
**Public Safety & Emergency Preparedness
Committee**

HB 2401

Brief Description: Legalizing marijuana.

Sponsors: Representatives Dickerson, Goodman, Upthegrove, Appleton, White, Roberts, Chase, Nelson, Pedersen and Moeller.

Brief Summary of Bill

- Legalizes marijuana for adults over the age of 21 years old.
- Deletes marijuana off the controlled substance list in the Uniform Controlled Substance Act.
- Authorizes marijuana to be sold in liquor stores to adults (similar to alcohol) and to be regulated by the Liquor Control Board.
- Subjects the possession and sale of marijuana to all the same rules, regulations, and penalties as those that apply to alcohol and liquor.

Hearing Date: 1/13/10

Staff: Yvonne Walker (786-7841).

Background:

Generally, it is illegal for a person to possess various controlled substances. Under the Uniform Controlled Substances Act, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Controlled substances are placed in five different schedules to reflect the amount of control necessary, with Schedule I being the most controlled, and Schedule V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed.

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.

Marijuana is a Schedule I controlled substance. The possession of 40 grams or less of marijuana is a misdemeanor offense. All other offenses relating to the possession, manufacturing, delivering or possessing with intent to deliver marijuana are considered seriousness level I, class C felony offenses. The maximum punishment for a class C felony offense is five years imprisonment, \$10,000 fine, or both.

It is a misdemeanor offense to use drug paraphernalia to plant, cultivate, grow, manufacture, conceal, ingest, inhale, or otherwise introduce into the human body a controlled substance. The punishment for a misdemeanor offense is a maximum of 90 days in jail, a fine of \$1,000, or both. In addition, all persons convicted of a misdemeanor violation under the Uniform Controlled Substances Act must receive a mandatory minimum punishment of no less than 24 hours in jail and a fine of no less than \$250. On a subsequent conviction the fine must be no less than \$500. The fines are in addition to any other fine or penalty imposed unless the court finds that the imprisonment will pose a substantial risk to the defendant's physical or mental well being or that local jail facilities are in an overcrowded condition. If such conditions exist the courts must sentence the person to a minimum of 40 hours of community restitution.

Liquor Control Board.

The Liquor Control Board (LCB) is charged with the administration of the Washington State Liquor Act. The LCB operates the state liquor stores; oversees contract liquor stores; issues liquor licenses and permits; regulates the manufacture, distribution and sale of beer and wine; enforces liquor and tobacco laws; conducts education; and collects taxes.

Medical Marijuana.

In 1998, Washington voters approved Initiative 692, the Medical Use of Marijuana Act (Act), which creates an affirmative defense to the violation of state laws relating to marijuana if the individual uses and possesses it for medicinal purposes. Qualifying patients, or their designated provider, may establish the defense if they only possess the amount of marijuana necessary for their personal use, up to a 60-day supply, and if they present valid documentation to law enforcement officers. "Qualifying patients" are those who have been: (1) diagnosed with a terminal or debilitating medical condition; (2) advised by a physician about the risks and benefits of the medical use of marijuana; and (3) that they may benefit from such use. "Primary caregivers" are individuals who are responsible for the housing, health, or care of a patient and they may assist the patient with the medical use of the patient's marijuana.

As of January 2010, Washington was one of 12 states that had passed legislation allowing the use of marijuana for medicinal purposes. Under federal law, however, such activities violate the Uniform Controlled Substances Act. Absent congressional action, state laws permitting the use of marijuana for medicinal purposes will not protect an individual from legal action by the federal government.

Summary of Bill:

Marijuana is legalized and subject to the same rules, regulations, and penalties as those that apply to alcohol. Marijuana is no longer a controlled substance under the Uniform Controlled Substance Act. It may be sold in liquor stores to adults (similar to alcohol) and regulated by the Liquor Control Board (LCB).

Effective July 1, 2010, the sale, possession, and delivery of marijuana is legalized for adults over the age of 21 years old. It is a gross misdemeanor offense to sell, give, or otherwise supply marijuana to any person under the age of 21 years old. Similar to the illegal possession of alcohol, it is a category E offense for a child to possess marijuana. A category E offense is punishable as a local sanction consisting of a maximum of 30 days in detention, 12 months of community supervision, 150 hours of community restitution, and a \$500 fine. Peace officers are authorized to investigate and prosecute all violations and laws of Washington relating to marijuana.

Liquor Control Board.

"Marijuana farm growers" are established in statute as those farmers who are engaged in the agriculture business, licensed with the Department of Agriculture, and who grow marijuana for sale in state liquor stores on behalf of the LCB. Any farmer wishing to produce, manufacture, grow, and transport marijuana within the State of Washington must obtain a grower license. The annual license fee is \$500.

All state liquor stores and contract liquor stores in Washington are authorized to sell marijuana. A 15 percent tax must be imposed on each gram of marijuana sold. City electors are authorized to petition for an election upon the question of whether the sale of marijuana can be permitted within the boundaries of their cities.

The LCB must adopt rules by December 31, 2010, that establishes the procedures and criteria necessary to: implement the sale of marijuana in liquor stores; establish agency commissions for selling marijuana; license farmers to grow, sell, and transport marijuana to state liquor stores; establish regulations and fees for marijuana farm growers; determine the quantity of marijuana each marijuana farm grower may cultivate, grow, and store annually; determine how marijuana shall be packaged, labeled, and sold in state liquor store; and to work in conjunction with the Department of Agriculture to prescribe methods for growing, sanitation conditions, quality standards, and packaging standards by which marijuana must sold and to seize those plants that do not conform to the standards prescribed by the LCB.

The LCB is responsible for the following items:

- regulating the equipment and management of stores and warehouses where marijuana is sold or kept;
- determining the different varieties of marijuana, the price to be paid by purchasers for each variety, and prescribing an official label to be attached to each package of marijuana sold;
- regulating the time, manner, and delivery methods by which marijuana farm growers can transport and deliver marijuana to state liquor stores;
- providing forms to be used by marijuana farm growers to report the amount of marijuana produced, sold, and distributed to each liquor store and routinely inspecting the books of such licensed marijuana farm growers; and
- maintaining records of all marijuana purchased from farmers for resell in liquor stores.

Marijuana (similar to alcohol) is exempt from the General Administration's statewide policies for purchasing and material control.

The LCB is prohibited from advertising marijuana (similar to alcohol) in any form at all. During an employee's term at the agency or two years following termination, LCB members and employees must not have any direct interest in the purchasing or selling of marijuana for profit unless it is specifically part of their duties.

A "Marijuana Revolving Fund" is created that consists of all license fees, permit fees, penalties, forfeitures, taxes, and all other moneys, income, or revenue received by the LCB from marijuana. Ninety-five percent of the funds are to be transferred to the Division of Alcohol and Substance Abuse of the Department of Social and Health Services for substance abuse treatment and prevention and the remaining 2 percent is to be retained by the LCB for administration. Cities may also share in a portion of the profits from the sale of marijuana.

Public institutions of higher education must notify all students applying for college or university-owned student housing of the availability of housing in an area in which all marijuana use is prohibited and to distribute policies regarding such regulations.

Medical Marijuana.

Several provisions of the "Medical Marijuana Law" are amended or repealed since the possession of marijuana is legalized under this act.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 2 through 16 and 18 through 91 of this act take effect July 1, 2011.