

HOUSE BILL REPORT

ESSB 6542

As of Second Reading

Title: An act relating to establishing the state cannabis industry coordinating committee.

Brief Description: Establishing the state cannabis industry coordinating committee.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Kohl-Welles).

Brief History:

Committee Activity:

None.

Brief Summary of Engrossed Substitute Bill

- Establishes a Cannabis Industry Coordinating Committee (Committee) to review legal, medical, and economic issues surrounding the legal marijuana market in Washington.
- Requires the Committee to develop a comprehensive plan to coordinate the marijuana industry, recommend a federally compliant financial system, create an economic monitoring system, report on changes to federal law, and recommend options for distribution of tax revenue and other related issues.

Staff: David Rubenstein (786-7153).

Background:

Medical Marijuana.

In 1998 Washington voters approved Initiative 692 to allow qualifying patients to use limited amounts of marijuana for medicinal purposes. To become a qualifying patient, a person must be: (1) diagnosed with a terminal or debilitating condition; (2) advised by a health care professional about the risks and benefits of the medical use of marijuana; and (3) advised by a health care professional that he or she may benefit from the medical use of marijuana. A qualifying patient may authorize a designated provider to obtain medical marijuana and perform other responsibilities on behalf of the qualifying patient.

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.

Qualifying patients and designated providers are protected from arrest or prosecution under state laws relating to marijuana if the individual uses and possesses it for medicinal purposes, does not exceed specified amounts, and meets other criteria. Qualifying patients may grow marijuana themselves or have a designated provider grow on their behalf. They may also obtain marijuana through collective gardens which consist of up to 10 qualifying patients who share in the responsibilities of producing and processing marijuana for medical use.

Initiative Measure No. 502.

Initiative Measure No. 502 (I-502 or initiative) was a ballot measure approved by Washington voters in November of 2012 that legalizes the production, processing, possession and personal use of marijuana on a limited scale, creates a framework for a regulatory scheme to be further developed by the Liquor Control Board (LCB) through its rule-making authority, and revises provisions in criminal statute to accommodate such legalization in accordance with the requirements of the initiative.

Under I-502, persons over 21 years old may purchase up to 1 ounce of useable marijuana, 16 ounces of solid marijuana-infused product, and 72 ounces of liquid marijuana-infused product at a licensed retailer. The initiative also established a marijuana excise tax at each level of production. These excise taxes are in addition to the state's business and occupation tax and retail sales tax.

Federal Response to State Marijuana Regulations.

Washington is one of 20 states that have passed legislation allowing the use of marijuana for medicinal purposes and one of two states that allow its recreational use. These activities, however, remain illegal under federal law. Absent congressional action, state laws permitting the use of marijuana will not protect a person from legal action by the federal government.

In recent years, the United States Department of Justice (DOJ) has issued several policy statements regarding state regulation of marijuana. The latest of these were issued in August 2013 and February 2014. In the August 2013 memorandum, federal prosecutors were instructed to focus investigative and prosecutorial resources related to marijuana on specific enforcement priorities to prevent:

- the distribution of marijuana to minors;
- marijuana sales revenue from being directed to criminal enterprises;
- marijuana from being diverted from states where it is legal to states in which it is illegal;
- state-authorized marijuana activity from being used as a cover for trafficking other illegal drugs or other illegal activity;
- violence and the use of firearms in the production and distribution of marijuana;
- drugged driving and other marijuana-related public health consequences;
- the growth of marijuana on public lands; and
- marijuana possession or use on federal property.

The memorandum asserts that when these activities are conducted in compliance with strong and effective regulatory and enforcement systems, there is a reduced threat to federal priorities. In those instances, the memorandum provides that state and local law enforcement should be the primary means of regulation. The memorandum, however, continues to affirm

its authority to challenge the regulatory system and to bring individual enforcement actions in cases in which state enforcement efforts are inadequate.

The February 2014 memorandum discussed the laws under which banks and businesses engaged in the legal marijuana market might be charged with federal financial crimes, such as money laundering. The memorandum directed federal prosecutors to apply the eight enforcement priorities in the August 2013 memorandum to the determination on whether to prosecute financial crimes associated with marijuana businesses. The February 2014 memorandum was paired with a separate memorandum issued by the U.S. Department of the Treasury Financial Crimes Enforcement Network (FinCEN) setting forth specific guidelines through which banks and other financial institutions should incorporate the federal enforcement priorities.

Summary of Bill:

A State Cannabis Industry Coordinating Committee (SCICC or the Committee) is established. Membership in the Committee comprises the following:

- two members of the Washington State Senate, one from each caucus;
- two members of the Washington State House of Representatives, one from each caucus;
- one representative of the departments of Health, Commerce, Revenue, Agriculture, and Financial Institutions, the State Treasurer's Office, and the Liquor Control Board, to be appointed by the Governor;
- seven members representing medical marijuana patients, providers, producers, processors, and retailers, to be appointed by the Governor;
- two representatives of Association of Washington Cities and the Association of Counties; and
- nine industry stakeholders appointed by the Governor.

The Committee is required to appoint co-chairs (one of whom must be a legislator) and may form subcommittees.

The SCICC must form a subcommittee on medical marijuana to review and make recommendations on the retail sale of medical marijuana, funding and alternatives to the medical marijuana registry, post-traumatic stress disorder, taxation of medical marijuana, and other relevant matters.

All meetings are subject to the Open Public Meetings Act, and staff support is to be provided by Senate Committee Services, the Office of Program Research, and represented agencies.

Preliminary recommendations are due to the Legislature by December 15, 2014, and a final report by January 10, 2016. The legislation expires January 31, 2016.

Appropriation: None.

Fiscal Note: Available.

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) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.