

HOUSE BILL REPORT

HB 2559

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to home cultivation of marijuana.

Brief Description: Allowing nonmedical home cultivation of marijuana.

Sponsors: Representatives Blake and Condotta.

Brief History:

Committee Activity:

Commerce & Gaming: 1/15/18, 1/16/18 [DP].

Brief Summary of Bill

- Authorizes an adult age 21 or over to possess six or less marijuana plants and up to 24-ounces of useable marijuana harvested from the plants.
- Specifies no more than six marijuana plants may be grown or possessed on the premises of a single housing unit under the authorization, regardless of the number of residents living on the premises.
- Specifies the authorization does not apply to the possession of marijuana plants or useable marijuana possessed or seized at a location other than the premises of the housing unit in which the marijuana plants were grown.
- Specifies the authorization may not be construed to prevent or restrict a property owner from prohibiting the cultivation of marijuana plants by a renter or lessee upon or within the property under the terms of a rental agreement, lease, or other contract.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 7 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Kirby and Young.

Minority Report: Do not pass. Signed by 1 member: Representative Jenkin.

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.

Minority Report: Without recommendation. Signed by 1 member: Representative Ryu.

Staff: Peter Clodfelter (786-7127).

Background:

It is legal for an adult age 21 or over to possess any combination of the following types and amounts of marijuana products:

- 1 ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form;
- 72 ounces of marijuana-infused product in liquid form; and
- 7 grams of marijuana concentrate.

State law does not authorize adults age 21 or over to possess any marijuana plants, and doing so is punishable as a class C felony under the Controlled Substances Act. However, if a person is a qualifying patient or designated provider, the person may possess and grow a limited amount of marijuana plants and possess a limited amount of marijuana produced from those plants in accordance with the Washington State Medical Use of Cannabis Act.

For purposes of marijuana statutes, the word "plant" is defined as a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system are considered part of the same single plant.

Additionally, a "housing unit" is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

Summary of Bill:

It is established that it is not a violation of any state law for a person age 21 or over to possess no more than six marijuana plants and up to 24-ounces of useable marijuana harvested from plants lawfully grown on the premises of the housing unit occupied by the person in possession of the marijuana plants and useable marijuana.

No more than six marijuana plants may be grown or possessed on the premises of a single housing unit under the new authorization, regardless of the number of residents living on the premises.

The new authorization and legal protection do not apply to marijuana plants or useable marijuana possessed or seized at a location other than the premises of the housing unit in which the marijuana plants were grown.

It is provided that nothing in the new authorization and legal protection may be construed to prevent or restrict a property owner from prohibiting the cultivation of marijuana plants by a renter or lessee upon or within the property under the terms of a rental agreement, lease, or other contract.

Appropriation: None.

Fiscal Note: Requested on January 15, 2018.

Effective Date: 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 bill fixes an unresolved issue and is important to many people in the state. It is past time for this bill, stakeholders appreciate the sponsors' efforts and the Legislature's consideration. This is an ethical issue; this bill recognizes a right of people. Although the bill is about nonmedical cultivation of marijuana, it will greatly benefit medical marijuana patients, including many veterans and people with disabilities, and children. This is a quality of life issue. The bill helps health, safety, and access issues. It is reported that only one in three products in Initiative 502 (I-502) stores are accurately labeled. People deserve to be able to grow their own cannabis to know it is truly pesticide and contaminant free, and of the highest quality. The black market is still present, and recent law enforcement data and national news reports support this conclusion. The black market is partly from a lack of access to marijuana and not enough licensed marijuana retail shops in certain parts of the state, which is a problem this bill addresses. In continuing to criminalize home grows, Washington is the sole outlier amongst other states that have legalized recreational marijuana, including Washington, D.C., which recognize a person's right to cultivate marijuana. Initiative 502 was meant to reduce social harms that resulted from historical criminalization of marijuana, and it was a major error of I-502 to not include home grows. The majority of Washington voters who enacted I-502 would have supported home grows had home grows been included, and were disappointed when home grows were left out. Growing plants does not hurt anybody. The 24-ounce possession limit in the bill should be increased. If someone knows what they are doing, they can yield more than 24-ounces of marijuana from six plants, so this is problematic. The limit should be at least 48 ounces. The plant limit should be eliminated completely. Consider amending RCW 69.50.505, the civil seizure and forfeiture statute, which contains a provision with a five-plant limit and may conflict with this bill. This bill will not result in youth access or diversion issues. True diversion does not come from six-plant grows, it comes from grows with thousands of plants. Some people already have home grows and there are not any problems with neighbors related to the activity; those concerns raised by opponents are exaggerated. Cannabis is a completely different substance than alcohol, a highly regulated and processed product, and the two things should not automatically be regulated the same way. Cannabis is an herb, and should be found in people's gardens next to tomatoes and other plants. This is a straightforward bill and improves the law.

(Opposed) There are many concerns and unaddressed issues with this bill. This bill is dangerous. This bill contains no safety provisions aimed to ensure children cannot access any marijuana that may now be grown in their residence. It may enable youth access. The state regulates so many things, why is the state not regulating this activity while authorizing it? The bill will enable both outdoor grows and indoor grows, which will proliferate throughout the state. Marijuana grows will inevitably cause conflict with neighbors and problems with odors. Some people are highly allergic to marijuana smoke and odors. The state will also see a significant reduction in revenue if people grow their own marijuana and stop purchasing from the state-regulated stores and paying the marijuana excise tax and other taxes on their purchases. Estimating the revenue loss is challenging, but common sense says revenue will be lost. What will be the next thing taxed to fill the revenue gap? The 24-ounce possession limit in the bill is too high, and more marijuana than is reasonably needed by people. This bill raises security issues as well, as grows may be targets for robberies or burglaries. This bill does not address environmental concerns. Marijuana cultivation is extremely energy intensive and is reported to account for 1 percent of all electricity use in the United States. Also, people will use chemicals and everyone will not do so safely. There are no restrictions in this bill on the locations where marijuana home grows may be located, like there are for licensed marijuana businesses near places like schools and playgrounds. This must be fixed. The state is spending too much time focusing on marijuana issues. The state has a good regulatory scheme in place for recreational marijuana, and should not undermine the system. The bill would be hard for law enforcement to enforce, and most law enforcement agencies will likely be reluctant to get involved when disputes arise between neighbors and other problems occur.

(Other) The existing tightly regulated market takes into consideration youth access, and authorizing unregulated home grows does increase risks of potential harms like youth access. It is unclear how and by who the plant and possession limits in the bill would be enforced. When people report issues to their local governments and local law enforcement agencies, the local jurisdictions may look to and expect the Liquor and Cannabis Board (LCB) to be the primary enforcement agency. The LCB lacks the resources to respond to all the complaints it would receive or to be the primary enforcer of the possession limits and related issues that may arise. Generally speaking, many law enforcement agencies and prosecutors currently use discretion in not prosecuting small-scale marijuana home grows because there are more serious crimes on which to focus.

Persons Testifying: (In support) Representative Blake, prime sponsor; Danica Noble, National Organization for the Reform of Marijuana Laws and Women of Washington; Toby Patterson; John Kingsbury; Meagan Holt; Gwenn Malham; Bob Williams; Katherine Seifert, Twenty22Many; Dawn Darrington; Melissa Hysom, Cannabis Freedom March; Bailey Hirschberg, National Organization for the Reform of Marijuana Laws; Dominic Corva, The Cannabis and Social Policy Center; Brian Stone; Kirk Ludden and John Novak, VIPER Pac; Erik Johanson; Sarah Rasor; Jedidiah Haney; Michael Garrison; Miguel Molholland; Peggy Button; and Don Skakie.

(Opposed) Julie Bussel; Jennifer Monds; Dallas Parr; Kimberly Heath; Rochelle Heath; Pat Dobson; Jon Weirschke; Bill Berkman; Rich Bilskis; Kathy Barney; Mitch Barker, Washington Association of Sheriffs and Police Chiefs; Priscilla Lisicich; and Jim McRae, Center for the Analysis of Cannabis and Social Policy.

(Other) Justin Nordhorn, Liquor and Cannabis Board.

Persons Signed In To Testify But Not Testifying: None.