

SENATE BILL REPORT

SHB 1060

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 19, 2018
Ways & Means, March 31, 2017

Title: An act relating to the administration of marijuana to students for medical purposes.

Brief Description: Concerning the administration of marijuana to students for medical purposes.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Blake, Walsh, Appleton and Chapman).

Brief History: Passed House: 3/03/17, 78-19; 1/31/18, 67-27.

Committee Activity: Early Learning & K-12 Education: 3/27/17, 3/28/17 [DP-WM];
2/15/18, 2/19/18 [DPA, w/oRec].

Ways & Means: 3/31/17 [w/oRec, DNP].

Brief Summary of Amended Bill

- Allows a parent or guardian to administer marijuana for the medical use of a minor, who meets state law requirements, on school grounds, aboard a school bus, or while attending a school-sponsored event so long as it is not open to the view of the general public and the administration is not by smoking or other methods involving inhalation.
- Provides that school districts may not inquire into the type of medication or product that parents or guardians administer to their children, in accordance with state law, while on school grounds, aboard a school bus, or attending a school-sponsored event and may not deny parents or guardians access to their children for this purpose.
- Provides that the Office of the Superintendent of Public Instruction (OSPI) and school districts must suspend implementation of these provisions if certain conditions are met.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended.

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.

Signed by Senators Wellman, Chair; Rolfes, Vice Chair; Zeiger, Ranking Member; Billig, Hunt, Mullet and Pedersen.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That it be referred without recommendation.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senators Honeyford, Vice Chair, Capital Budget; Padden.

Staff: Jeffrey Naas (786-7708)

Background: Federal Law. Washington is one of a number of states that have passed legislation allowing the use of marijuana for recreational and medicinal purposes, although some of these states permit the use of high cannabidiol products only. Marijuana is classified as a Schedule I substance under the federal Controlled Substances Act. The manufacture, possession, or distribution of Schedule I substances is a criminal offense.

Medical Use of Marijuana. In 1998, Washington voters approved Initiative 692, which permitted the use of marijuana for medical purposes by qualifying patients. In order to qualify for the use of medical marijuana, patients must have a terminal or debilitating medical condition such as cancer, the human immunodeficiency virus, multiple sclerosis, intractable pain, glaucoma, Crohn's disease, hepatitis C, nausea or seizure diseases, or a disease approved by the Medical Quality Assurance Commission, and the diagnosis of this condition must be made by a health care professional. The health care professional who determines that a person would benefit from the medical use of marijuana must provide that patient with valid documentation written on tamper-resistant paper.

Medical Use of Marijuana by a Minor. Health care professionals may authorize the medical use of marijuana for qualifying patients who are under the age of 18 if:

- the minor's parent or guardian participates in the minor's treatment and agrees to the medical use of marijuana by the minor; and
- the parent or guardian acts as the designated provider for the minor and has sole control over the minor's marijuana.

Both the minor and the parent or guardian who is acting as the designated provider must be entered in the medical marijuana authorization database and hold a recognition card.

A health care professional who authorizes the medical use of marijuana by a minor must do so as part of the course of treatment of the minor's terminal or debilitating medical condition. If authorizing a minor for the medical use of marijuana, the health care professional must:

- consult with other health care providers involved in the minor's treatment, as medically indicated, before authorization or reauthorization of the medical use of marijuana; and
- reexamine the minor at least once every six months or more frequently as medically indicated.

Medical Use of Marijuana on School Grounds. Under current state law, schools are not required to accommodate the use of marijuana in a school bus or on school grounds. However, a school may permit a minor who meets the state requirements to consume marijuana on school grounds in accordance with school policy relating to medication use on school grounds.

Administration of Medication at School. State law allows school districts to administer certain medications when a student is in the custody of the school, but administration of medication is not required.

Summary of Bill: The bill as referred to committee not considered.

Summary of Amended Bill: Parent or Guardian Administration of Medication at School. School districts may not inquire into the type of medication or product that parents or guardians administer to their children, in accordance with state law, while on school grounds, aboard a school bus, or attending a school-sponsored event and school districts may not deny parents or guardians access to their children for this purpose.

Medical Use of Marijuana on School Grounds. A parent or guardian may administer marijuana for the medical use of the minor, who meets state law requirements, on school grounds, aboard a school bus, or while attending a school-sponsored event so long as it is not open to the view of the general public and the administration is not by smoking or other methods involving inhalation.

The following language is removed from the medical cannabis chapter:

- nothing requires any accommodation of any on-site medical use of marijuana in any school bus or on any school grounds; and
- a school may permit a minor who meets state law requirements to consume marijuana on school grounds if such use is in accordance with school policy relating to medication use on school grounds.

OSPI and school districts must suspend implementation of the new provisions if the following conditions are met:

- The federal government issues a communication that suggests that federal education funding will be withheld if the state continues to implement the new provisions;
- OSPI requests a formal opinion by the state attorney general on the communication; and

- The state attorney general provides a formal opinion that the federal communication has reasonably demonstrated that continued implementation of provisions will reasonably jeopardize future federal funding.

OSPI must provide the opinion to the education and fiscal committees of the Legislature within 30 days of the issuance of the opinion.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Provides that school districts may not deny parents or guardians access to their children for the purpose of administering medication or product in accordance with state law.
- Adds that OSPI and school districts must suspend implementation of certain provisions if a number of conditions are met.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Early Learning & K-12 Education): *Testimony from 2017 Regular Session.* PRO: Medical marijuana can greatly benefit children who have certain medical conditions. It can help when other medications do not, and it can save lives. This bill would allow parents to give their child a mid-day dose of their medical marijuana at school and will help give normalcy to students. This bill is narrow and has protections for school districts. Students would never the carry the product; it would always be with the parents. Medical marijuana can provide rescue doses for people with seizures, which could help a student aboard a school bus. Parents may ride school buses with their children for field trips.

CON: There are disconnects between the progressive vision of Washington and federal policies. School districts are concerned about the liability of adopting a policy that violates federal law and putting federal funding at risk. The policy would need to be updated regularly.

OTHER: Another state entity like the Department of Health or the Office of the Superintendent of Public Instruction could possibly be involved to get around school districts' liability concerns. School principals have practical concerns. School buses are not private places to administer medical marijuana.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Brian Blake, Prime Sponsor; Meagan Holt, Viper PAC Project PC; Michael Scott, Project PC Founder; John Barclay, FAE57; Jedidiah Haney, citizen; Sarah Rasor, citizen.

CON: Jessica Vavrus, Washington State School Directors' Association.

OTHER: Charlie Brown, Federal Way Public Schools; Jerry Bender, Association of Washington School Principals.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):
No one.

Staff Summary of Public Testimony on Bill as Amended by Committee (Early Learning & K-12 Education): PRO: Medical marijuana can help people survive and improve their quality of life. It is effective medicine. It's not the school's responsibility to determine the type of medication that parents administer to their own child. It's a privacy issue between the parent, doctor, and child. School districts have turned away parents and have not let them administer medical marijuana on school campus, which disrupts the educational process. This bill would allow students who need medical marijuana to have a full day of education. Caregivers, not school personnel, should also be able to administer marijuana to students for medical purposes. Marijuana can be administered in a discrete way, such as inhalers. These patients are on a state registry, so they have given up some of their privacy.

OTHER: Students need to be healthy and supported in order to be successful at school, which can include use of medication. The proposed striking amendment is a clean and simplified approach to address this issue. However, school districts are concerned about liability given that medical marijuana is still illegal at the federal level and could impact the receipt of federal funds. The term minor and age of 18 raises some concern because some students may be emancipated or older than 18. Language could be included to suspend implementation of this bill if there is some indication that the federal government will take action and federal funds are at risk.

Persons Testifying (Early Learning & K-12 Education): PRO: John Barclay, citizen; Jedidiah Haney, Higher Influence.

OTHER: Jessica Vavrus, Washington State School Directors' Association; Roz Thompson, Association of Washington School Principals; Dave Mastin, OSPI.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):
No one.

Staff Summary of Public Testimony (Ways & Means): No public hearing was held.

Persons Testifying (Ways & Means): N/A.

Persons Signed In To Testify But Not Testifying (Ways & Means): N/A.