

# SENATE BILL REPORT

## SB 5528

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As of February 5, 2013

**Title:** An act relating to the medical use of cannabis but only relating to making technical corrections necessary to address the partial veto of Engrossed Second Substitute Senate Bill No. 5073 by restoring definitions, removing references to the vetoed provisions, providing qualifying patients and their designated providers with arrest protection, and requesting the liquor control board to study the feasibility of issuing a qualifying patient identification card

**Brief Description:** Concerning the medical use of cannabis.

**Sponsors:** Senators Kohl-Welles, Delvin, Litzow, Kline, Darneille, Keiser and Murray.

**Brief History:**

**Committee Activity:** Health Care: 2/04/13.

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### SENATE COMMITTEE ON HEALTH CARE

**Staff:** Kathleen Buchli (786-7488)

**Background:** In 1998 voters approved Initiative 692 which permitted the use of cannabis for medical purposes by qualifying patients. The Legislature subsequently amended the chapter on medical use of cannabis in 2007, 2010, and 2011. In order to qualify for the use of medical cannabis, patients must have a terminal or debilitating medical condition – cancer, HIV, multiple sclerosis, intractable pain, glaucoma, Crohn’s disease, hepatitis C, nausea or 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 may grow medical cannabis for themselves or designate a provider to grow it on their behalf.

Designated providers may only provide medical cannabis to one patient at a time. Qualified patients and their designated providers may possess no more than 15 cannabis plants and 24 ounces of useable cannabis product. Up to ten qualified patients may pool resources and grow cannabis for their personal medical use by creating and participating in collective gardens.

The 2011 medical cannabis legislation provided for arrest protection for patients who voluntarily registered with a Department of Health based registry. It also provided for licensing of medical cannabis producers, processors, and dispensaries. The Governor vetoed

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these provisions but kept other provisions of the 2011 legislation intact, such as the provision permitting collective gardens.

**Summary of Bill:** Patients who are in compliance with the law on medical cannabis and who present their valid documentation to an investigating peace officer are provided with arrest protection. Those patients who do not present valid documentation to a peace officer during the investigation but can prove that they were a validly authorized patient at the time of the investigation may assert an affirmative defense at trial. There is no requirement that patients register with the state or any other entity to receive arrest protection.

References to the vetoed provisions relating to licensed dispensers, producers, and processors, and the registry, are removed.

The Liquor Control Board (LCB) must study and provide recommendations on the feasibility of LCB issuing a medical cannabis authorization card that would be used as valid documentation for qualifying patients and their designated providers. The study should include protections for the card to ensure that it cannot be duplicated or altered, and ways to distinguish medical cannabis patients from those legally using cannabis in the state.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2013.

**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: This bill cleans up the references that remain in statute after the governor's veto of E2SSB 5073. It also provides arrest protection for medical cannabis patients without implementing a registry. A registry must be self-supporting and there are not enough people who would sign up on it to be self-supporting. This bill clarifies the arrest protection provisions and starts a process of regulation for those would provide medical cannabis. We need to clarify the incongruities in current law that were created by the veto of E2SSB 5073.

CON: We appreciate the clarification but are concerned about the LCB study; this is a wrong move and dismisses the concerns of the medical cannabis community. Rather than have the LCB conduct the study, a social organization should do so. We do not want local control over medical cannabis. Providing medical cannabis through storefronts is better and safer for patients. We want to change the current requirement from tamper-resistant paper to a tamper-resistant material to allow cards instead of paper. It seems like the state would be creating a registry if the state is collecting information and issuing identification cards. Not providing patients with arrest protection clogs the courts and costs the state money. We ask that medical cannabis patients be provided arrest protection for being compliant with the laws on the medical use of cannabis. Arrest protection should not be offered unless there is a registry upon which law enforcement can rely. We should wait for the LCB to adopt rules implementing Initiative Measure No. 502 and then address medical cannabis to make sure that both systems are not contradicting each other. We should not create a patient registry

that could fall into the hands of federal agents or criminals; this is dangerous for patients. We can save the state millions of dollars by looking at cannabis as if it was something that could help people and not hurt them. We need to address access issues. Initiative Measure No. 502 legalized the recreational use of cannabis and creates the means for all users to obtain their cannabis at licensed stores. There will be an avoidance of tax by the medical cannabis locations and this will undercut the state stores. There will be regulatory confusion. We are concerned about increased use by youth.

OTHER: We want to give the medical cannabis industry a normal existence. We want to streamline the medical industry and we want to be regulated to make it easier for patients to get access to medical cannabis. Access points provide social support and research to patients; they are communities of wellness. The access points address a whole variety of illnesses and keep patients safe. We do not want sick people to be forced to go to public facilities to get their medical cannabis and expose themselves to a greater risk of disease by doing so. We need to keep the separation of medical cannabis and recreational use. The LCB should not conduct the study because it makes it seem as if these patients will be going to LCB-licensed stores. The prohibition on advertising cannabis should be removed because it interferes with access of patients. If you make patients buy from an LCB-licensed store, you will create a black market. We support the majority of the bill, we do not need the LCB to study identification cards; this will lead to eliminating medical cannabis.

**Persons Testifying:** PRO: Senator Kohl-Welles, prime sponsor; Lonnie Johns-Brown, Cannabis Coalition for Standards and Ethics; Jeff Gilmore, citizen.

CON: John Worthington, Steve Sarich, Cannacare; Brian Stone, Cannabis Defense Coalition; Catharine Jeter, Peggy Button, John Novak, citizens; Don Pierce, WA Assn. of Sheriffs and Police Chiefs; Seth Dawson, WA Assn. for Substance Abuse and Violence Prevention.

OTHER: Ezra Eickmeyer, WA Cannabis Assn.; Michael Lick, Medical Cannabis Alliance; James Lathrop, Advanced Holistic Health; Jay Berneburg, Law Office of Jay Berneburg, Greener Business Bureau; Arthur West, citizen.