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## Commerce & Gaming Committee

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### HB 1098

**Brief Description:** Establishing a process for qualifying patients age eighteen and over and designated providers to purchase their lawful marijuana plants and seeds from marijuana retailers with a medical marijuana endorsement.

**Sponsors:** Representatives Sawyer, Kirby and Condotta.

#### Brief Summary of Bill

- Authorizes and establishes a process for marijuana retail outlets with a medical marijuana endorsement to sell marijuana plants and seeds to qualifying patients age 18 and over and designated providers who have a valid authorization for the medical use of marijuana from a health care professional or who have a valid recognition card.
- Authorizes qualifying patients age 18 or over and designated providers to possess an unlimited number of marijuana seeds, but retains the existing limits on the number of marijuana plants that may be grown.
- Requires the Liquor & Cannabis Board (LCB) to adopt rules to implement the act and to establish criteria regarding the sale of marijuana plants and seeds from licensed marijuana producers to marijuana retailers with a medical marijuana endorsement and from marijuana retailers with a medical marijuana endorsement to qualifying patients age 18 and over and designated providers.

**Hearing Date:** 1/17/17

**Staff:** Peter Clodfelter (786-7127).

#### Background:

##### Qualifying Patients and Designated Providers.

**Qualifying Patients.** A qualifying patient is a person who: (1) is a patient of a health care professional, (2) has been diagnosed by that health care professional as having a terminal or debilitating medical condition, (3) is a Washington resident at the time of the diagnosis, (4) has

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been advised by that health care professional about the risks and benefits of the medical use of marijuana, (5) has been advised by that health care professional that they may benefit from the medical use of marijuana, and (6) has an authorization from the person's health care professional. An authorization is a form developed by the Department of Health (DOH) that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

***Designated Providers.*** A designated provider is an adult who is designated in writing by a qualifying patient to serve as the designated provider for that patient, or, if the qualifying patient is under age 18, then is the qualifying patient's parent or guardian. A designated provider also must have an authorization from the qualifying patient's health care professional or be entered into the Medical Marijuana Authorization Database (the Database) and hold a recognition card. Designated providers may serve as a designated provider for only one qualifying patient at a time and may not convert any of the marijuana for their personal use.

#### The Medical Marijuana Authorization Database.

***Entered In Database.*** Qualifying patients may choose whether to receive a recognition card and be entered into the Database. A recognition card is a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered the qualifying patient or designated provider into the Database, and includes the qualifying patient or designated provider's photograph, the amount of marijuana products and plants the qualifying patient or designated provider may possess, the name of the health care professional who authorized the qualifying patient or designated provider, and other information.

Being entered into the Database means a qualifying patient or designated provider may purchase and possess three times the amounts of marijuana products at retail as a recreational adult consumer, and may grow six marijuana plants at their residence for the qualifying patient's personal use and possess up to eight ounces of useable marijuana produced from those plants. Also, if a qualifying patient or designated provider in the Database has additional authorization from a health care professional to do so because of the qualifying patient's medical need, the qualifying patient or designated provider may grow up to 15 marijuana plants at their residence and possess in their domicile up to 16 ounces of useable marijuana produced from those plants.

***Not Entered In Database.*** If a qualifying patient or designated provider with a valid authorization from a healthcare professional decides not to be entered into the Database and not be issued a recognition card, the qualifying patient or designated provider may grow four marijuana plants at their domicile and possess up to six ounces of useable marijuana. At retail outlets, such qualifying patients are treated like adult recreational consumers and have the same possession limits. And, instead of arrest protection, such a qualifying patient or designated provider has an affirmative defense to violations of state law relating to marijuana through proof at trial, by a preponderance of the evidence, that the qualifying patient or designated provider otherwise meets the requirements of the Washington State Medical Use of Cannabis Act.

#### Marijuana Cooperatives.

Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative and all members must hold valid recognition cards, which must be displayed at the premises. All members of the cooperative must be at least

age 21. The designated provider of a qualifying patient who is under age 21 may be a member of a cooperative on the qualifying patient's behalf. All plants grown in the cooperative must be purchased or cloned from a plant purchased from a licensed marijuana producer.

Additional requirements include that the cooperative's location must be registered with the LCB, the location must be a participant's domicile, the location may not be within one mile of a marijuana retail outlet or within 1,000 feet of specific places including an elementary or secondary school, playground, recreation center or facility, child care center, or public park, with limited exception. Further, participants may not grow additional plants at their residence, may not divert marijuana out of the cooperative, and must participate in a seed-to-sale traceability system monitored by the LCB. Also, local governments may prohibit cooperatives through local zoning ordinances.

#### Licensed Marijuana Retail Outlets.

Licensed marijuana retail outlets may sell marijuana products to adults age 21 and over. A medical marijuana endorsement is available that also permits a licensed marijuana retail outlet with the endorsement to sell marijuana for medical use to qualifying patients and designated providers. The endorsement additionally permits such retailers to provide marijuana at no charge, at their discretion, to qualifying patients and designated providers. With the endorsement are additional duties including training employees on verification of valid authorizations and recognition cards, entering qualifying patients into the Database and issuing recognition cards, and employing a medical marijuana consultant.

Qualifying patients age 18 or over but under age 21 with a recognition card and who are entered into the Database may enter the premises of a retail outlet with an endorsement and purchase marijuana products for their personal use. Qualifying patients under age 18 who have a recognition card and are entered in the Database may enter the premises of a retail outlet with an endorsement only if accompanied by their designated provider, who may purchase marijuana products on the minor qualifying patient's behalf; a qualifying patient under age 18 may not personally purchase any marijuana products.

Marijuana retail outlets may purchase and receive marijuana products that have been properly packaged and labeled from licensed marijuana processors or from a federally recognized Indian tribe acting in accordance with an agreement between the tribe and the state related to the production, processing, and sale of marijuana products.

#### Marijuana Producers.

A marijuana producer license authorizes the holder to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers and to produce marijuana plants for sale to cooperatives.

#### Marijuana Processors.

A marijuana processor license authorizes the holder to process, package, and label marijuana products for sale at wholesale to other marijuana processors and to marijuana retailers.

#### **Summary of Bill:**

Outline of Process for Sales of Marijuana Plants and Seeds by Marijuana Retail Outlets with a Medical Marijuana Endorsement.

A process is established for marijuana retail outlets with a medical marijuana endorsement to sell marijuana plants and seeds to qualifying patients age 18 and over and designated providers who have a valid authorization for the medical use of marijuana from a health care professional or who have a valid recognition card.

A marijuana retail outlet with a medical marijuana endorsement may accept orders, in person at the retail outlet or as authorized by rules adopted by the LCB, for future purchases of marijuana plants and seeds submitted by a qualifying patient age 18 or over or a designated provider with a valid recognition card or authorization. Additionally, a marijuana retail outlet with a medical marijuana endorsement may sell marijuana plants and seeds to the qualifying patient age 18 or over or the designated provider who ordered marijuana plants or seeds from the retail outlet and who purchases and takes possession of the marijuana plants or seeds previously ordered while physically at the retail outlet.

Before accepting an order for the future purchase of marijuana plants or seeds, the retail outlet or its employee must verify the validity of the recognition card or authorization belonging to the qualifying patient age 18 or over or the designated provider submitting the order. Before accepting payment from and transferring possession of marijuana plants or seeds to a qualifying patient age 18 or over or a designated provider who ordered the future purchase of such marijuana plants or seeds, the retail outlet or its employee must again verify the validity of the recognition card or authorization belonging to the qualifying patient age 18 or over or designated provider who submitted the order. The retail outlet must ensure that the person who placed the order for the future purchase of marijuana plants or seeds is the same person who purchases and takes possession of the marijuana plants or seeds at the retail outlet.

The only marijuana plants and seeds that a marijuana retail outlet with a medical marijuana endorsement may possess and hold at premises of the retail outlet are marijuana plants and seeds ordered in accordance with the system established pursuant to the act, unless rules adopted by LCB provide otherwise. The retail outlet may possess plants at the premises of the retail outlet for not longer than as provided pursuant to rules adopted by the LCB.

A retail outlet with a medical marijuana endorsement may provide marijuana plants and seeds at no charge to qualifying patients age 18 or over and designated providers. A retail outlet with a medical marijuana endorsement may sell or donate no more marijuana plants or seeds to a qualifying patient age 18 or over or designated provider, per day, than the qualifying patient age 18 or over or designated provider is authorized to possess pursuant to the Washington State Medical Use of Cannabis Act.

Qualifying patients and designated providers may possess an unlimited number of marijuana seeds, but the existing limits on the number of plants that qualifying patients and designated providers may grow is retained.

Rulemaking Authority and Direction to the Liquor & Cannabis Board to Implement the Act.

By January 1, 2018, the LCB must adopt rules to implement act and establish criteria regarding the sale of marijuana plants and seeds from licensed marijuana producers to marijuana retailers with a medical marijuana endorsement and from marijuana retailers with a medical marijuana

endorsement to qualifying patients age 18 and over and designated providers. The LCB may adopt any rule consistent with the act that the LCB determines is necessary and appropriate to implement the act. The LCB must consult with the Department of Health in adopting the rules.

The LCB's rules must establish limits on the time that marijuana plants or seeds ordered for future purchase by a qualifying patient age 18 or over or designated provider with a valid recognition card or authorization may be held at the premises of the retail outlet before the marijuana plants and seeds must be either purchased and taken into possession of by the qualifying patient age 18 or over or designated provider who submitted the order or returned to the marijuana producer that provided the marijuana plants or seeds to the retail outlet. Additionally, the rules must require that marijuana plants and seeds possessed by a retail outlet be separated physically from the retail outlet's point of sale area and not be in view of or accessible to customers at the retail outlet, except for a customer who is the qualifying patient age 18 or over or designated provider who ordered the future purchase of the marijuana plants and seeds.

#### Miscellaneous Changes.

References to marijuana plants and seeds are added throughout chapters 69.50 and 69.51A RCW to allow for the production and retail sale of marijuana plants and seeds to qualifying patients age 18 and over and designated providers consistent with the act.

The LCB may require representative samples of marijuana plants and seeds produced by a licensed producer to undergo the same, similar, or different testing as is required for marijuana products.

Authorization is provided to marijuana retailers with a medical marijuana endorsement to purchase and receive marijuana plants and seeds from a licensed producer, or, if agreed to in a compact between the state and a federally recognized Indian tribe, from a federally recognized Indian tribe producing marijuana plants and seeds in accordance with a compact.

A minor under age 18 who is a qualifying patient is prohibited from purchasing marijuana plants and seeds from a marijuana retail outlet with a medical marijuana endorsement.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on April 1, 2018, except for section 2, which takes effect 90 days after adjournment of the session in which the bill is passed.