

SENATE BILL REPORT

SB 5010

As Reported by Senate Committee On:
Law & Justice, January 30, 2013

Title: An act relating to community custody conditions for marijuana.

Brief Description: Establishing that courts may order an offender to refrain from the consumption of marijuana as a part of community custody conditions.

Sponsors: Senators Padden, Sheldon and Carrell.

Brief History:

Committee Activity: Law & Justice: 1/21/13, 1/30/13 [DPS, w/oRec].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5010 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Darneille, Kline, Ranking Member; Pearson.

Minority Report: That it be referred without recommendation.

Signed by Senator Kohl-Welles.

Staff: Aldo Melchiori (786-7439)

Background: I-502 removed state-law prohibitions against producing, processing, and selling marijuana, subject to licensing and regulation by the Liquor Control Board. Limited possession of marijuana by persons aged 21 and over is legalized. A 25 percent excise tax is imposed on wholesale and retail sales of marijuana, with the revenue earmarked for purposes that include substance-abuse prevention, research, education, and health care. Laws prohibiting driving under the influence also include maximum thresholds for THC blood concentration.

When a court sentences an offender to a term of community custody, the court imposes conditions. Some of these conditions are mandatory, some are waivable, and some are discretionary. Refraining from possessing or consuming controlled substances, except by prescription, is a waivable condition. Refraining from consuming alcohol is a discretionary

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condition. The change to Washington's regulation of marijuana has created some confusion regarding the court's ability to order an offender to refrain from the use of marijuana.

Summary of Bill (Recommended Substitute): When a court sentences an offender to a term of community custody, the court has the discretion to order the offender to refrain from the use of marijuana, except in situations when the offender has a lawfully issued medical marijuana authorization. The medical marijuana authorization exception, however, does not apply if the Department of Corrections (DOC) has determined that consumption is inconsistent with and contrary to the offender's supervision as provided by current law.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The court's discretion to order offenders to refrain from consuming marijuana is limited if the offender has a lawfully issued medical marijuana authorization unless DOC determines that marijuana consumption is inconsistent with or contrary to the offender's supervision, in which case the medical marijuana authorizations already do not apply under current law.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Alcohol and marijuana are both disinhibitors for sex offenders, so they should be treated equally when a court is considering conditions of community custody. The prohibitions can be changed over time. Alcohol is a legal substance, but that does not mean that offenders cannot be ordered to refrain from its use. There is currently confusion regarding whether marijuana will be treated as a controlled substance or more like alcohol. It may be best to separate the provisions for alcohol and marijuana so that a court can order them separately.

OTHER: A special provision should be included to account for medical marijuana patients who have authorization.

CON: Marijuana is legal. The effect of this bill will be to re-institutionalize people who are on the road to recovery. This recriminalizes marijuana use just after the people voted otherwise. This violates the spirit of the initiative.

Persons Testifying: PRO: Senator Padden, prime sponsor; Tom McBride, WA Assn. of Prosecuting Attorneys; Lisa Johnson, King County Prosecuting Attorney's Office; Anmarie Aylward, DOC.

OTHER: Ezra Eickmeyer, WA Cannabis Assn.

CON: Jeff Gilmore, citizen; Ben Livingston, Center for Legal Cannabis.