Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

ESSB 6032

Brief Description: Concerning the medical use of marijuana.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kohl-Welles, McCaslin, Kline, Regala and Keiser).

Brief Summary of Engrossed Substitute Bill

- Authorizes law enforcement officers to obtain no more than a representative sample of a patient's marijuana when possessed in accordance with medical marijuana laws.
- Directs the Department of Health to adopt rules to define a presumptive quantity of marijuana for medical use.

Hearing Date: 3/26/07

Staff: Chris Blake (786-7392).

Background:

Marijuana is classified as a Schedule I substance under the Controlled Substances Act (CSA). Schedule I substances are characterized as having a high potential for abuse, no currently accepted medical use, and no accepted safe means for using the drug under medical supervision. The manufacture, possession, or distribution of Schedule I substances is a criminal offense.

In 1998, Washington voters approved Initiative 692, the Medical Use of Marijuana Act (Act), which creates an affirmative defense to the violation of state laws relating to marijuana if the individual uses and possesses it for medicinal purposes. Qualifying patients, or their designated primary caregivers, may establish the defense if they only possess the amount of marijuana necessary for their personal use, up to a sixty day supply, and if they present valid documentation to law enforcement officers. "Qualifying patients" are those who have been (1) diagnosed with a terminal or debilitating medical condition, (2) advised by a physician about the risks and benefits of the medical use of marijuana, and (3) that they may benefit from such use.

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.

Washington is one of 11 states that has passed legislation allowing the use of marijuana for medicinal purposes. Under federal law, however, such activities violate the CSA. Absent congressional action, state laws permitting the use of marijuana for medicinal purposes will not protect an individual from legal action by the federal government.

Summary of Bill:

The term "primary caregiver" is replaced with "designated provider." The difference between the two terms is that "designated providers" are not expressly responsible for the housing, health, or care of a patient. Designated providers no longer have to present evidence of their designation as a primary caregiver to establish a defense for violations state marijuana laws.

The term "production," which is a component of the definition of the term "medical use of marijuana," is defined as the manufacturing, planting, cultivating, growing, harvesting, and other similar steps related to producing medical marijuana by a patient or his or her designated provider for exclusive use of a qualifying patient for their treatment.

The Department of Health (Department) is directed to adopt rules by January 1, 2008 to define the presumptive quantity of marijuana that constitutes a sixty-day supply for a qualifying patient. The presumption can be overcome with evidence the necessary medical use required by an individual qualifying patient. By July 1, 2008, the Department must submit recommendations to the Legislature regarding efficient access to an adequate, safe, consistent, and secure source of medical marijuana for qualifying patients.

If a law enforcement officer determines that a person's possession of marijuana is lawful under the Act, the officer may document the amount, but not seize the marijuana except for a representative sample for testing. Law enforcement officers are not to be held civilly liable for not seizing the marijuana.

The requirement that a physician statement declare that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient is reduced to a statement by the physician that the patient may benefit from the medical use of marijuana. A copy of the physician statement has the same force and effect as the signed original.

The term "terminal or debilitating medical condition" is expanded to expressly include:
- Crohn's disease with debilitating symptoms that cannot be relieved by standard treatments or medications;
- Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
- diseases which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity when the symptoms cannot be relieved by standard treatments.

Any determination by the Medical Quality Assurance Commission (Commission) of which other conditions should be considered "terminal or debilitating medical conditions," shall be made in consultation with the Board of Osteopathic Medicine and Surgery. Petitions to the Commission may be made by any individual, not just patients and physicians.

Correctional facilities are added to the list of places where the on-site medical use of marijuana does not need to be accommodated.

Appropriation: None.

Fiscal Note: Not requested.

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