

# HOUSE BILL REPORT

## HB 1449

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**As Reported by House Committee On:**  
Consumer Protection & Business

**Title:** An act relating to legalizing the home cultivation of cannabis by persons who are 21 years of age and older.

**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 History:**

**Committee Activity:**

Consumer Protection & Business: 1/28/25, 2/21/25 [DPS].

**Brief Summary of Substitute 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, subject to requirements.
- Creates civil infractions related to odor and visibility of the activity and the production and knowing possession of more than six cannabis plants but fewer than 16 cannabis plants, while retaining the class C felony for producing and knowingly possessing 16 or more cannabis plants.
- Specifies enforcement provisions and a right to one warning, includes traceability requirements and cannabis waste disposal requirements, requires the posting of information by the Liquor and Cannabis Board and licensed cannabis producers, adds law enforcement training, and modifies real property seizure and forfeiture provisions.

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*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.*

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## HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Walen, Chair; Berry, Donaghy, Fosse, Kloba, Morgan, Reeves, Ryu and Santos.

**Minority Report:** Do not pass. Signed by 5 members: Representatives McClintock, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Abbarno, Corry and Steele.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Volz.

**Staff:** Peter Clodfelter (786-7127).

### **Background:**

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.

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### **Summary of Substitute Bill:**

*Cannabis Home Grow Authorization.* 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, that has liability insurance coverage in effect, 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.

*Penalties and Enforcement.* While certain cannabis production and possession activity is authorized, subject to a right to a warning, 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.

Subject to a right to a warning, 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, and 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 Liquor and Cannabis Board (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.

*Right to a Warning.* The first time a law enforcement officer or person with enforcement authority contacts an individual for a possible violation of Washington law related to producing plants or knowingly possessing cannabis or cannabis products derived from those plants, the person must be provided one warning and may not be cited, arrested, charged, or penalized for a civil or a criminal offense arising out of the activity for which the one warning is related. After an individual is documented to have received a warning, the individual may be cited or prosecuted for additional violations.

*Law Enforcement Discretion.* Law enforcement officers and persons with enforcement authority within jurisdictions in which there is no licensed cannabis retailer must consider, at their discretion, the lack of accessible cannabis in the area for legal personal use, and the totality of the circumstances, when deciding to enforce the UCSA against an individual in such a jurisdiction suspected of producing cannabis plants or knowingly possessing cannabis or cannabis products derived from those plants in violation of Washington law.

*Sourcing of Plants and Producer Information.* Cannabis plants produced under the authorization in the bill must be sourced from a licensed cannabis producer. Licensed cannabis producers are granted authority to sell immature plants or clones and seeds to persons age 21 and over. Cannabis producers who make these sales must post consumer education information at their premises informing consumers about Washington's law regarding cannabis production, including aspects of the activity that are legal and aspects of the activity that are illegal or for which the legal status is not specified in Washington law.

*Traceability.* Cannabis plants produced under the authorization in the bill and cannabis and cannabis products derived from those plants are subject to traceability requirements. The LCB must make available a traceability system for persons age 21 or over to track production, harvesting, disposal, and any lawful sharing of cannabis and cannabis products derived from the plants. The LCB may establish a fee to be paid by persons using the system to recoup the administrative costs.

*Cannabis Waste Disposal.* Cannabis waste generated during production must be stored, managed, and disposed of in accordance with applicable state and local laws and rules. Cannabis waste that is not designated as dangerous waste may be rendered unuseable by grinding and incorporating the cannabis plant waste with other ground materials so the resulting mixture is at least 50 percent noncannabis waste by volume.

Cannabis waste to be disposed of by an organic waste method may be mixed with food waste, yard waste, vegetable-based grease or oils, or other wastes as approved by the LCB. Cannabis waste to be disposed of in a landfill or another disposal method may be mixed with paper waste, cardboard waste, plastic waste, soil, or other wastes as approved by the LCB.

Cannabis wastes rendered unuseable may be disposed of by delivery to a permitted solid waste facility or taken by a waste management service provider that accepts such waste for final disposition. Cannabis waste may not be provided for disposal to a solid waste facility or to a waste management service provider that has a policy against accepting cannabis waste generated under this section. No criminal liability may arise related to the possession, transportation, or disposal of cannabis waste for a solid waste facility or waste management service provider providing services for customers producing cannabis.

*Educational Information.* The LCB must provide educational information to the public and answers to frequently asked questions in a conspicuous location on the LCB's website about the legal authorization and restrictions associated with cultivating cannabis plants and possessing cannabis and cannabis products derived from those plants for personal use. The educational information provided must include information about the risk of civil and criminal legal liability that may arise for individuals producing cannabis and about the aspects of the activity that are legal and aspects of activity that are illegal or for which the legal status is not specified and therefore may carry risk of liability.

*Law Enforcement Training.* Beginning July 1, 2026, all law enforcement personnel required to complete basic law enforcement training must receive bias training on the war on drugs, including the bias around cannabis and the history of cannabis in the war on drugs and how certain communities were targeted and disproportionately impacted by use of these laws. The training must include information about an individual's right to a warning for violations relating to cannabis activity. For purposes of this training, "the war on drugs" means the history in the United States, including in Washington, of civil and criminal enforcement of laws and penalties against personal possession of cannabis and other substances, and against the manufacture and transfer or sale of cannabis and other substances, and the societal impacts of these laws and actions.

*Real Property Seizure and Forfeiture.* 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.

*Definition in the Uniform Controlled Substances Act.* The term "commercial activity" is defined for purposes of the UCSA as an activity related to or connected with buying, selling, or bartering.

### **Substitute Bill Compared to Original Bill:**

Compared to the original bill, the substitute bill:

- requires cannabis plants to be sourced from a licensed cannabis producer;
- adds traceability requirements administered by the LCB to the cannabis home production authorization, subject to a fee the LCB may impose to recoup costs;
- adds cannabis waste disposal requirements and limits criminal liability for solid waste facility or waste management service providers;
- requires cannabis producers to post information for consumers about Washington law regarding home production of cannabis;
- requires the LCB to post comprehensive information and answers to frequently asked questions on the LCB's website related to cannabis home production including about risk of civil and criminal legal liability that may arise for individuals producing cannabis;
- adds a liability insurance coverage requirement so the premises of the housing unit occupied by the person producing cannabis plants must have liability insurance in effect;
- specifies that an individual gets one warning related to producing or knowingly possessing cannabis plants or the cannabis and cannabis products derived from those plants outside of the legal authorization;
- directs law enforcement officers and enforcement personnel within jurisdictions in which there is no licensed cannabis retailer to consider, at their discretion, the lack of accessible cannabis and the totality of the circumstances when deciding to enforce Washington law against an individual suspected of producing or knowingly possessing cannabis in violation of Washington law; and
- requires all law enforcement personnel required to complete basic law enforcement training, beginning July 1, 2026, to complete bias training on the war on drugs, as defined, including the bias around cannabis and the history of cannabis in the war on drugs, how certain communities were targeted and disproportionately impacted by use of these laws, and about an individual's right to one warning related to producing or knowingly possessing cannabis outside of the legal authorization.

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**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) Washington has allowed limited cannabis home grow for many years for medical cannabis, and it is time to allow all adults to responsibly engage in this activity. There are people who meet criteria for medical cannabis but do not want to opt in to a state database over privacy concerns. Many states that legalized cannabis after Washington legalized limited home grow and it has not been disruptive. There is a lack of evidence of any connection to an increase in youth access. A recommendation of the Social Equity in Cannabis Task Force was to legalize recreational cannabis cultivation. There are safeguards in the bill, and commercial cannabis production still requires a license. Twenty-one states all allow recreational home cultivation. The current limited authorization for medical cannabis home grow creates legal uncertainty and risks for families where only one household member is a medical patient. There is a current lack of consumer understanding about what goes into retail cannabis products and about the plant, and this bill will help break down that barrier of the relationship between plant and people. Similar authorization for home brewing beer led to a commercial revolution that brought about the craft beer industry. The activity is already occurring so home grow should be legalized and not criminalized. It makes no sense for a class C felony to apply to growing a plant that can be bought legally in a store. Initiative Measure No. 502 (I-502), passed by voters in 2012, represented a new approach and the beginning of a dialogue about better cannabis policy, not a definitive answer. Concerns over home robberies are unfounded because people would not know where these are occurring unlike established cannabis retail outlets. The Healthy Youth Survey shows a continued decline in youth use of cannabis, which also tracks other states that allow home grow. There are many years of efforts behind this bill. Growing cannabis is difficult and most people will not do it. Youth access concerns are unfounded as social sources purchasing legally from a retail store is, and would remain, the predominant way youth access cannabis. Any house that would make use of home grow already has cannabis in it. This bill is about slowing mass incarceration. The current felony status is cruel and absurd. People want to grow their own product to know it is safe and free of contaminants. There are also unique varieties of cannabis that are slower to flower and not found in recreational stores, which consumers would like to grow at home. Home growing has a smaller carbon footprint and uses substantially less packaging than commercial stores. Ancillary businesses will also benefit. The bill is a long-overdue, common sense reform. Citizens ask to be trusted like citizens in 21 other states are trusted by their legislatures.

(Opposed) The Healthy Youth Survey shows that accessing cannabis from social sources is the primary way youth obtain access, and there are concerns that legalizing cannabis home grow will increase youth access. Changing social norms in the home and parental perceptions and use of cannabis are also worries. These can be influences on youth initiating cannabis use. Overloaded electrical circuits for indoor growing could lead to fires. There are questions about what the activity will look like with a multi-family situation. The current allowance for medical home grow is sufficient and there are concerns about opening up this activity to all adults. There were concerns when I-502 passed, and

many of those concerns came to fruition. Even while legalizing cannabis, I-502 called for a tightly regulated state-licensed system. This bill undermines I-502. There are public safety concerns. Robberies and burglaries occur at licensed cannabis stores, and there are concerns those dangers will follow people home. Provisions on secure access should be added. The numerical limits on plants would be almost impossible to enforce. Enforcement authority is vague. There would be no quality control of products. Diversion of home-grown products is also a risk. Washington's medical cannabis program works, there are 16 qualifying conditions and multiple health care professionals can authorize the use of medical cannabis. Excise taxes will be lost. The bill allows home grow in rental units without landlord permission.

(Other) The bill offers a step forward by allowing cannabis home grow for nutrition and healing. There is a current lack of access to fresh, raw cannabis, which heals the body without getting a person intoxicated. It is scientifically proven to propagate homeostasis. Legalizing the activity is supported, but there are concerns with the vague requirements about smell and visibility in the bill. This will invite prejudice and discrimination toward citizens from enforcement agencies. Washington should deschedule and decriminalize cannabis.

**Persons Testifying:** (In support) Representative Shelley Kloba, prime sponsor; Erik Johansen; Don Skakie, Homegrow Washington; Micah Sherman; Cody Funderburk, Washington Cannabis Workers Club; Anthony Martinelli, The Marijuana Herald; M. Bailey Hirschburg, National Org. for the Reform of Marijuana Laws (NORML); John Kingsbury, Cannabis Alliance; Tyler Markwart; Vivian McPeak, Seattle Event and Hempfest; Tamara Weinmann, Bellevue Cannabis; Caitlein Ryan, The Cannabis Alliance; and Lisa Olson.

(Opposed) Amy Brackenbury, Washington State Public Health Association; Steven Freng, Washington Association for Substance Misuse and Violence Prevention (WASAVP); James McMahan, WA Assoc Sheriffs and Police Chiefs; and Scott Waller, WASAVP - Washington Association for Substance Misuse and Violence Prevention.

(Other) Levi Lyon.

**Persons Signed In To Testify But Not Testifying:** None.