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## Judiciary Committee

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### HB 2098

**Title:** An act relating to making financial services available to marijuana producers, processors, retailers, qualifying patients, health care professionals, and designated providers as authorized under chapters 69.50 and 69.51A RCW.

**Brief Description:** Making financial services available to marijuana producers, processors, retailers, qualifying patients, health care professionals, and designated providers as authorized under chapters 69.50 and 69.51A RCW.

**Sponsors:** Representatives Sawyer, Vick, Kirby and Condotta.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Provides immunity from state criminal prosecution to a financial institution providing financial services to licensed marijuana businesses and qualifying patients, health care professionals, and providers under medical marijuana laws.</li></ul>
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**Hearing Date:** 1/9/18

**Staff:** Ingrid Lewis (786-7289).

**Background:**

**Overview of Marijuana Laws.**

*Washington Laws Related to Marijuana.*

The Washington Uniform Controlled Substances Act (UCSA) organizes certain drugs, substances, and immediate precursors in Schedules I through V. Under the UCSA, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of dependency which may be caused by the substance, with Schedule I being the most controlled and Schedule V being the least restricted. Marijuana is categorized as a Schedule I substance. Although marijuana is a Schedule I substance, the state legalizes certain conduct

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related to medical and adult recreational use, possession, purchase, and transfer of marijuana, through the establishment of a regulatory scheme involving licensing marijuana producers, processors, and retailers.

#### Recreational Marijuana.

In 2012, Washington voters approved Initiative 502, which legalized certain marijuana-related activity under Washington law and established a regulatory system for the production, processing, and distribution of limited amounts of marijuana for nonmedical purposes. The Washington State Liquor and Cannabis Board (LCB) is the state agency authorized to license, tax, and regulate marijuana businesses.

The LCB issues three categories of marijuana-related business licenses: (1) the marijuana producer's license, which entitles the holder to produce marijuana for sale at wholesale to licensed marijuana processors or other producers; (2) the marijuana processor's license, which entitles the holder to process, package, and label marijuana for sale at wholesale to marijuana retailers and other processors; and (3) the marijuana retailer's license, which entitles the holder to sell marijuana products at retail prices in retail outlets.

#### Medical Marijuana.

Since 1998, Washington law has allowed qualifying patients to use limited amounts of marijuana for medicinal purposes. A qualifying patient is a person who is the patient of a health care professional who has diagnosed the patient as having a terminal or debilitating medical condition. The health care professional must have advised the patient about the risks and benefits of using marijuana for medical purposes and advised the patient that he or she may benefit from the medical use of marijuana. In addition, a qualifying patient must either have an authorization from the health care professional or be entered in the Department of Health's medical marijuana authorization database.

#### *Federal Laws Related to Marijuana.*

Marijuana is categorized as a Schedule I substance under the federal Controlled Substance Act (CSA). The CSA prohibits any person or business from dealing with controlled substances or their proceeds, such as cash used in a transaction. Under the CSA and other federal law, and the Supremacy Clause of the United States Constitution, federal authorities may prosecute people and businesses for violation of federal law regardless of whether state laws permit such activities.

#### **Financial Institutions.**

Financial institution is defined as a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in Washington under state or federal law. Financial institutions are generally regulated by the Department of Financial Institutions.

Financial institutions that knowingly engage in acts supporting certain criminal activities may be held liable under the Washington Criminal Code for certain offenses, including but not limited to: money laundering; criminal conspiracy to commit certain drug-related offenses; criminal solicitation; and, certain criminal profiteering offenses.

**Summary of Bill:**

A financial institution does not commit a crime solely by receiving deposits, extending credit, conducting funds transfers, or providing other financial services to licensed marijuana producers, processors, or retailers or qualifying patients, health care professionals, or designated providers under medical marijuana laws.

Evidence of the provision of deposit, credit, funds transfer, or other financial services may not be used to prove any element of a crime alleged to have been committed by a financial institution in a state court.

**Appropriation:** None.

**Fiscal Note:** Available.

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