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**Commerce & Gaming Committee**

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**HB 1065**

**Brief Description:** Concerning penalties for marijuana offenses.

**Sponsors:** Representatives Kirby and Gregerson.

**Brief Summary of Bill**

- Reduces the penalties for possession and transfer of marijuana products outside of the I-502 system in certain circumstances.
- Authorizes the noncommercial transfer (gift) of marijuana products in amounts equal to half of the current possession limits by a person 21 years of age or older to another person(s) 21 years of age or older.
- Requires the marijuana concentrates that a person may lawfully possess or transfer for noncommercial purposes (gift) to have been purchased from a marijuana retailer and be accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer.

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

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

**Background:**

Possession of Marijuana.

In accordance with I-502 and subsequent legislation, without violating any provision of Washington law, a person 21 years of age or older may possess any combination of the following 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 concentrates.

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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.*

Under law existing since prior to the passage of I-502, a person found guilty of possession of 40 grams or less of marijuana is guilty of a misdemeanor. Otherwise, the possession of marijuana products in excess of the above amounts is punishable as a class C felony. However, qualifying patients and designated providers may possess additional amounts of marijuana products.

#### Delivery of Marijuana or Possession with Intent to Deliver.

In the context of the state Uniform Controlled Substances Act, the word "delivery" means the actual or constructive transfer from one person to another of a substance, and does not require an exchange of money or other consideration.

The delivery of marijuana products is unlawful other than by a licensed marijuana producer, processor, retailer, researcher, or transporter acting in accordance with the legal framework created by and pursuant to I-502, or by an Indian tribe acting in accordance with an agreement with the state. A person of any age found guilty of delivering or possessing marijuana products in any amount with the intent to deliver is subject to a class C felony.

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

##### Possession of Marijuana.

The existing possession limits for useable marijuana, marijuana-infused products, and marijuana concentrates by a person 21 years of age or older are maintained. However, the 7 grams of marijuana concentrates that a person 21 years of age or older may lawfully possess must have been purchased from a marijuana retailer and must be accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer.

A person in possession of marijuana concentrates that were not purchased from a marijuana retailer or are not accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer commits the following crimes or infractions:

- a class 2 civil infraction if the person is in possession of not more than 7 grams of marijuana concentrates;
- a misdemeanor if the person is in possession of more than 7 grams but not more than 14 grams of marijuana concentrates; or
- a class C felony if the person is in possession of more than 14 grams of marijuana concentrates and does not have a license issued by the Liquor & Cannabis Board permitting the person to possess more than 14 grams of marijuana concentrates.

Certain conduct that would otherwise be punishable as a misdemeanor or class C felony is given a reduced penalty:

- A person in possession of marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates in excess of the statutory limits, but not in excess of two times the statutory limits, is guilty of a misdemeanor.
- A person in possession of not more than 15 marijuana plants is guilty of a misdemeanor.
- A person under 21 years of age in possession of marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates not in excess of the possession limits for a person 21 years of age or older is guilty of a misdemeanor.

#### Delivery of Marijuana or Possession with Intent to Deliver.

Generally, certain noncommercial deliveries (gifts) of marijuana and marijuana products by a person 21 years of age or older to another person(s) 21 years of age or older are made legal or are given reduced penalties, and certain sales or commercial deliveries of marijuana products to a person 21 years of age or older are given reduced penalties.

Specifically, the delivery or possession with intent to deliver, during a 24-hour period, for noncommercial purposes and not dependent or conditioned upon or done in connection with the provision or receipt of financial consideration (gift), of the following amounts of marijuana products by a person 21 years of age or older to another person(s) 21 years of age or older is not a violation of any provision of Washington law:

- Half an ounce of useable marijuana;
- 8 ounces of marijuana-infused product in solid form;
- 36 ounces of marijuana-infused product in liquid form; or
- 3.5 grams of marijuana concentrates that were purchased from a marijuana retailer and are accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer.

Additionally, the delivery or possession with intent to deliver, during a 24-hour period, for noncommercial purposes and not dependent or conditioned upon or done in connection with the provision or receipt of financial consideration (gift), of not more than 3.5 grams of marijuana concentrates that were not purchased from a marijuana retailer or are not accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer is punishable as a gross misdemeanor.

Further, the delivery or possession with intent to deliver, during a 24-hour period, for commercial purposes, of the following amounts of marijuana products to a person 21 years of age or older is punishable as a gross misdemeanor:

- 0.5 ounce of useable marijuana;
- 8 ounces of marijuana-infused product in solid form;
- 36 ounces of marijuana-infused product in liquid form; or
- 3.5 grams of marijuana concentrates that were purchased from a marijuana retailer and are accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer.

"Financial consideration" is defined as value that is given or received directly or indirectly through a sale, barter, trade, fee, charge, due, contribution, or donation.

**Appropriation:** None.

**Fiscal Note:** Available.

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