

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcohol beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

Sec. 20. RCW 66.24.440 and 1998 c 126 s 8 are each amended to read as follows:

Each spirits, beer, and wine restaurant, spirits, beer, and wine private club, hotel, and sports entertainment facility licensee shall be entitled to purchase any spirituous liquor items salable under such license from the board at a discount of not less than fifteen percent from the retail price fixed by the board, together with all taxes.

NEW SECTION. **Sec. 21.** Sections 4 and 6 of this act expire June 30, 2008.

NEW SECTION. **Sec. 22.** Sections 5 and 7 of this act take effect June 30, 2008.

NEW SECTION. **Sec. 23.** Sections 10 through 20 of this act take effect July 1, 2008.

Passed by the Senate April 16, 2007.

Passed by the House April 6, 2007.

Approved by the Governor May 8, 2007.

Filed in Office of Secretary of State May 10, 2007.

CHAPTER 371

[Engrossed Substitute Senate Bill 6032]

MARIJUANA—MEDICAL USE

AN ACT Relating to medical use of marijuana; amending RCW 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.060, and 69.51A.070; adding a new section to chapter 69.51A RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** 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.

Sec. 2. RCW 69.51A.005 and 1999 c 2 s 2 are each amended to read as follows:

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 physician's 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))~~ may 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))~~ designated providers 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.

Sec. 3. RCW 69.51A.010 and 1999 c 2 s 6 are each amended to read as follows:

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) "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) 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 (~~board~~ ~~commission~~) commission in consultation with the board of osteopathic medicine and surgery 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 may benefit from the medical use of marijuana; ((and))

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

(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original.

Sec. 4. RCW 69.51A.030 and 1999 c 2 s 4 are each amended to read as follows:

A physician licensed under chapter 18.71 or 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)) may benefit a particular qualifying patient.

Sec. 5. RCW 69.51A.040 and 1999 c 2 s 5 are each amended to read as follows:

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

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

- (a) Meet all criteria for status as a qualifying patient or designated provider;
- (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 or provider regarding his or her medical use of marijuana.

~~(((3) The))~~ (4) A qualifying patient, if under eighteen years of age at the time he or she is alleged to have committed the offense, shall ~~((comply))~~ demonstrate compliance with subsection ~~(((2)))~~ (3)(a) and (c) of this section. However, any possession under subsection ~~(((2)))~~ (3)(b) of this section, 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.)~~

Sec. 6. RCW 69.51A.060 and 1999 c 2 s 8 are each amended to read as follows:

(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 on-site medical use of marijuana in any place of employment, in any school bus or on any school grounds, ((or)) in any youth center, in any correctional facility, or smoking medical marijuana in any public place as that term is defined in RCW 70.160.020.

(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 RCW 69.51A.010(((5))) (6)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 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.

Sec. 7. RCW 69.51A.070 and 1999 c 2 s 9 are each amended to read as follows:

The Washington state medical quality assurance (~~board~~ ~~commission~~) 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 (~~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~~ ~~commission~~) 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 (~~board~~ ~~commission~~) 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.

NEW SECTION. Sec. 8. A new section is added to chapter 69.51A RCW to read as follows:

(1) By July 1, 2008, the department of health shall adopt rules defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients; this presumption may be overcome with evidence of a qualifying patient's necessary medical use.

(2) As used in this chapter, "sixty-day supply" means that amount of marijuana that qualifying patients would reasonably be expected to need over a period of sixty days for their personal medical use. During the rule-making process, the department shall make a good faith effort to include all stakeholders identified in the rule-making analysis as being impacted by the rule.

(3) The department of health shall gather information from medical and scientific literature, consulting with experts and the public, and reviewing the best practices of other states regarding access to an adequate, safe, consistent, and secure source, including alternative distribution systems, of medical marijuana for qualifying patients. The department shall report its findings to the legislature by July 1, 2008.

Passed by the Senate April 20, 2007.

Passed by the House April 18, 2007.

Approved by the Governor May 8, 2007.

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CHAPTER 372

[House Bill 1371]

RENTAL VEHICLES—TRAFFIC INFRACTIONS

AN ACT Relating to traffic infractions involving rental vehicles; and amending RCW 46.63.073, 46.63.160, and 46.63.170.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.63.073 and 2005 c 331 s 2 are each amended to read as follows:

(1) In the event a traffic infraction is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. ~~((2))~~ For the purpose of this ~~(section)~~ subsection, a "traffic infraction based on a vehicle's identification" includes, but is not limited to, parking infractions, high-occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

(2) In the event a parking infraction is issued by a private parking facility and is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the parking facility shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the parking facility by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft.

Timely mailing of this statement to the parking facility relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable