

# SENATE BILL REPORT

## SB 5155

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As of February 3, 2019

**Title:** An act relating to residential marijuana agriculture.

**Brief Description:** Allowing residential marijuana agriculture.

**Sponsors:** Senators Walsh, Hasegawa, Hunt, Saldaña, Palumbo and Kuderer.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/31/19.

### Brief Summary of Bill

- Authorizes a person to grow up to 6 marijuana plants on the premises of their housing unit. An single housing unit may not have more than 15 plants.
- Sets new limits for the possession of useable marijuana.
- Requires that all plants and products must be labeled and identify the owner.
- Allows a property owner to prohibit cultivating plants by a renter or lessee.
- Protects marijuana and marijuana products, and the property on which they were produced or possessed under the new authorization, from seizure and forfeiture.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Richard Rodger (786-7461)

**Background:** It is legal for an adult age twenty-one 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.

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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.*

It is illegal to possess any marijuana plants, except those grown or held by licensed marijuana researchers, producers, and processors and certain medical marijuana patients.

Qualifying medical marijuana patients with an authorization form from a health care provider may possess up to four marijuana plants and up to six ounces of useable marijuana from plants.

A qualifying patient or their designated provider may take the authorization form to a marijuana retailer, holding a medical marijuana endorsement, and be entered into the authorization database. Once in the database they are given a recognition card. Patients with a recognition card may possess up to six marijuana plants and eight ounces of useable marijuana from plants. If authorized by their health care professional, they may have up to 15 plants and up to 16 ounces of useable marijuana.

Up to four qualifying patients or their designated providers, who have recognition cards, may form a cooperative to share in the responsibilities of producing and processing marijuana. A cooperative's location must be registered with the Liquor and Cannabis Board (LCB), however, their operation may be prohibited by a local government. Each cooperative may grow the total number of plants authorized for each participant up to a maximum of 60 plants and may have on its premises up to 72 ounces of usable marijuana.

A qualifying patient or designated provider may extract or separate the resin from marijuana using noncombustable methods when done in compliance with LCB's rules governing this activity.

Generally, illegally manufacturing a controlled substance can result in seizure and forfeiture of the real property on which the manufacturing occurs. However, possessing marijuana may not result in the forfeiture of real property unless:

- the marijuana is possessed for unlawful commercial purposes;
- the amount exceeds five or more plants or one pound or more of marijuana; and
- there is a substantial nexus between the possession of marijuana and the real property.

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

**Summary of Bill:** Adults aged twenty-one and over may legally produce or possess up to six marijuana plants on the premises of their housing unit, subject to restrictions. Generally, a person may possess useable marijuana in an amount not to exceed what is produced by the person's plants in addition to useable marijuana obtained at retail outlets.

However, a person may not possess marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrates, unless the person possesses fewer than 16 ounces of useable marijuana, irrespective of the source.

Additionally, a person may not produce or possess, irrespective of the source, a total of more than:

- 16 ounces of marijuana-infused products in solid form;
- 72 ounces of marijuana-infused products in liquid form; and
- 7 grams of marijuana concentrates.

No more than 15 plants may be grown at any one time on the premises of a single housing unit. All plants must be clearly marked with the grower's name, residential address, and date of birth, as well as the date on which the plants were planted.

All marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrate must be clearly marked with the name, date of birth, and residential address of the person who grew the plants from which the marijuana is derived, the date the plants were planted, and the date the plants were harvested.

All containers containing more than one ounce of useable marijuana must be clearly marked with the name, date of birth, residential address of the person who grew the plants from which the useable marijuana is derived, the date the plants were planted, and the date the plants were harvested. Any containers containing one ounce or less of useable marijuana do not require labels.

Any extraction or separation of resin from marijuana and any production or processing of any form of marijuana concentrates or marijuana-infused products must be performed in accordance with rules governing how qualifying patients and designated providers may currently engage in these activities.

The new authorization does not restrict a property owner from prohibiting the cultivation of plants by a renter or lessee upon or within the property under the terms of a rental agreement, lease, or other contract.

The production, possession, delivery, and acquisition of plants or marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrate, and useable marijuana produced under the new authorization may not form the basis of a seizure or forfeiture action.

A person aged twenty-one or older who possesses marijuana under the new authorization is:

- considered an ultimate user who may not sell marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products produced from the person's plants;
- not required to obtain a registration related to manufacturing, distributing, or dispensing controlled substances; and
- not required to hold a marijuana license issued by the LCB.

The acquisition, delivery, production, or possession of marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products in accordance with the new authorization may not result in forfeiture of real property.

"Commercial activity" is defined to mean an activity related to or connected with buying, selling, or bartering.

References to the Pharmacy Quality Assurance Commission are updated in the Uniform Controlled Substances Act.

A savings clause is added providing if any of the provisions of the act are held invalid, the remainder of the act is not affected.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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