

SENATE BILL REPORT

SB 5955

As of June 6, 2011

Title: An act relating to medical use of cannabis.

Brief Description: Concerning the medical use of cannabis.

Sponsors: Senators Kohl-Welles, Delvin, Keiser, Pflug, Regala, Brown, Prentice, Murray, Tom and Kline.

Brief History:

Committee Activity: Ways & Means: 5/11/11; 5/20/11 [DPF].

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jenny Greenlee (786-7711)

Background: In 1998 voters approved I-692 which permitted the use of marijuana for medical purposes by qualifying patients. The Legislature subsequently amended the chapter on medical use of marijuana in 2007 and in 2010. In order to qualify for the use of medical marijuana, patients must have a terminal or debilitating medical condition (cancer, HIV, multiple sclerosis, intractable pain, glaucoma, Crohn's disease, hepatitis C, nausea/seizure diseases, or a disease approved by the Medical Quality Assurance Commission) and the diagnosis of this condition must have been made by a health care professional. Patients are not provided arrest protection. Instead, patients are permitted to assert an affirmative defense at trial with proof of compliance with the medical marijuana law.

During the 2011 regular legislative session, the Legislature passed E2SSB 5073 which permitted collective gardens whereby qualified patients or their designated providers could pool their resources and grow cannabis for their medical use; provided for arrest protection for patients who voluntarily registered with a Department of Health (DOH) registry; and provided for licensing of producers, processors, and dispensaries. The Governor vetoed the sections relating to the patient registry and the licensing of producers, processors, and dispensaries. In her veto message she stated that these "sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution." The Governor further stated that she is open "to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing, and dispensing cannabis for

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medical use." She also stated that she is "open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them."

Summary of Bill: Local governments may adopt ordinances stating that nonprofit patient cooperatives (NPCs) are not prohibited by local ordinance within their jurisdictions. NPCs are nonprofit corporations that distribute cannabis for the medical use of their members who must be qualified patients or their designated providers. They may only sell cannabis and charge membership fees at a price determined to defray operating costs; however, fees may be adjusted based on individual consumption rates and level of participation. NPCs may obtain cannabis from collective gardens or may grow up to 99 plants and keep up to 144 ounces of useable cannabis on the premises. Plant and useable cannabis limits may be further limited by local government ordinance. NPCs must keep patient records, including a copy of the patient's valid documentation or proof of registration and proof of identity.

Collective gardens may only produce cannabis for their members or for NPCs. Only one collective garden is permitted per parcel and contributions by members may not be solely monetary. Qualifying patients and designated providers may only be members of one collective garden and one nonprofit patient cooperative.

A Medical Cannabis Registry (Registry) is established to be administered by the DOH. The Registry is to be a secure and confidential registration system for qualifying patients, designated providers, collective gardens and NPCs. Qualifying patients and their designated providers who voluntarily register are provided with arrest and prosecution protection. Collective gardens and NPCs must register their locations with the Registry.

Local governments are not preempted from imposing zoning requirements, licensing requirements, permitting requirements, health and safety requirements, taxes or other conditions upon any entity producing, processing, or dispensing cannabis within their jurisdictions. Local governments may adopt requirements relating to NPCs including security requirements; inspection standards; limits on size of membership; and limits on number of plants and amounts of useable cannabis.

Sales of cannabis for medical use are not subject to sales or use tax.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: We have unregulated grow operations in existence in our cities now. We have to address this legislatively to end this chaos in our communities. This approach works for local governments and will end confusion on medical cannabis in our communities.

CON: This could lead to an increase in youth access to cannabis and also could lead to a decrease in youth perception of harm in such use. We want a regulation on advertising, to treat cannabis like a prescription and for pharmacies to dispense it, and to require providers and growers to be 21 years old or older. This would allow cities and counties to practice medicine without a license and without malpractice insurance. The Legislature should reschedule cannabis to schedule III and get an injunction against enforcement by the federal government. The opt-in requirement will not help patients but will permit cities to ignore state law. Law enforcement ignores the state law. The public disclosure provisions should be modified to permit disclosure of owners and operators of cooperatives. The advertising section is vague and decisions on whether to carry advertising should be left to local publishers. We oppose a registry; patients should not be required to sign up on the registry to receive arrest protection. We oppose dispensaries and prefer a medical model which involves rescheduling cannabis to schedule II; until that occurs, we support arrest protection if people register, we assert that current dispensaries are illegal, and we support improved access to patients through collective gardens. This could result in a burden to local government if funding isn't provided for enforcement.

OTHER: Because the registry will not go into effect until 2013, the bill should carry an emergency clause and temporarily legalize cannabis until 2013. The sales tax exemption should be removed and it should be added that this is the lowest priority for enforcement by law enforcement. Valid documentation should be the requirement for arrest protection, not the registry.

Persons Testifying: PRO: Randall Lewis, City of Tacoma.

CON: Jim Cooper, Washington Association for Substance Abuse and Violence Prevention; John Worthington, American Alliance for Medical Cannabis; Steve Sarich, Valtino Hicks, CannaCare; Roland Thompson, Allied Daily Newspapers; Bill Will, Washington Newspaper Publishers Association; Ric Smith, Rachel Kurtz, Cannabis Defense Coalition; Don Pierce, Washington Association of Sheriff and Police Chiefs; Sheriff John Snaza, Thurston County.

OTHER: Robert Hill.

Signed in, Unable to Testify & Submitted Written Testimony: PRO: Shankar Narayan, American Civil Liberties Union.

OTHER: Candice Bock, Association of Washington Cities.