

FINAL BILL REPORT

SB 5605

C 400 L 19
Synopsis as Enacted

Brief Description: Concerning misdemeanor marijuana offense convictions.

Sponsors: Senators Nguyen, Keiser, Hunt, Salomon, Hasegawa, Saldaña, Das, Randall, Darneille, Kuderer, Pedersen and Wilson, C.

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Public Safety
House Committee on Appropriations

Background: Misdemeanor Marijuana Possession. It is a misdemeanor offense for any person to possess 40 grams or less of marijuana. In 2012, Washington voters passed Initiative No. 502 (I-502), which legalized the recreational use of marijuana in certain circumstances and created a comprehensive regulatory scheme. Medical use of marijuana was also made legal by Initiative No. 692 (I-692) in 1998. Persons at least twenty-one years old may legally possess up to one ounce of marijuana and related products for personal use. They may also purchase up to one ounce of useable marijuana, 16 ounces of solid marijuana-infused product, 72 ounces of liquid marijuana-infused product, and seven grams of marijuana concentrate.

Marijuana possession is still illegal for persons under twenty-one years old, regardless of the amount possessed.

I-502 and I-692 did not repeal the misdemeanor offense of possession of marijuana, nor did it retroactively modify previous convictions or sentences for marijuana-related misdemeanor offenses.

Pardon Process for Marijuana Misdemeanor Conviction. The Governor announced a marijuana justice initiative which provides a process for applying for a pardon for certain adult marijuana misdemeanor convictions. To be eligible for clemency through the initiative, a person's conviction must meet the following parameters:

- the person must be an adult of at least twenty-one years convicted for misdemeanor marijuana possession;
 - the person was prosecuted under Washington State law and not a local ordinance;
 - the conviction must have occurred between January 1, 1998, and December 5, 2012;
- and

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- it must be the only conviction on the person's criminal record.

A pardon does not vacate a conviction.

Vacation of Misdemeanors or Gross Misdemeanors. After completing all of the terms of their sentence, persons convicted of misdemeanors or gross misdemeanors may apply for a vacation of their conviction record. The sentencing court has discretion to vacate the applicant's conviction record. However, the court may not clear the applicant's record if:

- criminal charges against the applicant are pending;
- fewer than three years have passed since the applicant completed the terms of the sentence, including any financial obligations;
- the applicant has been convicted of a new crime since the date of conviction;
- the applicant has never had the record of another conviction vacated; or
- the applicant is currently restrained, or has been restrained within the last five years, from contacting another party by a court order.

Certain offenses may not be vacated, including violent offenses and sex offenses, and additional restrictions apply to other specified offenses.

Once the court vacates a record of conviction, the person is released from all penalties and disabilities resulting from the conviction, and that conviction is not included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated may state they have never been convicted of that crime. This does not affect or prevent the use of an offender's prior conviction in a later criminal prosecution.

Summary: Persons with prior convictions of misdemeanor marijuana possession may apply to the sentencing court for a vacation of their conviction record. Crimes that may be vacated include equivalent municipal ordinances. The applicant must have been at least twenty-one years old at the time of the offense. The court must vacate the applicant's conviction record and may not consider the restrictions applicable to vacating other misdemeanor convictions.

Votes on Final Passage:

Senate	29	19	
House	68	29	(House amended)
Senate			(Senate refused to concur)
House	67	29	(House receded/amended)
Senate	30	15	(Senate concurred)

Effective: July 28, 2019