

# HOUSE BILL REPORT

## EHB 1808

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### As Passed Legislature

**Title:** An act relating to the proper disposal of legal amounts of marijuana inadvertently left at retail stores holding a pharmacy license.

**Brief Description:** Addressing the proper disposal of legal amounts of marijuana inadvertently left at retail stores holding a pharmacy license.

**Sponsors:** Representatives Nealey and Hurst.

#### **Brief History:**

##### **Committee Activity:**

Government Accountability & Oversight: 2/12/13 [DP].

##### **Floor Activity:**

Passed House: 3/8/13, 97-0.

Senate Amended.

Passed Senate: 4/15/13, 48-0.

House Concurred.

Passed House: 4/18/13, 94-0.

Passed Legislature.

#### **Brief Summary of Engrossed Bill**

- Creates requirements for law enforcement notification and disposal in the event a manager or employee of a retail store holding a pharmacy license finds one ounce or less of marijuana inadvertently left within the premises of the business.

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### HOUSE COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT

**Majority Report:** Do pass. Signed by 9 members: Representatives Hurst, Chair; Wylie, Vice Chair; Condotta, Ranking Minority Member; Holy, Assistant Ranking Minority Member; Blake, Kirby, Moscoso, Shea and Smith.

**Staff:** Thamas Osborn (786-7129).

#### **Background:**

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*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.*

The Uniform Controlled Substances Act (Act) provides the regulatory framework regarding the manufacture, distribution, and dispensing of specified controlled substances in this state. The State Board of Pharmacy is authorized to enforce the Act and, pursuant to this authority, may add, delete, or recategorize the controlled substances falling within its scope. The Act provides a legal definition of "marijuana" and lists it as a "Schedule I" controlled substance.

Initiative 502 (I-502) was a ballot measure approved by Washington voters in November of 2012. The passage of the initiative legalized the recreational use of marijuana and created a comprehensive regulatory scheme that includes provisions regarding the following:

- legalizing the possession of up to one ounce of marijuana and related products for personal use;
- licensing and regulating marijuana production and distribution;
- implementation of excise taxes on marijuana production, distribution, and sales;
- creation of a dedicated marijuana fund for the collection and distribution of marijuana-related tax revenues;
- deletion of statutory provisions containing criminal and/or civil penalties for activities authorized by I-502; and
- revision of drunk driving laws to include specific provisions pertaining to driving under the influence of marijuana.

#### **Summary of Engrossed Bill:**

If a manager or employee of a retail store holding a pharmacy license finds one ounce or less of marijuana inadvertently left within the premises of the business, he or she must promptly notify either the local law enforcement agency or the Washington State Patrol. Following such law enforcement notification, the store manager or employee must properly dispose of the marijuana. "Properly dispose" means ensuring that the marijuana is destroyed or rendered incapable of use by another person.

**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.

#### **Staff Summary of Public Testimony:**

(In support) There is a large retailer with a pharmacy on the premises that has an ongoing problem with employees finding small quantities of discarded marijuana in the store. The retailer is concerned about how to best respond to finding such marijuana insofar as it remains a Schedule I controlled substance under federal law and, therefore, having marijuana on the premises could cause licensure problems. This bill responds to this issue by providing statutory procedures for the reporting and discarding of the found marijuana. By following such procedures, the pharmacy could avoid facing any licensing problems provided it follows the statutory guidelines provided by the bill. Retailers need guidance on this issue and the bill provides such guidance. One potential issue is that law enforcement would most likely be uninterested in responding, since possession of an ounce or less of marijuana is now legal

under state law. So, what was once illegal contraband is no longer, thus law enforcement is unlikely to respond to the reporting required under the bill. The bill addresses a legal ambiguity and would certainly help to protect a pharmacy from any legal liability with respect to licensing matters.

(Opposed) None.

**Persons Testifying:** Holly Chisa, Northwest Grocery Association; Mark Johnson, Washington Retail Association; Amber Carter, Association of Washington Business; and Don Pierce, Association of Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** None.