
HOUSE BILL 1105

State of Washington

67th Legislature

2021 Regular Session

By Representatives Kloba, Simmons, Fitzgibbon, Dolan, Ortiz-Self, Goodman, Vick, Ormsby, Riccelli, Santos, Macri, and Davis

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

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

5 **Sec. 1.** RCW 69.51A.040 and 2015 c 70 s 24 are each amended to
6 read as follows:

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

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

1 designated provider holds a valid authorization if the qualifying
2 patient or designated provider has not been entered into the medical
3 marijuana authorization database and has not been issued a
4 recognition card, and the qualifying patient or designated provider
5 possesses no more than the amount of marijuana concentrates, useable
6 marijuana, plants, or marijuana-infused products authorized under RCW
7 69.51A.210.

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

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

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

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

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

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

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

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

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

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

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

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

25 **Sec. 3.** RCW 69.51A.060 and 2019 c 204 s 3 are each amended to
26 read as follows:

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

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

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

1 (4) Nothing in this chapter requires any accommodation of any on-
2 site medical use of marijuana in any place of employment, in any
3 youth center, in any correctional facility, or smoking marijuana in
4 any public place or hotel or motel.

5 (5) Nothing in this chapter authorizes the possession or use of
6 marijuana, marijuana concentrates, useable marijuana, or marijuana-
7 infused products on federal property.

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

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

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

21 NEW SECTION. **Sec. 4.** RCW 69.51A.043 (Failure to enter into the
22 medical marijuana authorization database—Affirmative defense) and
23 2015 c 70 s 25 & 2011 c 181 s 402 are each repealed.

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