
**Consumer Protection & Business
Committee**

HB 1449

Brief Description: Legalizing the home cultivation of cannabis by persons who are 21 years of age and older.

Sponsors: Representatives Kloba, Donaghy, Wylie, Berry, Doglio, Fitzgibbon, Morgan, Goodman, Peterson, Macri, Fosse, Ormsby, Ryu, Reed, Hill and Simmons.

Brief Summary of Bill

- Legalizes the production and possession of six cannabis plants and the cannabis and cannabis products derived from the plants, by a person age 21 and over, on the premises of the housing unit occupied by the person.
- Creates civil infractions related to odor and visibility of the activity, and also to penalize the production and knowing possession of more than six cannabis plants but fewer than 16 cannabis plants.
- Specifies it remains a class C felony to produce and knowingly possess 16 or more cannabis plants.
- Authorizes summary destruction of cannabis plants in excess of six by an investigating law enforcement officer or agency, restricts investigation and enforcement by the Liquor and Cannabis Board, and modifies real property seizure and forfeiture provisions as they apply to cannabis.

Hearing Date: 1/28/25

Staff: Peter Clodfelter (786-7127).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Adults age 21 and over may purchase and possess specified quantities of cannabis products from licensed retail outlets, and may share or transfer specified quantities of cannabis products with or to other adults age 21 and over for noncommercial purposes.

Washington law generally does not authorize adults age 21 or over to produce or possess any cannabis plants, and doing so is punishable as a class C felony under the Uniform Controlled Substances Act (UCSA). However, if a person is a qualifying patient or designated provider, the person may possess and grow a limited number of cannabis plants in their domicile and possess specified amounts of cannabis produced from those plants in accordance with the Washington State Medical Use of Cannabis Act (WSMUCA).

Pursuant to the UCSA, all real property, appurtenances, and improvements are subject to seizure and forfeiture if they are being used with the owner's knowledge for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substances, including cannabis, if the activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the substance and the real property.

However, an exception provides that the possession of cannabis may not result in the forfeiture of real property unless: (1) the cannabis is possessed for commercial purposes that are unlawful under Washington law; (2) the amount possessed is five or more plants or 1 pound or more of cannabis; and (3) a substantial nexus exists between the possession of cannabis and the real property. In such a case, the intent of the offender is determined by the preponderance of the evidence, including prior criminal history, the amount of cannabis possessed, the sophistication of the activity or equipment, and other evidence that demonstrates intent to engage in unlawful commercial activity.

For a class 3 civil infraction, the maximum penalty and the default amount is \$50, not including statutory assessments. For a class 1 civil infraction, the maximum penalty and the default amount is \$250, not including statutory assessments, except for an infraction involving specific violations for which a greater monetary penalty is provided in law.

A class C felony is generally punishable by confinement in a state correctional institution for up to five years, or by a fine in an amount fixed by the court of \$10,000, or by both confinement and fine. For purposes of the drug offense sentencing grid, the unlawful manufacture, delivery, or possession with intent to deliver cannabis is a seriousness level I, the lowest of three levels.

Summary of Bill:

The production and possession by a person 21 years of age or older of no more than six cannabis plants and the cannabis and cannabis products derived from those plants, on the premises of the housing unit occupied by the person, is legalized and is not a violation of the UCSA or any other provision of Washington law. However, no more than 15 cannabis plants may be produced at any one time on the premises of a single housing unit, regardless of the number of residents living on the premises of the housing unit.

A "housing unit" is defined as a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other people in the building, and which have direct access from the outside of the building or through a common hall.

While certain cannabis production and possession activity is authorized, a class 3 civil infraction is created to penalize the production and knowing possession of cannabis plants or cannabis and cannabis products derived from those plants, as would otherwise be authorized, if the plants, cannabis, or cannabis products: (1) can be readily smelled from a public place or the private property of another housing unit; or (2) are visible within the ordinary public view.

"Ordinary public view" is defined as within the sight line with normal visual range of a person, unassisted by any elevating devices or visual aids, from a public street or sidewalk adjacent to real property, or from within an adjacent property.

A class 1 civil infraction is created to penalize the production and knowing possession of more than six cannabis plants but fewer than 16 cannabis plants. The production and knowing possession of 16 or more cannabis plants remains a class C felony.

Authority is provided to an investigating law enforcement officer or agency to seize and summarily destroy any cannabis plants produced or possessed by a person in excess of the six authorized cannabis plants, if the person is not authorized to produce and possess the additional cannabis plants under a commercial cannabis license or under the WSMUCA.

It is specified that the LCB has no authority or responsibility to investigate or enforce requirements related to the new authorization. However, this does not limit the LCB's authority to enforce Washington law related to commercial cannabis production, processing, or sales when there is evidence of a violation of another provision of the UCSA.

An exception in the seizure and forfeiture statute in the UCSA is modified to specify that the acquisition, delivery, production, or possession (instead of only the possession) of cannabis or cannabis products, including from the new authorization, may not result in forfeiture of real property unless: (1) the cannabis is possessed for commercial purposes that are unlawful under Washington law; (2) the amount possessed is 16 or more plants instead of five or more plants, or, except as allowed by the bill, 1 pound or more of cannabis; and (3) a substantial nexus exists between the possession of cannabis and the real property.

The term "commercial activity" is defined for purposes of the UCSA as an activity related to or connected with buying, selling, or bartering.

Appropriation: None.

Fiscal Note: Requested on January 20, 2025.

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