

HOUSE BILL REPORT

HB 1065

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to penalties for marijuana offenses.

Brief Description: Concerning penalties for marijuana offenses.

Sponsors: Representatives Kirby and Gregerson.

Brief History:

Committee Activity:

Commerce & Gaming: 1/17/17, 2/2/17 [DPS].

Brief Summary of Substitute Bill

- Reduces the penalties for possession and transfer of marijuana products outside of the Initiative 502 system in certain circumstances.
- Authorizes the noncommercial transfer (sharing or gifting) 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.

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: Peter Clodfelter (786-7127).

Background:

Possession of Marijuana.

In accordance with Initiative 502 (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;

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

Under law existing since before 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 Substitute Bill:

Possession of Marijuana.

A person in possession of marijuana products 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 products 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 (sharing or gifting) 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 (sharing or gifting), 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 state 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.

Additionally, 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:

- 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.

"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.

Substitute Bill Compared to Original Bill:

The requirement that marijuana concentrates must be purchased from a marijuana retailer and be accompanied by packaging showing that the marijuana concentrates were purchased from a marijuana retailer to be lawfully possessed or transferred is removed, along with the related penalties, so that marijuana concentrates are treated the same as useable marijuana and marijuana-infused products.

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) Law enforcement and prosecutors do not want to charge people with a class C felony for marijuana offenses related to possessing and sharing relatively small amounts of marijuana products, and the bill is in line with voters' intent when enacting Initiative 502. Stopping the use and sale of serious drugs deserves state resources, but not relatively minor marijuana offenses that remain unlawful. The Mayor of Seattle supports this bill, which is similar to House Bill 2494 from 2016. The bill would reduce burdens on superior courts and jails. There are diversion programs in municipal courts available for misdemeanor crimes that are not available for felonies, which most marijuana offenses still are. The application of the existing marijuana criminal laws has a disproportionate effect on certain people, especially men of color. Overall the bill does good things, but there are several parts that could be improved. The added requirement that the marijuana concentrates that a person may lawfully possess be accompanied by packaging showing that the concentrates were purchased from a marijuana retailer should be removed so that marijuana concentrates are not treated differently than other marijuana products under the bill. Penalties that the bill reduces to misdemeanors could be further reduced to civil infractions, such as for the possession of plants.

(Opposed) None.

(Other) The bill makes positive changes, but should authorize adults to share up to the full possession amounts, not limit lawful sharing to half of the current possession amounts. Also, the change to the law to require the marijuana concentrates that a person may lawfully possess to be accompanied by packaging showing that the concentrates were purchased from a marijuana retailer should be removed so that marijuana concentrates are not treated differently than other marijuana products under the bill. People should be allowed to make their own concentrates.

Persons Testifying: (In support) Representative Kirby, prime sponsor; Kelly Harris, Seattle City Attorney's Office; Candice Bock, Association of Washington Cities; David Mendoza, City of Seattle; John Kingsbury, Thurston National Organization for the Reform of Marijuana Laws; Brian Stone; Kirk Ludden and John Novak, VIPER Political Action Committee; and Arthur West.

(Other) Bailey Hirschburg, Washington National Organization for the Reform of Marijuana Laws Political Action Committee.

Persons Signed In To Testify But Not Testifying: None.