
Judiciary Committee

HB 2454

Title: An act relating to protecting qualifying patients of medical marijuana from prosecution for impaired driving when there is no actual impairment.

Brief Description: Protecting qualifying patients of medical marijuana from prosecution for impaired driving when there is no actual impairment.

Sponsors: Representatives Dickerson, Moeller and Upthegrove.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Exempts qualifying medical marijuana patients from prosecution for impaired driving when there is no evidence of actual impairment.

Hearing Date: 1/18/12

Staff: Omeara Harrington (786-7136).

Background:

Medical Marijuana.

In 1998 Washington voters approved Initiative 692, the Medical Use of Marijuana Act, which created an affirmative defense to the violation of state laws relating to marijuana if the individual uses and possesses it for medicinal purposes. The Legislature subsequently amended the chapter on medical use of marijuana, and qualifying patients and their designated providers (people designated to grow marijuana for medical marijuana patients) are no longer subject to arrest or prosecution, other criminal sanctions, or civil consequences based solely on medical use or possession in accordance with medical marijuana.

In order to qualify for the use of medical marijuana, a patient must have a diagnosed terminal or debilitating medical condition. Qualifying conditions include but are not limited to: nausea, vomiting, and cachexia associated with cancer, HIV-positive status, AIDS, hepatitis C, anorexia, and the treatments associated with those conditions; severe muscle spasms associated with

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multiple sclerosis, epilepsy, and other seizure and spasticity disorders; acute or chronic glaucoma; Crohn's disease; and some forms of intractable pain. The patient must also have a statement signed and dated by a qualifying health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana. People who qualify and their designated caregivers cannot possess more than 15 plants and 24 ounces of useable cannabis (the term referring to products of the cannabis plant that is now statutorily preferred over "marijuana").

Marijuana possession by persons other than qualifying patients and their caregivers is still illegal in Washington. Also, medical marijuana is not legal under federal law. There is no protection for people who are arrested or charged under federal law.

Driving Under the Influence (DUI).

A person is guilty of driving or being in control of a motor vehicle under the influence if the person drives a vehicle or has actual physical control over a motor vehicle when they have a blood alcohol concentration of 0.08 or higher within two hours of driving (a "per se" violation) or if the person drives while they are under the influence of or affected by alcohol and/or any drug ("actual impairment"). Because there is no per se limit pertaining to driving under the influence of drugs, all drug-related DUIs will fall under the "actual impairment" category.

Washington has an implied consent law meaning that, by operating a motor vehicle, the driver is deemed to have consented to breath and blood tests for the purpose of detecting alcohol or drugs. It is no defense to a charge of driving under the influence of a drug that the person is legally entitled to use a drug.

Summary of Bill:

A qualifying medical marijuana patient cannot be found guilty of DUI based solely on the presence, or presence in a certain concentration, of marijuana in the qualifying patient-driver's system. However, if there is evidence that the qualifying patient-driver is actually impaired, they are subject to the usual driving under the influence prohibitions and sanctions.

Appropriation: None.

Fiscal Note: Not requested.

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