
Commerce & Gaming Committee

HB 2559

Brief Description: Allowing nonmedical home cultivation of marijuana.

Sponsors: Representatives Blake and Condotta.

Brief Summary of Bill

- Authorizes an adult age 21 or over to possess six or less marijuana plants and up to 24-ounces of useable marijuana harvested from the plants.
- Specifies no more than six marijuana plants may be grown or possessed on the premises of a single housing unit under the authorization, regardless of the number of residents living on the premises.
- Specifies the authorization does not apply to the possession of marijuana plants or useable marijuana possessed or seized at a location other than the premises of the housing unit in which the marijuana plants were grown.
- Specifies the authorization may not be construed to prevent or restrict a property owner from prohibiting the cultivation of marijuana plants by a renter or lessee upon or within the property under the terms of a rental agreement, lease, or other contract.

Hearing Date: 1/15/18

Staff: Peter Clodfelter (786-7127).

Background:

It is legal for an adult age 21 or over to possess any combination of the following types and amounts of marijuana products:

- one ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form;
- 72 ounces of marijuana-infused product in liquid form; and
- seven grams of marijuana concentrate.

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.

State law does not authorize adults age 21 or over to possess any marijuana plants, and doing so is punishable as a class C felony under the Controlled Substances Act. However, if a person is a qualifying patient or designated provider, the person may possess and grow a limited amount of marijuana plants and possess a limited amount of marijuana produced from those plants in accordance with the Washington State Medical Use of Cannabis Act.

A qualifying patient is a person who: (1) is a patient of a health care professional; (2) has been diagnosed by that health care professional as having a terminal or debilitating medical condition; (3) is a Washington resident at the time of the diagnosis; (4) has been advised by that health care professional about the risks and benefits of the medical use of marijuana; (5) has been advised by that health care professional that they may benefit from the medical use of marijuana; and (6) has an authorization from the person's health care professional. An authorization is a form developed by the Department of Health (DOH) that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

A designated provider is an adult who is designated in writing by a qualifying patient to serve as the designated provider for that patient, or, if the qualifying patient is under age 18, then is the qualifying patient's parent or guardian. A designated provider also must have an authorization from the qualifying patient's health care professional or be entered into the Medical Marijuana Authorization Database (Database) and hold a recognition card. Designated providers may serve as a designated provider for only one qualifying patient at a time and may not convert any of the marijuana for their personal use.

Qualifying patients and designated providers may choose whether to receive a recognition card and be entered into the Database. Being entered into the Database means a qualifying patient or designated provider may purchase and possess three times the amounts of marijuana products at retail as a recreational customer, and may grow up to six marijuana plants at their residence for the qualifying patient's personal use and possess up to eight ounces of useable marijuana produced from those plants. Also, if a qualifying patient or designated provider in the Database has additional authorization from a health care professional to do so because of the qualifying patient's medical need, the qualifying patient or designated provider may grow up to 15 marijuana plants at their residence and possess in their domicile up to 16 ounces of useable marijuana produced from those plants.

If a qualifying patient or designated provider with a valid authorization from a healthcare professional decides not to be entered into the Database and not be issued a recognition card, the qualifying patient or designated provider may grow up to four marijuana plants at their domicile and possess up to six ounces of useable marijuana. At retail outlets, such qualifying patients are treated like recreational customers and have the same possession limits, and pay both the marijuana excise tax and state and local sales taxes. And, instead of arrest protection, such a qualifying patient or designated provider has an affirmative defense to violations of state law relating to marijuana through proof at trial, by a preponderance of the evidence, that the qualifying patient or designated provider otherwise meets the requirements of the Washington State Medical Use of Cannabis Act.

As an alternative to growing their own marijuana plants, a qualifying patient or designated provider with a recognition card who is entered into the Database may form a medical marijuana cooperative and share responsibility for acquiring and supplying the resources needed to produce

and process marijuana only for the medical use of members of the cooperative, subject to restrictions.

For purposes of marijuana statutes, the word "plant" is defined as a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

Summary of Bill:

It is established that it is not a violation of any state law for a person age 21 or over to possess no more than six marijuana plants and up to 24-ounces of useable marijuana harvested from plants lawfully grown on the premises of the housing unit occupied by the person in possession of the marijuana plants and useable marijuana.

No more than six marijuana plants may be grown or possessed on the premises of a single housing unit under the new authorization, regardless of the number of residents living on the premises.

The new authorization and legal protection do not apply to marijuana plants or useable marijuana possessed or seized at a location other than the premises of the housing unit in which the marijuana plants were grown.

It is provided that nothing in the new authorization and legal protection may be construed to prevent or restrict a property owner from prohibiting the cultivation of marijuana plants by a renter or lessee upon or within the property under the terms of a rental agreement, lease, or other contract.

Appropriation: None.

Fiscal Note: Requested on 01/15/18

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