

# HOUSE BILL REPORT

## HB 1212

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### As Reported by House Committee On: Commerce & Gaming

**Title:** An act relating to the possession and transfer of marijuana, marijuana plants, useable marijuana, marijuana-infused products, and marijuana concentrates.

**Brief Description:** Concerning the possession and transfer of marijuana, marijuana plants, useable marijuana, marijuana-infused products, and marijuana concentrates.

**Sponsors:** Representative Blake.

#### **Brief History:**

##### **Committee Activity:**

Commerce & Gaming: 1/23/17, 1/26/17 [DPS].

#### **Brief Summary of Substitute Bill**

- Legalizes transfers of specified quantities of marijuana products between adults provided the transfer does not involve the exchange of money or other valuable consideration.
- Legalizes the home cultivation of up to six recreational marijuana plants, subject to specified conditions.
- Legalizes the residential possession of up to 24 ounces of useable marijuana harvested from plants lawfully grown in the residence, subject to specified conditions.

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### HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis, Blake, Farrell, Jenkin, Kirby, Ryu and Young.

**Staff:** Thamas Osborn (786-7129).

#### **Background:**

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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.*

### Lawful Possession of Marijuana Products.

As the result of the passage of Initiative 502 (I-502) in 2012, the purchase and possession of limited quantities of marijuana and marijuana products (i.e., useable marijuana, marijuana-infused products, and marijuana concentrates) by persons over 21 years of age is lawful in the state of Washington. The maximum quantities that may be lawfully possessed are as follows:

- 1 ounce or less of useable marijuana;
- 16 ounces or less of marijuana-infused product in solid form;
- 72 ounces or less of marijuana-infused product in liquid form; or
- 7 grams or less of marijuana concentrates.

Possession of marijuana products in quantities exceeding these lawful limits continues to be a crime under state law. Possession of useable marijuana in a quantity exceeding 1 ounce (i.e., 28.35 grams), but not more than 40 grams, is a misdemeanor. Possession of more than 40 grams of useable marijuana is punishable as a class C felony.

The sharing or transfer of marijuana and marijuana products between unlicensed individuals is a felony offense, even if the simple possession of the marijuana being shared or transferred is legal for a single individual under the regulatory system implemented under I-502.

With the exception of authorized medical marijuana patients, medical marijuana cooperatives, state-licensed marijuana producers, and state licensed researchers, the cultivation and/or possession of marijuana plants is a felony offense.

### Medical Marijuana: Plant Cultivation and Medical Marijuana Cooperatives.

Statute authorizes the establishment of medical marijuana cooperatives consisting of up to four qualifying medical marijuana patients. Members of a cooperative share responsibility for acquiring and supplying resources to produce and process marijuana for their medical use. All members of the cooperative must hold recognition cards and may only participate in one cooperative. Members who grow plants as part of a cooperative may not grow plants outside of the location of the cooperative.

The cultivation of marijuana plants and other activities engaged in by a cooperative are subject to specified limitations and regulations. A cooperative may only grow as many plants as the combined total that members are authorized to grow as individuals, up to a maximum of 60 plants. An individual qualifying patient may grow up to a maximum of 15 plants. Nothing produced or processed by a cooperative may be sold or donated to any person who is not a member of the cooperative. The location of the cooperative must be registered with the Liquor and Cannabis Board, and the cooperative members may only grow and process marijuana at that location. The location of the cooperative must be the domicile of one of the members and be at least 1 mile from a marijuana retailer.

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

#### Lawful Noncommercial Transfers of Marijuana Between Individuals.

Individuals over 21 years of age may lawfully exchange or transfer limited quantities of marijuana products (i.e., useable marijuana, marijuana-infused products, and marijuana concentrates) among themselves provided no money or other valuable consideration is involved. To be lawful, such transfers cannot exceed specified maximum quantities in any single 24-hour period, as follows:

- 1 ounce or less of useable marijuana;
- 16 ounces or less of marijuana-infused product in solid form;
- 72 ounces or less of marijuana-infused product in liquid form;
- 7 grams or less of marijuana concentrates; or
- a maximum of six marijuana seeds.

Lawful Cultivation and Possession of Marijuana Plants / Useable Marijuana Derived from Lawfully Grown Plants.

The possession of up to six marijuana plants by a person 21 years of age or older is lawful, subject to the following conditions:

- no more than six plants may be grown or possessed on the premises of a single housing unit, regardless of the number of residents living on the premises; and
- possession is lawful only within the premises of the housing unit in which the marijuana plants were grown.

An adult may legally possess up to a maximum of 24 ounces of home-grown useable marijuana harvested from plants lawfully grown on the premises of the housing unit occupied by the person in possession of the useable marijuana. However, such possession is legal only within the premises of the housing unit in which the marijuana plants were lawfully grown. If lawfully grown useable marijuana is removed from the premises of the housing unit in which it was grown, the possessor of such marijuana is subject to the 1 ounce possession limit while outside the premises.

Testing of Home-Grown Marijuana Products.

All qualified medical marijuana users and adults age 21 and older may contract with state-licensed marijuana-testing facilities for the scientific testing of useable marijuana, marijuana-infused products, and marijuana concentrates.

**Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill:

- deletes all provisions relating to the revision and restructuring of the penalties for criminal offenses related to the possession of marijuana and marijuana products; and
- deletes all provisions relating to the possession of marijuana seeds.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

## **Staff Summary of Public Testimony:**

(In support) This is a good bill that implicitly recognizes that homegrown marijuana is a little different than home-brewed beer and homemade wine in terms of public policy concerns. It is appropriate that responsible adults be allowed to cultivate marijuana in the privacy of their homes. All the other states that have legalized marijuana allow adults to cultivate it at home. Washington has the most restrictive legalized recreational marijuana laws in the country and this bill represents a step in the right direction. The current cultivation ban is a carryover from the overzealous war on drugs and should be brought to an end. The quantity limitations in the bill are much too small, especially compared to the other legalized states that allow much larger homegrown crops. The bill would be improved if there were no limitations on the number of plants that can be grown in a single residence. The bill should also explicitly state that cultivation is allowed in outdoor locations. Growing the plant in one's home is a personal right that is supported by the privacy provisions in the state Constitution. The provision allowing noncommercial sharing of marijuana products between friends is simply common sense. It is absurd and unjust to punish a person with a felony conviction for simply sharing a marijuana product with a friend or acquaintance. Society does not benefit from arresting and punishing honest citizens who grow a few plants for their own use. In some cases individuals have their homes seized as the result of a prosecution for growing small quantities of marijuana. This represents a miscarriage of justice and a waste of law enforcement resources. Landlords should be allowed to determine if renters can conduct home grows on rental properties.

This bill greatly benefits medical marijuana patients because it will enable them to cultivate their own preferred strains without the inconvenience of formal registration in the medical marijuana system. The medical marijuana system presents legal obstacles that are unduly burdensome for those who need to cultivate specific marijuana strains that provide health benefits. The bill will increase access to marijuana for those who derive health benefits from its use. Marijuana-derived oils and other products have been shown to be a life-saver with respect to some severely ill individuals, especially those with seizure disorders.

Legalizing homegrown recreational marijuana will not adversely affect retail outlets with medical marijuana endorsements since most medical marijuana patients have embraced the standard recreational products. Most retailers support the bill because the retail sale of medical marijuana imposes myriad administrative burdens on retailers that are more trouble than they are worth. Furthermore, home grows do not present a financial threat to the commercial market because very few marijuana users have the will or the skills to be successful at it. Growing quality marijuana strains is difficult and time consuming, and most who try will likely produce a product that is far inferior to the marijuana that can readily be purchased at a licensed outlet.

(Opposed) The bill is widely opposed by law enforcement professionals because it would make it impossible to prevent the diversion of legally grown recreational marijuana into the illicit market. The home cultivation provisions in the bill would utterly defeat the design and intent of the regulatory system created by I-502. If the bill is passed, the highly regulated system we now have would be greatly compromised.

(Other) The foundation of the I-502 regulatory system will be undermined if recreational home grows are legalized. The I-502 regulatory framework is premised on a traceability system in which the Liquor & Cannabis Board can trace the path of each gram of marijuana from "seed to sale." Without this tightly regulated traceability system, widespread diversion into the illicit market would certainly occur, and this would be the inevitable result if this bill were to pass. Legalized home grows would likely cause the availability of illicit marijuana to spiral out of control and create widespread problems for law enforcement with respect to their efforts to crack down on the illicit market. Also, the bill is technically flawed because it provides no practical guidance as to how law enforcement could enforce the quantity restrictions. Legalizing the noncommercial sharing of marijuana makes sense and is not likely to present problems.

**Persons Testifying:** (In support) Representative Blake, prime sponsor; Kirk Ludden and John Novak, VIPER Political Action Committee; Dawn Darington; Meagan Holt; Elizabeth Hallock; Brian Stone; John Kingsbury and Bailey Hirschburg, National Organization for the Reform of Marijuana Laws Political Action Committee; Jeff Wilhoit; John Worthington, American Alliance for Medical Cannabis; Danielle Rosellison, The Cannabis Alliance; and Arthur West.

(Opposed) Seth Dawson, Washington Association for Substance Abuse Prevention.

(Other) Justin Nordhorn and Rick Garza, Liquor & Cannabis Board.

**Persons Signed In To Testify But Not Testifying:** None.