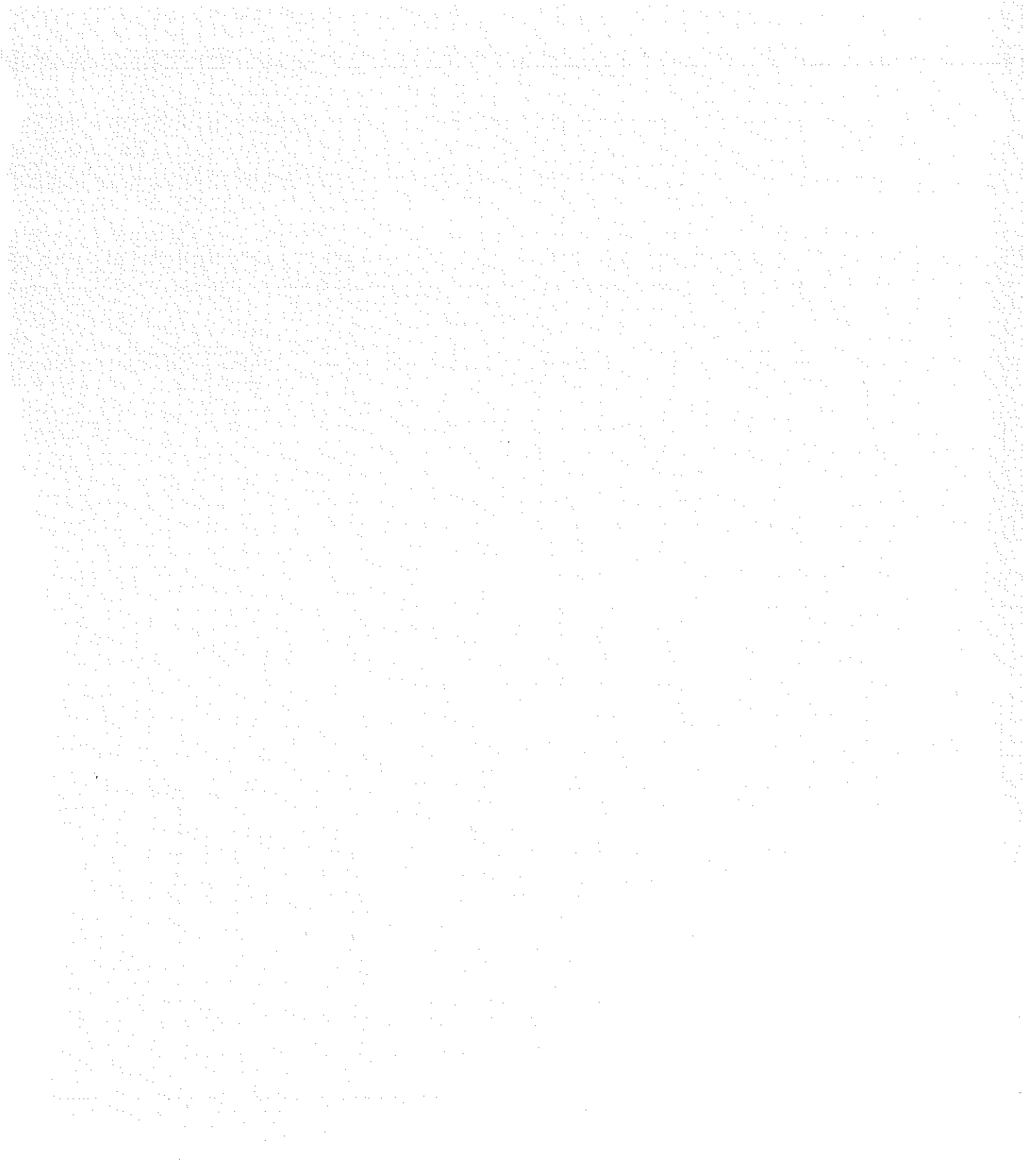
### **CONSTRUCTION**

NEW SECTION. **Sec. 38.** Sections 4 through 18 of this act are each added to chapter 69.50 RCW under the subchapter heading "article III - regulation of manufacture, distribution, and dispensing of controlled substances."

NEW SECTION. **Sec. 39.** Section 21 of this act is added to chapter 69.50 RCW under the subchapter heading "article IV -- offenses and penalties."

NEW SECTION.   **Sec. 40.**   Sections 26 through 30 of this act are each added to chapter 69.50 RCW under the subchapter heading "article V -- enforcement and administrative provisions."

NEW SECTION.   **Sec. 41.**   The code reviser shall prepare a bill for introduction at the next legislative session that corrects references to the sections affected by this act.







U.S. Department of Justice


Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole   
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.<sup>1</sup>

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

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<sup>1</sup> These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

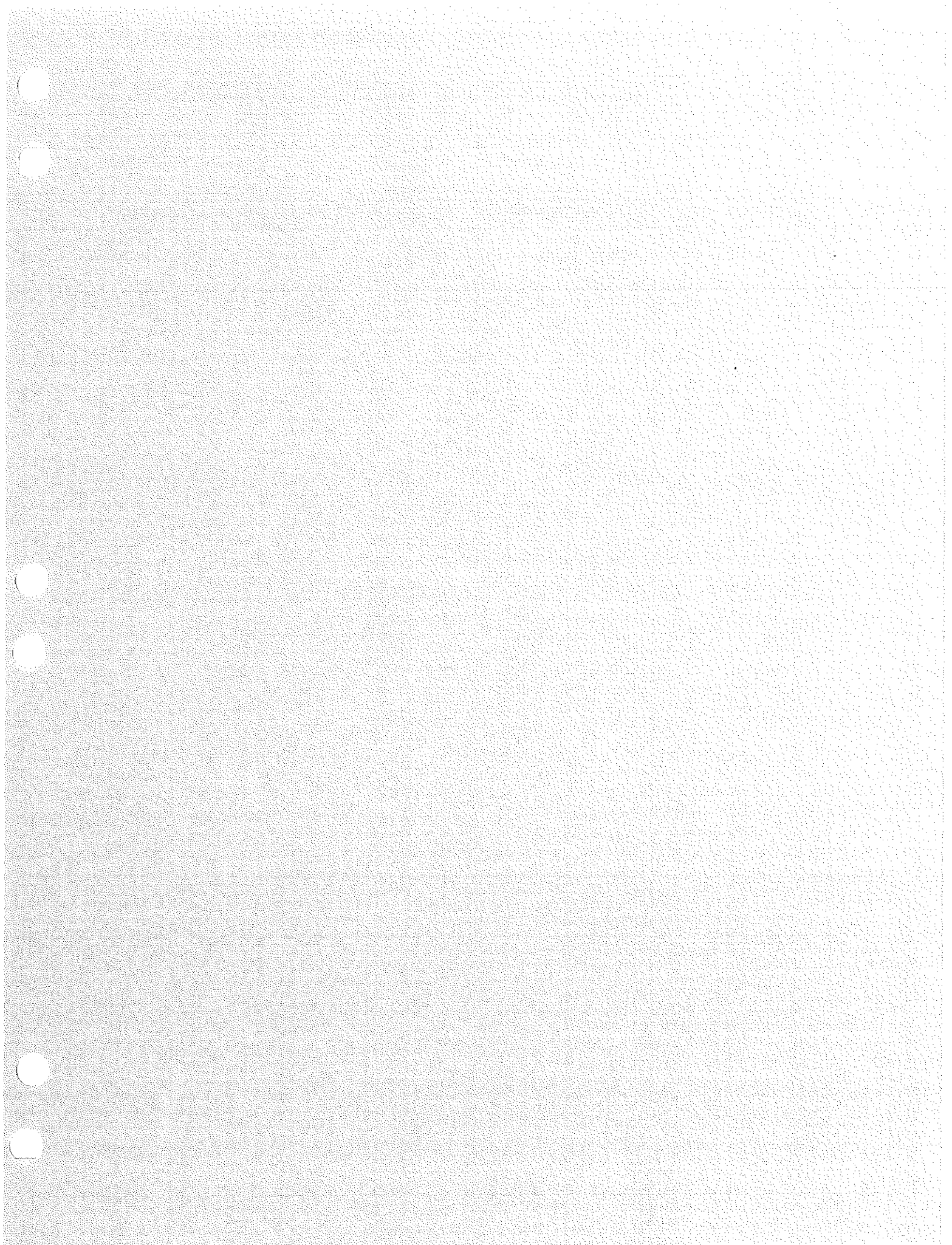
cc: Mythili Raman  
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch  
United States Attorney  
Eastern District of New York  
Chair, Attorney General's Advisory Committee

Michele M. Leonhart  
Administrator  
Drug Enforcement Administration

H. Marshall Jarrett  
Director  
Executive Office for United States Attorneys

Ronald T. Hosko  
Assistant Director  
Criminal Investigative Division  
Federal Bureau of Investigation



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## Washington State Liquor Control Board

### DRAFT Recommendations of the Medical Marijuana Work Group

#### Budget Proviso Language: 3ESSB 5034 Sec. 141(2):

(a) The liquor control board must work with the department of health and the department of revenue to develop recommendations for the legislature regarding the interaction of medical marijuana regulations and the provisions of Initiative Measure No. 502. At a minimum, the recommendations must include provisions addressing the following:

- (i) Age limits;
- (ii) Authorizing requirements for medical marijuana;
- (iii) Regulations regarding health care professionals;
- (iv) Collective gardens;
- (v) Possession amounts;
- (vi) Location requirements;
- (vii) Requirements for medical marijuana producing, processing and retail licensing; and
- (viii) Taxation of medical marijuana in relation to recreational marijuana.

(b) The board must submit its recommendations to the appropriate committees of the legislature by January 1, 2014.

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#### 1. Age limits

- Adults 18 to 20 years old should be allowed access to medical marijuana with proper authorization from a health care professional.
- Children 17 years old or younger should be allowed access to medical marijuana with parent or guardian consent to the authorization. The parent or guardian should participate in the child's treatment.
- Authorizing health care professionals should be required to engage in frequent re-examination and follow-up with a child patient and communication with the parent or guardian. The authorizing health care professional should also be required to consult with other health care providers involved in the child's treatment before authorization or reauthorization of medical marijuana.
- The child's parent or guardian should be required to act as the child's designated provider and be entered in the registry as such.
- The parent or guardian should have sole control over the child's medical marijuana. The child should be allowed to possess no more medical marijuana than necessary for his or her next dose.
- Medical marijuana consumed in a school setting should be held and administered by school personnel in the same manner as any other medication. Consistent with current law, schools should not be compelled to accommodate on-site use of medical marijuana on school grounds or school buses.
- Medical marijuana products should be prohibited from being labeled in a manner that mimics candy, soda or other treats attractive to children.

#### Under I-502:

A person must be 21 years old to legally possess marijuana, to hold a marijuana license or enter a licensed marijuana premise.

#### 2. Authorizing requirements for medical marijuana

- A mandatory patient and designated provider registry should be established and maintained by the Department of Health.
- The registry should be mandatory for all patients as a condition of receiving an authorization.

- The registry should be used to determine eligibility for exemption from state and local retail sales and use taxes on marijuana purchases by qualified patients.
- Designated providers should be required to participate in the registry in conjunction with the patient.
- Patient and designated provider information should be entered into the registry by the authorizing health care professional. The information must contain sufficient unique identifiers (Washington driver's license or identification card number or social security number) to ensure accurate identification of the patient or designated provider.
- Registration should expire annually and the patient or designated provider may be re-entered in the registry only after a new or follow-up examination.
- Cards should be issued from the registry to identify patients and designated providers.
- The registry should be available to law enforcement and to the Department of Revenue as necessary to verify tax-exempt purchases under Title 82 RCW.
- Disciplining authorities for the health care professions allowed to authorize medical marijuana should have access to the registry to monitor compliance by their licensees.
- Consistent and reliable funding must be provided to establish and maintain the registry.
- The registry should contain sufficient security features to protect patient privacy. Information in the registry that could identify patients should be excluded from public disclosure.
- All existing authorizations should expire on a date certain to coincide with full implementation of the registry and retail market. All patients with existing authorizations would need to be re-evaluated by a health care professional pursuant to the revised standards and placed in the registry within a designated timeframe.

**Under I-502:**

N/A

### **3. Regulations regarding health care professionals**

- Define "debilitating" and "intractable pain" to clearly indicate the condition must be severe enough to significantly interfere with the patient's activities of daily living and ability to function, and can be objectively assessed and evaluated.
- Enact comprehensive requirements defining the standard of care for health care professionals who authorize medical marijuana similar to those required by ESHB 2876 (2010) regarding the use of opioids to manage chronic pain. The requirements should address topics such as adequacy of examination, follow-up care and recording keeping.
- Restrict a health care professional's practice to ensure it does not consist primarily of authorizing medical marijuana.
- Require a permanent physical location for a health care professional's place of practice.
- Require in person examinations for authorizations.
- Require an expiration of authorizations to ensure a regular cycle of re-examination and follow-up care.
- Eliminate the provision allowing for petitions to add qualifying conditions. Patients with conditions other than those already authorized can follow the legislative process to change the law and can avail themselves of the recreational marijuana market until such time as the law is changed. In the alternative, amend the petition provision to allow the Medical Quality Assurance Commission to make a preliminary finding of good cause prior to holding a hearing and expand the time frame for the hearing to be completed.

**Under I-502:**

N/A

### **4. Collective gardens**

Eliminate Collective Gardens.

**Under I-502:**

N/A

#### **5. Possession amounts**

- Reduce the amount a qualified patient or designated provider can possess at any given time from twenty-four ounces of useable marijuana (a sixty day supply) to three ounces (a one week supply).
- Allow additional limits for marijuana infused products in solid or liquid form.
- Eliminate home grows and the ability for a qualified patient or designated provider to possess marijuana plants in any stage of growth. Define "plant" to avoid any misconstruction of this provision.
- Eliminate the ability for designated providers to also be qualified patients and thus possess double the legal limit of medical marijuana.
- Require labeling to include the levels of tetrahydrocannabinol (THC) and cannabinoids in medical marijuana products.
- Restrict labeling and marketing of medical marijuana products to ensure that they are not intentionally attractive to minors or recreational users.
- Eliminate the provision in RCW 69.51A.045 that grants qualified patients or designated providers an affirmative defense to criminal charges of possession above the legal amount if they can prove at trial the patient's necessary medical use exceeds the amount determined in law.

#### **Under I-502:**

One ounce of useable marijuana; 16 ounces of marijuana infused product in solid form; or 72 ounces of marijuana infused product in liquid form.

#### **6. Location requirements**

Not applicable because only current I-502 licensed retail stores may sell marijuana and accept medical marijuana authorization cards.

**Under I-502:** Medical marijuana licensed business cannot be within one thousand feet of the perimeter of the grounds of any of the following entities:

1. Elementary or secondary school;
2. Playground;
3. Recreational center or facility;
4. Child care center;
5. Public park;
6. Public transit center;
7. Library; or
8. Any game arcade where admission is not restricted to persons age twenty-one or older.

#### **7. Requirements for medical marijuana producing, processing and retail licensing**

A single system for medical and recreational producer and processor licenses. Only recreational marijuana stores with an endorsement may accept medical marijuana authorization cards. Make the new regulatory system for medical marijuana effective no sooner than January 1, 2015.

#### **Under I-502:**

1. Three separate license tiers: producer, processor and retailer;
2. A licensee may hold both a producer and processor license simultaneously, but not a retailer license;
3. Open registration for all license types for a 30-day window;
4. Three month state residency requirement to qualify for a license;
5. Personal criminal history, fingerprint and background checks of applicants;
6. Point system for all arrests and/or convictions;
7. License limits;
8. Production limits; and
9. Maximum allowable amount of marijuana on licensed locations.

#### **8. Taxation of medical marijuana in relation to recreational marijuana**

Utilize the same tax structure as recreational marijuana, but provide an exemption from state and local retail sales and use taxes on purchases by medical marijuana patients registered with the Department of Health.

##### **Under I-502:**

1. Producers
  - a. Pay 25% excise tax on wholesale sales
  - b. Pay B&O tax as wholesaler
2. Processors
  - a. Pay 25% excise tax on wholesale sales
  - b. Pay B&O tax as manufacturer
3. Retailers
  - a. Pay 25% excise tax on retail sales
  - b. Pay B&O tax as retailer
  - c. Collect state/local retail sales & use tax
4. Retail Buyers
  - a. Pay state/local retail sales & use tax





**Chapter 314-55 WAC**  
**MARIJUANA LICENSES, APPLICATION PROCESS, REQUIREMENTS, AND REPORTING**

NEW SECTION

**WAC 314-55-005 What is the purpose of this chapter?** The purpose of this chapter is to outline the application process, qualifications and requirements to obtain and maintain a marijuana license and the reporting requirements for a marijuana licensee.

NEW SECTION

**WAC 314-55-010 Definitions.** Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

(6) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(7) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

(8) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

(9) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(10) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

(11) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

(13) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

(14) "Perimeter" means a property line that encloses an area.

(15) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

(16) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

(17) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

(18) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

(19) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

(20) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

(21) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

(22) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

#### NEW SECTION

##### **WAC 314-55-015 General information about marijuana licenses. (1)**

A person or entity must meet certain qualifications to receive a marijuana license, which are continuing qualifications in order to maintain the license.

(2) All applicants and employees working in each licensed establishment must be at least twenty-one years of age.

(3) Minors restricted signs must be posted at all marijuana licensed premises.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the board approves the license application.

(5) The board will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The board will not approve any marijuana license for a location on federal lands.

(7) The board will not approve any marijuana retailer license for a location within another business. More than one license could be located in the same building if each licensee has their own area separated by full walls with their own entrance. Product may not be commingled.

(8) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(9) In approving a marijuana license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

(10) A marijuana processor or retailer licensed by the board shall conduct the processing, storage, and sale of marijuana-infused products using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(11) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on the licensed premises.

#### NEW SECTION

**WAC 314-55-020 Marijuana license qualifications and application process.** Each marijuana license application is unique and investigated individually. The board may inquire and request documents regarding all matters in connection with the marijuana license application. The

application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the board shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) The board will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

(3) The board will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the board and submission of fingerprints to a vendor approved by the board. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the three month residency requirement.

(4) The board will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

(5) The board may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

(6) The board may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

(7) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least three months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the three month residency requirement. Managers or agents who manage a licensee's place of business must also meet the three month residency requirement.

(8) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the board. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

(9) As part of the application process, each applicant must submit in a format supplied by the board an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the board in advance of any substantial change in their operating plan. Depending on the degree of change, prior approval may be required before the change is implemented.

(10) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

(11) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

(12) Upon failure to respond to the board licensing and regulation division's requests for information within the timeline provided, the application may be administratively closed or denial of the application will be sought.

#### NEW SECTION

**WAC 314-55-035 What persons or entities have to qualify for a marijuana license?** A marijuana license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> <li>• All general partners and their spouses.</li> <li>• All limited partners and spouses.</li> </ul>
Limited liability company	<ul style="list-style-type: none"> <li>• All members and their spouses.</li> <li>• All managers and their spouses.</li> </ul>
Privately held corporation	<ul style="list-style-type: none"> <li>• All corporate officers (or persons with equivalent title) and their spouses.</li> <li>• All stockholders and their spouses.</li> </ul>
Publicly held corporation	<p>All corporate officers (or persons with equivalent title) and their spouses.</p> <p>All stockholders and their spouses.</p>
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
Any entity or person (inclusive of financiers) that are expecting a percentage of the profits in exchange for a monetary loan or expertise.	<p>Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year.</p> <p>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</p> <p>For the purposes of this chapter:</p> <ul style="list-style-type: none"> <li>• "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business.</li> <li>• "Net profit" means gross sales minus cost of goods sold.</li> </ul>
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the

lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The board will conduct a financial investigation as well as a criminal background of financiers.

(4) **Persons who exercise control of business** - The board will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

#### NEW SECTION

**WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license?** (1) When the board processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a marijuana license or renew a license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board will administratively close the application.

(3) The board may not issue a marijuana license to anyone who has accumulated eight or more points as referenced above. This is a discretionary threshold and it is further recommended that the following exceptions to this standard be applied:

**Exception to criminal history point assignment.** This exception to the criminal history point assignment will expire on July 1, 2014:

(a) Prior to initial license application, two federal or state misdemeanor convictions for the possession only of marijuana within the previous three years may not be applicable to the criminal history points accumulated. All criminal history must be reported on the personal/criminal history form.

(i) Regardless of applicability, failure to disclose full criminal history will result in point accumulation;

(ii) State misdemeanor possession convictions accrued after December 6, 2013, exceeding the allowable amounts of marijuana, usable marijuana, and marijuana-infused products described in chapter 69.50 RCW shall count toward criminal history point accumulation.

(b) Prior to initial license application, any single state or federal conviction for the growing, possession, or sale of marijuana will be considered for mitigation on an individual basis. Mitigation will be considered based on the quantity of product involved and other circumstances surrounding the conviction.

(4) Once licensed, marijuana licensees must report any criminal convictions to the board within fourteen days.

#### NEW SECTION

**WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?** The board will conduct an investigation of all applicants' marijuana law or rule administrative violation history. The board will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

<b>Violation Type</b> (see WAC 314-55-515)	<b>Period of Consideration</b>
<ul style="list-style-type: none"><li>• Three or more public safety violations;</li></ul>	<ul style="list-style-type: none"><li>• Violations issued within three years of the date the application is received by the board's licensing and regulation division.</li></ul>
<ul style="list-style-type: none"><li>• Four or more regulatory violations; or</li></ul>	
<ul style="list-style-type: none"><li>• One to four, or more license violations.</li></ul>	<ul style="list-style-type: none"><li>• Violations issued within the last three years the true party(ies) of interest were licensed.</li></ul>

#### NEW SECTION

**WAC 314-55-050 Reasons the board may seek denial, suspension, or cancellation of a marijuana license application or license.** Following

is a list of reasons the board may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the board has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the board during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the board during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the board to be gained in a manner which is in violation by law.

(7) Denies the board or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or board rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The board shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured along the most direct route over or across established public walks, streets, or other public passageway between the proposed building/business location to the perimeter of the grounds of the entities listed below:

(a) Elementary or secondary school;

(b) Playground;

(c) Recreation center or facility;

(d) Child care center;

(e) Public park;

(f) Public transit center;

(g) Library; or

(h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

(12) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

(13) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

(14) The operating plan does not demonstrate, to the satisfaction of the board, the applicant is qualified for a license.

(15) Failure to operate in accordance with the board approved operating plan.

(16) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

#### NEW SECTION

**WAC 314-55-070 Process if the board denies a marijuana license application.** If the board denies a marijuana license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the date on the final order of denial.

#### NEW SECTION

**WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?** (1) A marijuana producer license allows the licensee to produce marijuana for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in non-rigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The board will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana producer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production is limited to two million square feet. Applicants must designate on their operating plan the size category of the production premises and the

amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

(7) The board may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum of two million square feet the board will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the board may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds two million square feet, the board reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

#### NEW SECTION

**WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license?**

(1) A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(4) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(5) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are re-

ceived and processed, and at subsequent times when the board deems necessary.

(6) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(7) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

#### NEW SECTION

**WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license?** (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

(2) Marijuana extracts, such as hash, hash oil, shatter, and wax can be infused in products sold in a marijuana retail store, but RCW 69.50.354 does not allow the sale of extracts that are not infused in products. A marijuana extract does not meet the definition of a marijuana-infused product per RCW 69.50.101.

(3) Internet sales and delivery of product is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below their acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

#### NEW SECTION

**WAC 314-55-081 Who can apply for a marijuana retailer license?**

(1) Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the liquor control board will determine the maximum number of marijuana retail locations per county.

The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds

the allotted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.

(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at [www.liq.wa.gov](http://www.liq.wa.gov).

(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.

(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary.

#### NEW SECTION

**WAC 314-55-082 Insurance requirements.** Marijuana licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the board that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(2) Insurance carrier rating: The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) Additional insured. The board shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

## NEW SECTION

**WAC 314-55-083 What are the security requirements for a marijuana licensee?** The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana pro-

cessor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts and marijuana-infused products must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana-infused product is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed or a lot or batch of marijuana or marijuana-infused product may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before useable marijuana, or marijuana-infused products are transported from a processor to a retailer.

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract and marijuana-infused products;

(k) All point of sale records;

- (l) Marijuana excise tax records;
- (m) All samples sent to an independent testing lab and the quality assurance test results;
- (n) All free samples provided to another licensee for purposes of negotiating a sale;
- (o) All samples used for testing for quality by the producer or processor;
- (p) Samples containing usable marijuana provided to retailers;
- (q) Samples provided to the board or their designee for quality assurance compliance checks; and
- (r) Other information specified by the board.

(5) **Start-up inventory for marijuana producers.** Within fifteen days of starting production operations a producer must have all non-flowering marijuana plants physically on the licensed premises. The producer must immediately record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of useable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the useable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.

#### NEW SECTION

**WAC 314-55-084 Production of marijuana.** Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

(1) Materials listed or registered by the Washington state department of agriculture (WSDA) or Organic Materials Review Institute (OMRI) as allowable for use in organic production, processing, and handling under the U.S. Department of Agriculture's national organics standards, also called the National Organic Program (NOP), consistent with requirements at 7 C.F.R. Part 205.

(2) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

(3) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

(4) Potting soil and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

#### NEW SECTION

**WAC 314-55-085 What are the transportation requirements for a marijuana licensee?** (1) **Notification of shipment.** Upon transporting any marijuana or marijuana product, a producer, processor or retailer shall notify the board of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system.

(3) **Transportation manifest.** A complete transport manifest containing all information required by the board must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the marijuana licensee or an employee of the licensee may transport product;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the board pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product.

#### NEW SECTION

**WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? (1) Notices regarding persons under twenty-one years of age must be conspicuously posted on the premises as follows:**

Type of licensee	Sign must contain the following language:	Required location of sign
Marijuana producer, marijuana processor, and marijuana retailer	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.

The board will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

**(2) Signs provided by the board prohibiting opening a package of marijuana or marijuana-infused product in public or consumption of marijuana or marijuana-infused products in public, must be posted as follows:**

Type of premises	Required location of sign
Marijuana retail	Posted in plain view at the main entrance to the establishment.

**(3) The premises' current and valid master license with appropriate endorsements must be conspicuously posted on the premises and available for inspection by liquor enforcement officers.**

NEW SECTION

**WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees?** (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a three-year period and must be made available for inspection if requested by an employee of the liquor control board:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records, to include training;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of usable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing usable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

#### NEW SECTION

**WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees?** (1) Marijuana licensees must submit monthly report(s) and payments to the board. The required monthly reports must be:

(a) On a form or electronic system designated by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the board.

A marijuana producer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale to a licensed marijuana processor.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana processor licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale of usable marijuana and marijuana-infused product to a licensed marijuana retailer.

(4) **Marijuana retailer's licensees:** On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the board.

A marijuana retailer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each retail sale of usable marijuana or marijuana-infused products.

#### NEW SECTION

**WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late?** (1) If a marijuana licensee does not submit its monthly reports and payment(s) to the board as required in WAC 314-55-089: The licensee is subject to penalties.

**Penalties:** A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the board to suspend or revoke a marijuana license.

#### NEW SECTION

**WAC 314-55-095 Marijuana servings and transaction limitations.** Marijuana dosage and transaction limitations are as follows:

(1) **Single serving.** A single serving of a marijuana-infused product amounts to ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(2) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana-infused extract for inhalation cannot exceed one gram.

(3) **Transaction limitation.** A single transaction is limited to one ounce of usable marijuana, sixteen ounces of marijuana-infused product in solid form, seven grams of marijuana-infused extract for inhalation, and seventy-two ounces of marijuana-infused product in liquid form for persons twenty-one years of age and older.

## NEW SECTION

**WAC 314-55-097 Marijuana waste disposal—Liquids and solids.** (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it designates as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 315-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 315-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unusable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, retail facility, or laboratory. Disposal of the marijuana waste rendered unusable must follow the methods under subsection (6) of this section.

(a) Wastes that must be rendered unusable prior to disposal include, but are not limited to, the following:

(i) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(ii) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(iii) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the board to test for quality assurance that must be disposed of.

(iv) Other wastes as determined by the LCB.

(b) A producer or processor must provide the board a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.

(5) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent

nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by LCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

- (i) Food waste;
- (ii) Yard waste;
- (iii) Vegetable based grease or oils; or
- (iv) Other wastes as approved by the LCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

- (i) Paper waste;
- (ii) Cardboard waste;
- (iii) Plastic waste;
- (iv) Soil; or
- (v) Other wastes as approved by the LCB.

(6) Marijuana wastes rendered unusable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.

(ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered unusable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered unusable.

#### NEW SECTION

**WAC 314-55-099 Standardized scales.** (1) Marijuana producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) The scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapters 16-662 and 16-664 WAC.

(3) Licensees must register scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

#### NEW SECTION

**WAC 314-55-102 Quality assurance testing.** (1) A person with financial interest in an accredited third-party testing lab may not have

direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests.

(2) As a condition of accreditation, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(3) As a condition of accreditation, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the *American Herbal Pharmacopoeia* or notify the board what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The board may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(4) As a condition of accreditation, the board may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab.

(5) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the board. The board or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(6) The general body of required quality assurance tests for marijuana flowers, infused products, and extracts may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

(7) Table of required quality assurance tests.

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Flowers to be sold as usable marijuana (see note below)	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (nonsolvent) like kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources	None	None
Extract (nonsolvent) like kief, hashish, bubble hash or infused dairy butter, or oils or fats derived from natural sources	1. Potency analysis 2. Foreign matter inspection 3. Microbiological screening	Up to 7 grams
Flowers to be used to make an extract (solvent based), made with a CO <sub>2</sub> extractor, or with a food grade ethanol or glycerin	1. Foreign matter inspection 2. Microbiological screening	Up to 7 grams

Product	Test(s) Required	Sample Size Needed to Complete all Tests
Extract (solvent based) made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity	1. Potency analysis 2. Residual solvent test 3. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with a CO <sub>2</sub> extractor like hash oil	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade ethanol	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
Extract made with food grade glycerin or propylene glycol	1. Potency analysis	Up to 1 gram
Infused edible	1. Potency analysis 2. Microbiological screening	1 unit
Infused liquid like a soda or tonic	1. Potency analysis 2. Microbiological screening	1 unit
Infused topical	1. Potency analysis	1 unit

(8) Independent testing labs may request additional sample material in excess of amounts listed in the table in subsection (7) of this section for the purposes of completing required quality assurance tests. Labs meeting the board's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab.

(9) Labs meeting the board's accreditation requirements are not limited in the amount of useable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

(10) At the discretion of the board, a producer or processor must provide an employee of the board or their designee samples in the amount listed in subsection (7) of this section for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the board. All costs of this testing will be borne by the producer or processor.

(11) No lot of usable flower or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing.

(12) Any useable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" useable marijuana or marijuana-infused product will be allowed to be sold.

(13) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO<sub>2</sub> or solvent based extract. After processing, the CO<sub>2</sub> or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

(14) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

## NEW SECTION

**WAC 314-55-104 Marijuana processor license extraction requirements.** (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the board. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in a spark free environment with proper ventilation, and follow all applicable local fire, safety and building codes in processing and the storage of the solvents.

(3) Processors may use a professional grade closed loop CO<sub>2</sub> gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch and follow all applicable local fire, safety and building codes in processing and the storage of the solvents. The CO<sub>2</sub> must be of at least ninety-nine percent purity.

(4) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(5) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

(6) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(7) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

## NEW SECTION

**WAC 314-55-105 Packaging and labeling requirements.** (1) All usable marijuana and marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana or marijuana products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana or marijuana product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the accredited third-party testing lab and results of the required quality assurance test for any usable marijuana or other marijuana product the customer is considering purchasing.

(4) usable marijuana and marijuana products may not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The accredited third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

(7) Marijuana-infused products meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamper-proof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

(8) A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be either returned to the licensed processor who provide the usable marijuana and sample jar or destroyed by the retailer after use in the manner described in WAC 314-55-097 and noted in the traceability system.

(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.

(10) Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

**(11) All usable marijuana when sold at retail must include accompanying material that contains the following warnings that state:**

(a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";

(b) "There may be health risks associated with consumption of this product";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

**(12) All marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:**

(a) "There may be health risks associated with consumption of this product";

(b) "This product is infused with marijuana or active compounds of marijuana";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";

(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and

(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.

(13) **Labels affixed to the container or package containing usable marijuana sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot number;

(c) Concentration of THC, THCA, CBD, including a total of active cannabinoids (potency profile);

(d) Net weight in ounces and grams or volume as appropriate;

(e) Warnings that state: "This product has intoxicating effects and may be habit forming";

(f) Statement that "This product may be unlawful outside of Washington state";

(g) Date of harvest.

(h) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.

(14) **Sample label mock up for a container or package containing usable marijuana sold at retail with required information:**

UBI: 1234567890010001	Lot#: 1423
Date of Harvest: 4-14	
<i>The Best Resins</i>	
<b>Blueberry haze</b>	
16.7 % THC 1.5% CBD	
Warning - This product has intoxicating effect and may be habit forming	
<b><u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u></b>	
Net weight: 7 grams	

(15) **Labels affixed to the container or package containing marijuana-infused products sold at retail must include:**

(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed, and sold the usable marijuana;

(b) Lot numbers of all base marijuana used to create the extract;

(c) Batch number;

(d) Date manufactured;

- (e) Best by date;
- (f) Recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;
- (g) Net weight in ounces and grams, or volume as appropriate;
- (h) List of all ingredients and any allergens;
- (i) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."
- (j) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;
- (k) Warnings that state: "This product has intoxicating effects and may be habit forming";
- (l) Statement that "This product may be unlawful outside of Washington state";
- (m) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.
- (16) **Sample label mock up (front and back) for a container or package containing marijuana-infused products sold at retail with required information:**

(Front of label)

UBI: 1234567890010001	Batch#: 5463
<i>The Best Resins</i>	
<i>Space cake</i>	
CAUTION: when eaten the effects of this product can be delayed by as much as two hours.	
Net weight: 6oz (128grams)	
<b><u>THIS PRODUCT IS UNLAWFUL OUTSIDE WASHINGTON STATE</u></b>	

(Back of label)

Manufactured at: 111 Old Hwy Rd., Mytown, WA on 1/14/14 Best by 2/1/14
INGREDIENTS: Flour, Butter, Canola oil, Sugar, Chocolate, Marijuana, Strawberries, CONTAINS ALLERGENS: Milk, Wheat,
Serving size: 10 MG of THC This product contains 10 servings and a total of 100 MG of THC
Warning- This product has intoxicating effects and may be habit forming

## NEW SECTION

**WAC 314-55-120 Ownership changes.** (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75

(2) The board may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

#### NEW SECTION

**WAC 314-55-125 Change of location.** (1) Changing your marijuana license to a new location requires an application, per the process outlined in WAC 314-55-020.

(2) A change of location occurs any time a move by the licensee results in any change to the physical location address.

#### NEW SECTION

**WAC 314-55-130 Change of business name.** (1) If you wish to change the name of your business, you must apply for a change of trade name with the department of revenue, business license service.

(2) If you wish to change your corporation or limited liability company name, you must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

#### NEW SECTION

**WAC 314-55-135 Discontinue marijuana sales.** You must notify the board's enforcement and education division in writing if you plan to stop doing business for more than thirty days, or if you plan to permanently discontinue marijuana sales.

#### NEW SECTION

**WAC 314-55-140 Death or incapacity of a marijuana licensee.** (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the board's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The board may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

#### NEW SECTION

**WAC 314-55-145 Are marijuana license fees refundable?** When a license is suspended or canceled, or the licensed business is discontinued, the unused portion of the marijuana license fee will not be refunded.

#### NEW SECTION

**WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales?** A marijuana retailer licensee may sell usable marijuana, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

#### NEW SECTION

**WAC 314-55-150 What are the forms of acceptable identification?**

(1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the Dis-

trict of Columbia, or "identocard" issued by the Washington state department of licensing per RCW 46.20.117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) The identification document is not acceptable to verify age if expired.

#### NEW SECTION

##### **WAC 314-55-155 Advertising. (1) Advertising by retail licensees.**

The board limits each retail licensed premises to one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of useable marijuana and marijuana-infused products sold in the state of Washington may not contain any statement, or illustration that:

(a) Is false or misleading;

(b) Promotes over consumption;

(c) Represents the use of marijuana has curative or therapeutic effects;

(d) Depicts a child or other person under legal age to consume marijuana, or includes:

(i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or

(ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter;  
or

(c) On or in a publicly owned or operated property.

(4) Giveaways, coupons, and distribution of branded merchandise are banned.

(5) All advertising must contain the following warnings:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults twenty-one and older. Keep out of the reach of children."

#### NEW SECTION

**WAC 314-55-160 Objections to marijuana license applications.** (1) How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license? Per RCW 69.50.331, the board will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the board regarding an application.

Type of application	Entities the board will/may notify
<ul style="list-style-type: none"><li>• Applications for an annual marijuana license at a new location.</li></ul>	<ul style="list-style-type: none"><li>• Cities and counties in which the premises is located will be notified.</li></ul> <p>Tribal governments and port authorities in which the premises is located may be notified.</p>
<ul style="list-style-type: none"><li>• Applications to change the class of an existing annual marijuana license.</li></ul>	
<ul style="list-style-type: none"><li>• Changes of ownership at existing licensed premises.</li></ul>	<ul style="list-style-type: none"><li>• Cities and counties in which the premises is located will be notified.</li></ul> <p>Tribal governments and port authorities in which the premises is located may be notified.</p>

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the board will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the board shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public

parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

#### NEW SECTION

**WAC 314-55-165 Objections to marijuana license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?**

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the board for an extension for good cause shown.

(d) This letter must be received by the board at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

**(2) What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license?** The board will give substantial weight to a city, county, tribal govern-

ment, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the board will decide to either renew the marijuana license, or to pursue nonrenewal.

(a) Board decides to renew the marijuana license:	(b) Board decides to pursue nonrenewal of the marijuana license:
<p>(i) The board will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed. If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.</p>

#### NEW SECTION

**WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a liquor control board statute or regulation?** (1) When an enforcement officer believes that a licensee has violated a board statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

(2) The AVN notice will include:

(a) A complete narrative description of the violation(s) the officer is charging;

(b) The date(s) of the violation(s);

(c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's options as outlined in WAC 314-55-510; and

(e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

#### NEW SECTION

**WAC 314-55-506 What is the process once the board summarily suspends a marijuana license?** (1) The board may summarily suspend any license after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the board, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the board.

#### NEW SECTION

**WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license?** (1) Upon summary suspension of a license by the board pursuant to WAC 314-55-506, an affected licensee may petition the board for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the board within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

#### NEW SECTION

**WAC 314-55-508 Review of orders on stay.** (1) The licensee, or agency, may petition the board for review of an initial order on stay. Any petition for review must be in writing and received by the board within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the board for purposes of RCW 34.05.467.

(2) If the board receives a timely petition for review, the board shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the board on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

#### NEW SECTION

**WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation?** (1) A licensee has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee does not respond to the administrative violation notice within twenty days?**

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension penalty will go into effect.

(b) If the penalty does not include a suspension, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(3) **What are the procedures when a licensee requests a settlement conference?**

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the board, or designee, for approval.

(i) If the board, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the board, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearing examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the board's hearings coordinator.

#### NEW SECTION

**WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule?** (1) The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a liquor control board law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—Producer violations involving the manufacture, supply, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
<p>Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee;</li> <li>• Having an employee training plan that includes annual training on marijuana laws.</li> </ul>	<p>Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries.</li> </ul>

#### NEW SECTION

**WAC 314-55-520 Group 1 violations against public safety.** Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4).

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<b>Violations involving minors:</b>	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
<b>Sale or service to minor:</b> Sale of marijuana and/or paraphernalia to a person under twenty-one years of age WAC 314-55-079	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
<b>Allowing a minor to frequent a restricted area.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	
<b>Employee under legal age.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<b>Licensee and/or employee open and/or consuming marijuana on a retail licensed premises.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<b>Conduct violations:</b> <b>Criminal conduct:</b> Permitting or engaging in criminal conduct.	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-020(8) WAC 314-55-083(4) WAC 314-55-087 (1)(f)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound WAC 314-55-105(8)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing WAC 314-55-104	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Marijuana purchased from an unauthorized source.  Marijuana sold to an unauthorized source.  Sales in excess of transaction limitations. WAC 314-55-095(3)	Cancellation of license  Cancellation of license  Cancellation of license			

#### NEW SECTION

**WAC 314-55-525 Group 2 regulatory violations.** Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<b>Hours of service:</b> Sales of marijuana between 12:00 a.m. and 8:00 a.m.	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Advertising:</b> Violations (statements/illustrations). WAC 314-55-155(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Advertising violations –</b> Sign exceeding 1600 square inches; within 1000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. RCW 69.50.357 RCW 69.50.369	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<b>Packaging and/or labeling violations</b> (processor/retailer). WAC 314-55-105	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<b>Licensee/employee failing to display required security badge.</b> WAC 314-55-083(1)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to maintain required security alarm and surveillance systems.</b> WAC 314-55-083 (2) and (3)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Records: Improper recordkeeping.</b> WAC 314-55-087 WAC 314-55-089 (3), (4), and (5)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to submit monthly tax reports and/or payments.</b> WAC 314-55-089 WAC 314-55-092	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Signs: Failure to post required signs.</b> WAC 314-55-086	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to utilize and/or maintain traceability (processor or retail licensee).</b> WAC 314-55-083(4)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Violation of transportation requirements.</b> WAC 314-55-085	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Exceeding maximum serving requirements for marijuana-infused products.</b> WAC 314-55-095(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure for a processor to meet marijuana waste disposal requirements.</b> WAC 314-55-097	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Failure to maintain standardized scale requirements (processor/retailer).</b> WAC 314-55-099	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Marijuana processor extraction requirements.</b> WAC 314-55-104	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
<b>Retail outlet selling unauthorized products.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<b>Retailer displaying products in a manner visible to the general public from a public right of way.</b> RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

## NEW SECTION

**WAC 314-55-530 Group 3 license violations.** Group 3 violations are violations involving licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
True party of interest violation. WAC 314-55-035	Cancellation of license			
Failure to furnish required documents. WAC 314-55-050	Cancellation of license			
Misrepresentation of fact. WAC 314-55-050	Cancellation of license			
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120	30-day suspension	Cancellation of license		
Failure to maintain required insurance. WAC 314-55-080	30-day suspension	Cancellation of license		

## NEW SECTION

**WAC 314-55-535 Group 4 marijuana producer violations.** Group 4 violations are violations involving the manufacture, supply, and/or distribution of marijuana by marijuana producer licensees and prohibited practices between a marijuana producer licensee and a marijuana retailer licensee.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized sale to a retail licensee. WAC 314-55-075	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to utilize and/or maintain traceability. WAC 314-55-083(4)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Packaging and/or labeling violations (producer). WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Unauthorized product/unapproved storage or delivery.	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure for a producer to meet marijuana waste disposal requirements. WAC 314-55-097	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<b>Records: Improper recordkeeping.</b> WAC 314-55-087 WAC 314-55-089 (2) and (4) WAC 314-55-092	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Violation of transportation requirements.</b> WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Failure to maintain required security alarm and surveillance systems.</b> WAC 314-55-083 (2) and (3)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Failure to maintain standardized scale requirements (producer).</b> WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<b>Violation.</b>				

#### NEW SECTION

#### **WAC 314-55-540 Information about marijuana license suspensions.**

(1) On the date a marijuana license suspension goes into effect, a liquor control officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor control board due to a violation of a board law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor control board's suspension notice.

(3) During the period of marijuana license suspension:

(a) A marijuana retailer or marijuana processor licensee may not operate his/her business during the dates and times of suspension.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana during a license suspension.

(c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension.

