

HOUSE BILL ANALYSIS

2ESB 5704

Title: An act relating to rules to implement the medical marijuana law.

Brief Description: Authorizing adoption of rules to implement medical marijuana law.

Sponsors: Senators Kohl-Welles and Thibaudeau.

Brief Summary of Bill

- Authorizes the Department of Health, within a certain time, to adopt rules implementing the law permitting the medical use of marijuana.

HOUSE COMMITTEE ON JUDICIARY

Staff: Trudes Hutcheson (786-7384).

Background:

In 1998, the voters approved Initiative 692 (codified as Chapter 69.51A RCW), which authorizes, under limited conditions, certain patients to use marijuana for medical purposes. The initiative intends to exempt physicians, primary care givers, and qualifying patients from the state's criminal laws relating to marijuana as long as they comply with the provisions of the new law.

The patient must have a terminal or debilitating medical condition and, among other things, possess no more marijuana than is necessary for the patient's personal medical use not to exceed a 60-day supply, and present valid documentation showing that, in a physician's opinion, the patient may benefit from the medical use of marijuana.

Terminal or debilitating medical condition— is defined as cancer, HIV, MS, epilepsy or other seizure disorder, spasticity disorders, intractable pain that is unrelieved by standard medical treatments and medications, glaucoma that is unrelieved by standard treatments and medications, or any other medical condition approved by the Washington State Medical Quality Assurance Commission.

Administrative agencies may adopt rules to implement statutes if authorized by the Legislature. Certain agencies, such as the Department of Health, must follow specific procedures before adopting significant legislative rules. Those specific procedures include, for example, the requirements that the agency analyze alternatives to rule making and the consequences of not adopting a rule, and that the agency determine the probable benefits of the rule compared to the probable costs.

An agency rule may be challenged and held invalid if the rule:

- violates constitutional provisions;
- exceeds the statutory authority of the agency;
- was adopted without substantial compliance with statutory rule-making procedures;
or
- is arbitrary and capricious.

The Joint Administrative Rules Review Committee (JARRC) selectively reviews rules to determine whether a rule is within the intent of the Legislature and whether it has been adopted in accordance with all applicable provisions of law. Any person may petition the JARRC to review a proposed or existing rule. The JARRC is a bipartisan committee consisting of four senators and four representatives, with no more than two members from each house from the same political party.

Summary of Bill:

The Department of Health must adopt rules to implement the laws regarding the medical use of marijuana. The department must consult with various entities, including the Washington State Medical Association, the Washington Association of Prosecuting Attorneys, the Washington Council of Police and Sheriffs, and the Washington Association of Sheriffs and Police Chiefs. The department's authority to adopt or amend rules regarding the medical use of marijuana expires after two years.

Fiscal Note: Not requested.

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

Office of Program Research