

# SENATE BILL REPORT

## SB 5615

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As Reported by Senate Committee On:  
Judiciary, February 18, 2009

**Title:** An act relating to reclassifying possession of forty grams or less of marijuana from a misdemeanor to a class 2 civil infraction.

**Brief Description:** Reclassifying possession of forty grams or less of marijuana from a misdemeanor to a class 2 civil infraction.

**Sponsors:** Senators Kohl-Welles, Kline, McDermott and Murray.

**Brief History:**

**Committee Activity:** Judiciary: 2/10/09, 2/18/09 [DP, DNP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Kohl-Welles and Tom.

**Minority Report:** Do not pass.

Signed by Senators Carrell and Roach.

**Staff:** Juliana Roe (786-7438)

**Background:** Under current law, any person found guilty of possession of 40 grams or less of marijuana is guilty of a misdemeanor. Any person who uses drug paraphernalia, i.e. to plant, cultivate, grow, manufacture, or introduce into the human body a controlled substance, is guilty of a misdemeanor. A police officer who has probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor involving (1) physical harm or threats of harm to any person or property; (2) the unlawful taking of property; (3) the use or possession of cannabis; (4) the acquisition, possession, or consumption of alcohol by a person under 21; or (5) criminal trespass has the authority to arrest the person.

A misdemeanor is punishable by not more than 90 days in jail or by a fine not more than \$1,000 or by both such imprisonment and fine. A gross misdemeanor is punishable by not more than one year in jail or by a fine of not more than \$5,000 or by both such imprisonment and fine.

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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.*

**Summary of Bill:** Those persons who are under 18 and are found guilty of possession of 40 grams or less of marijuana are guilty of a misdemeanor. All other persons found guilty of possession of 40 grams or less of marijuana commit a class 2 civil infraction and must pay a \$100 penalty. Persons who are over 18 and are found to have unlawfully used drug paraphernalia, i.e. to plant, cultivate, grow, manufacture, or introduce into the human body marijuana and no other controlled substance, commit a class 2 civil infraction and must pay a \$100 penalty.

All monetary penalties collected for class 2 civil infractions committed under the above mentioned circumstances are required to be deposited into the criminal justice treatment account, used for substance abuse treatment and treatment support services.

Police officers do not have the authority to arrest a person who they have probable cause to believe is committing a misdemeanor or gross misdemeanor involving only the use or possession of cannabis.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: It is important to focus on and get back to the fundamental principles. The purpose of government is to protect and maintain the rights of individuals. Government should not interfere in individual choices and make something a crime unless it infringes on someone's life, liberty, or property. Those who possess marijuana are not infringing on other people's rights, yet the government spends great amounts of money on prosecuting this low level crime. In 2007 over \$7.6 million was spent on putting over 11,000 people in jail for misdemeanor possession. Law enforcement made 11,553 arrests that lead to 3,368 convictions and 16,183 days spent in jail pursuant to these convictions.

Police are unavailable to apprehend the real criminals for committing real crimes because their time is spent chasing after people possessing marijuana. Time should be spent on domestic violence, pedophiles, burglars, and robbers who are truly infringing upon others' rights. The costs increase because the persons arrested and convicted of these low level crimes spend the rest of their lives struggling to get jobs and homes and are prohibited from receiving federal student financial aid. These people then become a burden on society for the rest of their lives. Making this crime a civil infraction would greatly reduce the costs attributable to these crimes. This legislation is not soft on crime, nor does it encourage drug abuse. Rather, it makes more resources available to address the real crimes and allows for a more efficient, fair, and proportionate use of resources.

Marijuana should be thought of as a public health issue rather than relying on criminal sanctions. Our goals are to reduce crime and public disorder, improve public health, ensure

better protection of children, and make wiser use of public resources. Right now, these are not being accomplished, but this bill is a step in the right direction.

CON: Long-term studies on patterns of drug usage among young people show that very few young people get started on more serious drugs without having used marijuana first. Therefore, marijuana is a precursor drug. People who use marijuana are more likely to use cocaine than those who have never used marijuana. Youth might perceive marijuana usage as a less serious drug if this legislation is passed and feel freer to use it which would lead to more serious drug use.

**Persons Testifying:** PRO: Toby Nixon, citizen; Shankar Narayan, ACLU of Washington; John Cary, King County Bar Association; Jeremy Miller, Olympia Hemp, Love, and Freedom Foundation.

CON: Seth Dawson, Washington Association for Substance Abuse and Violence Prevention.