

2011 DRAFT MEDICAL CANNABIS LEGISLATION

Comments, criticism and guide to our color-coded bill draft

By the Cannabis Defense Coalition, October 2010

- Sections highlighted in light red represent language of concern. Either we have a specific concern about that section, or members of the medical cannabis community have brought up concern worth discussion.
 - Sections highlighted in light yellow represent language worth calling out for edification, discussion and debate.
1. **Section 3, Page 4, Line 4.** A "measurable" THC concentration unintentionally includes hemp food products in the definition of "cannabis products." Amend to something like, "greater than three-tenths of one percent (.3%)"
 2. **Section 3, Page 4, Line 10.** Requires designated provider document to be signed and dated.
 3. **Section 3, Page 4, Line 27.** Limited authority law enforcement, as per 10.93.020(4), include agents from DNR, DSHS, the gambling commission, parks and recreation, utilities and transportation commission, liquor control board, insurance commissioner and the Department of Corrections.
 4. **Section 3, Page 5, Line 8.** Only non-profit organizations can be licensed dispensers.
 5. **Section 3, Page 5, Line 13.** A licensed producer is a "farmer, grower, or planter." Is there a reason to list occupational titles, or would "person" be better?
 6. **Section 3, Page 5, Line 18.** Add "dispensing" to "transportation, delivery" amendment.
 7. **Section 3, Page 6, Line 3.** Add "employees, agents, etc" to "licensed producer," otherwise most "production facilities" will be technically outside this definition.
 8. **Section 3, Page 6, Line 7.** The anti-smoking law in Washington does a good job of protecting people from second-hand cannabis smoke. Patients need to be able to use topicals, tinctures, baked goods and capsulated medications in public, which requires no more exposure than taking a prescription pain pill.
 9. **Section 3, Page 7, Line 4.** The phrase "tamper-resistant paper" would be better written as "tamper-resistant document." Many patients are issued ID cards by their authorizing physician, and these can not be valid documentation unless the cards are made from paper composite. This would clarify that legal documentation can be printed on plastic and other composites, not just paper.
 10. **Section 3, Page 8, Line 5.** The term Moraceae is debated in botanical circles and cannabaceae is sometimes used instead. We suggest striking "family Moraceae" as cannabis plant is a good enough botanical description of the plant that is widely accepted and not disputed.
 11. **Section 3, Page 8, Line 18.** Valid documentation for a designated provider must include the signed and dated document designating them such.

12. **Section 5, Page 9, Line 14.** Erroneous RCW citation. Update from section 11, to section 19.
13. **Section 6, Page 11, Line 16.** Requires a "limited search" for plant counting purposes if one is to be afforded protection from arrest.
14. **Section 6, Page 11, Line 23.** Add the phrase "In the case of a designated provider" to clarify that this section does not nullify a patient's arrest protection.
15. **Section 6, Page 11, Line 27.** Add the phrase "In the case of a designated provider" to clarify that this section does not nullify a patient's arrest protection.
16. **Section 7, Page 12, Line 8.** Collective gardens are authorized, with no additional licensing requirements, allowing up to seven patients to grow up to 99 plants together. We highlighted this not out of concern, simply as a point of discussion.
17. **Section 7, Page 12, Line 16.** Collective gardens may not distribute cannabis outside of the collective. They may not provide dispensers or other patients.
18. **Section 8, Page 3, Line 3.** Designated providers can only serve one patient per 90 days. If a patient revokes their designation of a designated provider growing cannabis for that patient, the designated provider goes from legal to felonious immediately. If a patient and designated provider get into an argument, the patient can revoke their designation, contact law enforcement, and legally have the designated provider arrested, prosecuted, and likely sent to prison. In a community awash in fear and suspicion, this amendment will increase fear, stress, risk and suspicion in the medical cannabis community.
19. **Section 9, Page 13, Line 15.** Law enforcement may seize cannabis above the presumptive limits.
20. **Section 11, Page 14, Line 23.** Disallows the affirmative defense to non-residents who don't present proof of identity to law enforcement upon questioning. In most cases, Washington law does not require the presentation of ID to law enforcement. This is a right all of us enjoy, and extending the affirmative defense to non-residents should allow a patient to retain and express this right without completely eliminating their future affirmative defense.
21. **Section 11, Page 14, Line 28.** Disallows the affirmative defense to non-residents who do not consent to a search. Every American has the right to deny an unwarranted search. Civil liberties groups teach people to refuse unwarranted searches, and the CDC advises patients to make it clear that one does not consent to any search, warranted or not. If a non-resident patient does what every American can and -- in our opinion -- must do, they will be convicted, even though they are a qualifying patient intended to be covered by our medical cannabis law. Cut completely.
22. **Section 16, Page 16, Line 30.** Public consumption ban. See point #8 above.
23. **Section 16, Page 17, Line 22.** Erroneous RCW citation. Update to section 24 to section 25.
24. **Section 16, Page 17, Line 22.** Makes back-dating valid documentation a Class C felony.

25. **Section 16, Page 17, Line 24.** Subjects patients to the strict drunk driving statute, which will find them guilty of DUI if they are "under the influence" of cannabis while driving. Currently a patient may not "endanger the health of well being of any person through the use of a motorized vehicle on a street, road or highway."
26. **Section 18, Page 18, Line 18.** Department of Agriculture will approve facilities and scales.
27. **Section 18, Page 18, Line 22.** Department of Agriculture can inspect during regular business hours with no notice. Cannabis growing is a stressful, worrisome endeavor; unannounced visitors cause unnecessary fear and safety risk. Some notice (days or even hours) would be nice, to reduce paranoia.
28. **Section 18, Page 19, Line 4.** Security confetti mixed in with medical grade cannabis is concerning to patients and providers, but we may just not understand the technology. There is concern that this material might get lost in the cannabis, and be inadvertently consumed by patients.
29. **Section 18, Page 19, Line 5.** We question the ability to devise a cost-effective method to readily identify cannabis lots that are stolen or illegally removed from a production facility.
30. **Section 21, Page 20, Line 24.** Licensed producers are subject to inspect "at all reasonable times."
31. **Section 25, Page 21, Line 25.** Licensed producers must submit to inspection at times determined by the Department of Agriculture, and "under such conditions" the department deems necessary.
32. **Section 25, Page 22, Line 5.** In the worst case scenario, if a licensed producer doesn't respond to an inspection notice within 24 hour of issuance, the Department of Agriculture can petition the court to seize all business property and require the licensee to pay all costs of this action, including attorney's fees.
33. **Section 26, Page 22, Line 30.** Samples of cannabis become property of the state.
34. **Section 27, Page 23, Line 5.** Department of Agriculture has exclusive control of all "weighing" of cannabis.
35. **Section 28, Page 23, Line 18.** We're not sure what this section means.
36. **Section 30, Page 24, Line 8.** A producer may request a reinspection OR appeal inspection. Can they request both, one after the other? Why provide two choices for appeal? Which one should they choose?
37. **Section 31, Page 25, Line 2.** Gender-specific language. Change to "his or her."
38. **Section 31, Page 25, Line 6.** Fees for licensed producers may be different depending on locale.
39. **Section 32, Page 25, Line 13.** Licensed producers may provide only to licensed dispensers, not individual patients or providers.

40. **Section 34, Page 27, Line 11.** Dispensers are required to be non-profit organizations, but this section protects only "employees, officers, and directors" of those organizations. Many dispensers rely on members and volunteers to complete the necessary work.
41. **Section 35, Page 28, Line 4.** The DoH will fix sizes and dimensions of medical cannabis containers.
42. **Section 36, Page 28, Line 25.** A licensed dispenser may sell cannabis only if it was from a licensed producer. They can not sell cannabis from unlicensed patients and designated providers. A dispenser may sell cannabis to patients and designated providers only, not other licensed dispensers.
43. **Section 37, Page 30, Line 10.** The DoH will set up a system to verify dispensers and their employees, but again, many dispensers have members and volunteers in addition to, or in lieu of, paid employees.
44. **Section 38, Page 30, Line 23.** Department rules should not be exempt from public disclosure. We need to know them; secrecy does not forward that end.
45. **Section 40, Page 31, Line 3.** All violations not specifically defined shall be misdemeanors.
46. **Section 41, Page 31, Line 7.** Licensed producer penalties are limited to \$1,000 per violation.
47. **Section 41, Page 31, Line 14.** "Every person" who aids or abets a licensed producer in violating this chapter is subject to its penalties.