

# SENATE BILL REPORT

## SB 5887

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As of April 15, 2013

**Title:** An act relating to the medical use of cannabis.

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

**Sponsors:** Senators Rivers, Tom and Litzow.

**Brief History:**

**Committee Activity:** Ways & Means: 4/16/13.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dean Carlson (786-7305)

**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 be made by a health care professional.

The health care professional who determines that a person would benefit from the medical use of cannabis must provide that patient with valid documentation, written on tamper-resistant paper. This is not to be confused with a prescription; this is an authorization, not a prescription that would be filled by a pharmacy and subject to federal Drug Enforcement Administration controls.

Current patients who hold valid documentation may assert an affirmative defense at trial that they are authorized medical cannabis patients; these patients are not currently provided arrest protection.

Patients may grow medical cannabis for themselves or designate a provider to grow 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

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resources and grow cannabis for their personal medical use by creating and participating in collective gardens.

No state agency is provided with regulatory oversight of medical cannabis. The Department of Health (DOH) does provide guidance to its licensees who recommend the medical use of cannabis, and is the disciplinary authority for its providers who authorize the medical use of cannabis in violation of the statutory requirements. DOH does not perform investigations until a complaint is made that someone is unlawfully authorizing the medical use of cannabis.

The Governor vetoed the following provisions of the 2011 medical cannabis legislation, providing for arrest protection for patients who voluntarily register with DOH; and the licensing of producers, processors, and dispensaries.

Sales of medical marijuana are subject to the business and occupation tax and the retail sales tax.

**Summary of Bill:** Regulation of medical cannabis is provided through the Liquor Control Board. The Liquor Control Board must license medical cannabis dispensaries, medical cannabis processors, and medical cannabis producers.

Dispensaries, processors, and producers all must be licensed by the Liquor Control Board. Their owners and employees are provided arrest protection. Dispensaries may only sell cannabis received from licensed producers and licensed processors, and may only sell to qualifying patients, designated providers, or licensed producers. Producers are not permitted to sell or deliver cannabis to patients unless they are also licensed as dispensaries. Producers are permitted to transport cannabis to processors and dispensaries. Processors may not sell directly to patients unless they are licensed as dispensaries.

Taxation of cannabis is established as such: there is a medical cannabis excise tax equal to 20 percent of the selling price on each wholesale sale of dried medical cannabis to a processor or dispensary; and a medical cannabis excise tax equal to 10 percent on the retail sales of a person who is licensed as both a producer or a processor and a dispensary. Medical cannabis is exempt from sales and use taxes.

The bill restores the definitions that were vetoed in 2011, with some additions such as definitions for medical cannabis producers, processors, and dispensaries. It adds a definition of cannabis products, which ties products that contain cannabis extracts with a measureable THC concentration greater than 1 percent. Initiative 502, which permits the use of recreational cannabis, provides this as 0.3 percent.

Persons under the age of 18 may not be qualifying patients unless they have parental consent. Further, a health care professional may not recommend medical use of cannabis to someone under 18 without consulting with the patient during two separate office visits.

Patients are provided arrest protection without requiring registry with DOH. The names of producers and processors are not subject to public disclosure.

Rather than permit a collective garden to provide cannabis for ten qualifying patients at any time, the requirement is changed to not permitting them to provide cannabis for more than ten patients per day.

The Liquor Control Board must adopt rules relating to the operation, licensing, enforcement, and regulation of medical cannabis producers, processors, and dispensaries. Items that must be addressed in rule include the following:

- security requirements;
- age of licensees to be at least 21 years of age or older;
- denial of licenses due to previous convictions related to cannabis – they are prohibited from denying licenses solely on this basis;
- keeping prices low for medical cannabis patients;
- recordkeeping requirements;
- inspections of dispensaries;
- fines for noncompliance; and
- storage and labeling requirements.

The Liquor Control Board may: inspect cannabis produced and processed by licensees; investigate complaints of fraud in any licensee's operation; audit licensee's records; and enforce medical cannabis laws.

**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.