
**Public Safety & Emergency Preparedness
Committee**

HB 1550

Brief Description: Regulating the production, distribution, and sale of cannabis.

Sponsors: Representatives Dickerson, Goodman, Upthegrove, Pedersen, Appleton, Roberts, Cody, Moscoso, Eddy, Green, Darneille, Fitzgibbon, Kenney and Billig.

Brief Summary of Bill

- Promotes business for Washington by licensing, taxing, and selling cannabis under the regulation of the Liquor Control Board (LCB).
- Establishes a state tax of 15 percent per gram of cannabis sold.
- Requires agricultural farmers wishing to produce, process, or package cannabis to obtain a license through the LCB at an annual cost of \$5,000.
- Requires all license fees, penalties, forfeitures, taxes, and all other revenue received by the LCB from cannabis to be deposited in a Cannabis Revolving Fund and distributed to the Department of Health, the Division of Alcohol and Substance Abuse, the Department of Agriculture, and the LCB.
- Legalizes possession of cannabis for adults over the age of 21 years old.
- Eliminates marijuana from the controlled substance list in the Uniform Controlled Substance Act.
- Authorizes cannabis and hemp products to be sold in liquor stores to adults (similar to alcohol) and regulated by the LCB.
- Makes it a gross misdemeanor offense to: (1) sell cannabis without a valid license; or (2) distribute cannabis to a juvenile under the age of 21 years old.
- Makes it unlawful for a juvenile to possess, consume, or acquire cannabis.
- Makes "intrastate" transporting of cannabis, a class C felony offense, if he or she transports illegal cannabis within the state that involves 15 or more plants or one pound or more of cannabis.

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.

- Makes "interstate" transporting of cannabis a class C felony offense, if he or she imports cannabis into Washington from any other state or country.
- Authorizes adults to grow cannabis for personal use within certain specifications.

Hearing Date: 2/8/11

Staff: Yvonne Walker (786-7841).

Background:

Marijuana.

Generally, it is illegal for a person to possess various controlled substances. Under the Uniform Controlled Substances Act, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Controlled substances are placed in five different schedules to reflect the amount of control necessary, with schedule I being the most controlled, and schedule V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule of which the substance is placed.

Marijuana is a schedule I controlled substance. The possession of 40 grams or less of marijuana is a misdemeanor offense. All other offenses relating to the possession, manufacturing, delivering or possessing with intent to deliver marijuana are considered seriousness level I, class C felony offenses. The maximum punishment for a class C felony offense is five years imprisonment, \$10,000 fine, or both.

It is a misdemeanor offense to use drug paraphernalia to plant, cultivate, grow, manufacture, conceal, ingest, inhale, or otherwise introduce into the human body a controlled substance. The punishment for a misdemeanor offense is a maximum of 90 days in jail, a fine of \$1,000, or both.

In addition, all persons convicted of a misdemeanor violation under the Uniform Controlled Substances Act must receive a mandatory minimum punishment of no less than 24 hours in jail and a fine of no less than \$250. On a subsequent conviction the fine must be no less than \$500. The fines are in addition to any other fine or penalty imposed unless the court finds that the imprisonment will pose a substantial risk to the defendant's physical or mental well being or that local jail facilities are in an overcrowded condition. If such conditions exist the courts must sentence the person to a minimum of 40 hours of community restitution.

Liquor Control Board.

The Liquor Control Board (LCB) is charged with the administration of the Washington State Liquor Act. The LCB operates the state liquor stores; oversees contract liquor stores; issues liquor licenses and permits; regulates the manufacture, distribution and sale of beer and wine; enforces liquor and tobacco laws; conducts education; and collects taxes.

Summary of Bill:

It is the intent of the Legislature to regulate and tax cannabis to generate revenue, conserve state resources, and to promote commerce and competition within Washington by eliminating the penalties for the possession and consumption of cannabis.

Marijuana.

Effective July 1, 2013, the sale, possession, and delivery of cannabis is legalized for adults over the age of 21 years old. Marijuana (cannabis) is no longer a controlled substance under the Uniform Controlled Substance Act. It may be sold in liquor stores to adults (similar to alcohol) and regulated by the LCB.

Liquor Control Board.

License Procedures: "Cannabis farm growers" are farmers who are engaged in the agriculture business, licensed with the Department of Agriculture, and who grow cannabis for sale in state liquor stores on behalf of the LCB. Any farmer or manufacturer wishing to produce, manufacture, grow, and transport cannabis or hemp products within the State of Washington must obtain a cannabis grower license through the LCB. The LCB also has the discretion to suspend or cancel any license. In addition, all cannabis products sold or repackaged to be sold that are intended for human consumption must comply with the requirements of the Washington Food Process Act.

Revenue: The annual farmer cannabis license fee is \$5,000 per year. In addition, all state liquor stores and contract liquor stores in Washington are authorized to sell cannabis. A 15 percent tax must be imposed on each gram of cannabis sold. City electors are authorized to petition for an election upon the question of whether the sale of cannabis can be permitted within the boundaries of their cities. To be eligible to receive its share of cannabis taxes and profits, each city and county must devote a minimum of 2 percent of its share of cannabis sales to support approved treatment chemical dependency programs.

Distribution of Revenues Received: All license fees, permit fees, penalties, taxes, and other income received by the LCB from cannabis must be deposited in a Cannabis Revolving Fund with the State Treasurer. Funds shall be distributed every three months to the following entities: 77 percent to the Department of Health; 20 percent to the Division of Alcohol and Substance Abuse under the Department of Social and Health Services for evidence-based substance abuse treatment and prevention programs; 2 percent to the Department of Agriculture for administration purposes; and the remaining 1 percent will be retained by the LCB for administration.

Adoption of Rules for Growing and Selling Cannabis: The LCB must adopt rules by December 31, 2011, that establishes the procedures and criteria necessary to: implement the sale of cannabis in liquor stores; establish agency commissions for selling cannabis; license farmers to grow, sell, and transport cannabis to liquor stores; establish regulations and fees for cannabis farm growers; determine the quantity of cannabis each cannabis farm grower may cultivate, grow, and store annually; determine how cannabis and hemp products are packaged, labeled, and sold in state liquor stores; and to work in conjunction with the Department of Agriculture to prescribe methods for growing, sanitation conditions, quality standards, and packaging standards by which cannabis must sold or handled by licensed cannabis farmers.

Liquor Control Board's Responsibilities: The LCB is responsible for the following items:

- regulating the equipment and management of stores and warehouses where cannabis is sold or kept;
- determining the different varieties of cannabis, the price to be paid by purchasers for each variety, and prescribing an official label to be attached to each package of cannabis sold;
- regulating the time, manner, and delivery methods by which cannabis farm growers can transport and deliver cannabis to state liquor stores;
- providing forms to be used by cannabis farm growers to report the amount of cannabis produced, sold, and distributed to each liquor store and routinely inspecting the books of such licensed cannabis farm growers; and
- maintaining records of all cannabis purchased from farmers for resale in liquor stores.

The LCB is prohibited from advertising cannabis (similar to alcohol) in any form at all. During an employee's term at the agency or two years following termination, the LCB members and employees must not have any direct interest in the purchasing or selling of cannabis for profit unless it is specifically part of their duties.

Cannabis (similar to alcohol) is exempt from the General Administration's statewide policies for purchasing and material control.

Higher Education.

Public institutions of higher education must notify all students applying for college or university-owned student housing of the availability of housing in an area in which all cannabis use is prohibited and to distribute policies regarding such regulations.

Crimes, Enforcement, and Penalties.

It is a class III civil infraction for a person:

- who is a licensed seller or employee of a cannabis shop to consume cannabis or allow any person to open a package containing cannabis or consume cannabis on shop premises; or
- to open a package containing cannabis or consume cannabis in a public place that presents a reasonably foreseeable risk that another person would see and be able to identify the substance in the package.

It is a misdemeanor for a person:

- to buy cannabis from another person other than the LCB or an authorized liquor store;
- to smoke or consume cannabis in a public conveyance; or
- to give false identification to a minor for the purpose of permitting that minor to obtain cannabis.

It is a gross misdemeanor offense for a person:

- to sell or offer for call cannabis without an official government stamp or seal attached to it; or
- to sell or give cannabis to a juvenile under the age of 21 years old or permit a juvenile to consume or smoke cannabis on his or her premises.

It is a class C felony to compensate, threaten, solicit, or in any manner involve a juvenile in a transaction of unlawfully producing, selling, or supplying cannabis.

It is an unranked class C felony offense to "intrastate" transport illegal cannabis that involves 15 or more plants or one pound or more of cannabis. A person is guilty of "interstate" transporting of cannabis if he or she imports cannabis into Washington from another state or country. A violation of interstate transporting is a seriousness level I, class C felony offense which includes a mandatory fine of no less than \$5,000.

Juvenile Penalties: It is a class I civil infraction for a person under the age of 21 years old to possess, consume, or acquire 15 plants or less or less than one pound of cannabis. It is a gross misdemeanor if the violation involves 15 or more plants or more than one pound of cannabis. In addition to the penalties, a juvenile found guilty of a cannabis offense would be required to participate in an alcohol and drug information school.

It is a class I civil infraction for a juvenile to purchase or attempt to purchase cannabis or to represent his or her age as being 21 years old for the purpose of acquiring cannabis.

The criminal and civil penalties do not apply for cannabis given for medicinal purposes or when used for religious purposes.

Peace officers are authorized to investigate and prosecute all violations and laws of Washington relating to cannabis.

Home Grown Cannabis.

An adult (who is not a farmer) may produce his or her own cannabis as long as:

- the cannabis is produced in the home or yard that is not visible from any public place, excluding air space;
- the person possesses no more than one cannabis garden;
- the home grown cannabis garden or the square footage of the total combined plant canopy area does not exceed 50 square feet in size;
- the cannabis or hemp is produced on property owned or lawfully leased by the person producing it;
- any useable cannabis gratuitously transferred from the person who owns, leases, or otherwise exerts control over the real property on which the cannabis or hemp is being produced does not exceed one ounce in weight; and
- the cannabis or hemp plants are not produced in a manner or place that a reasonable person would know to be open to the view of a member of the general public positioned in or moving through a public place.

A violation of the home grown cannabis statute is a gross misdemeanor offense.

Drug Paraphernalia.

It is not illegal for a person to sell or give roach clips, bongs, or other equipment, products, or materials used for cannabis. These items are no longer considered drug paraphernalia.

Appropriation: None.

Fiscal Note: Requested on February 1, 2011.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011; except section 2 through 5 and 7 through 104, relating to the legalization of the sale, possession, and delivery of cannabis, which takes effect July 1, 2013.