

SENATE BILL REPORT

HB 2064

As Reported by Senate Committee On:
Law & Justice, March 22, 2017

Title: An act relating to removing industrial hemp from the scope of the uniform controlled substances act.

Brief Description: Removing industrial hemp from the scope of the uniform controlled substances act.

Sponsors: Representatives Shea, Blake, Taylor, Condotta, Buys, Kloba and Ormsby.

Brief History: Passed House: 2/28/17, 98-0.

Committee Activity: Law & Justice: 3/09/17, 3/22/17 [DP].

Brief Summary of Bill

- Excludes industrial hemp from the definitions of controlled substance and marijuana in the Washington Uniform Controlled Substances Act.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

Staff: Tim Ford (786-7423)

Background: Controlled Substances. A controlled substance is defined as a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or state board of pharmacy rules. The schedule in which a substance is placed depends on its potential for abuse, whether there is a currently accepted medical use in treatment, and the safety of the substance and risk for dependence, as determined by the Pharmacy Quality Assurance Commission.

It is unlawful for any person to possess a controlled substance unless the substance was obtained pursuant to a valid prescription or order of a medical practitioner while acting in the course of his or her professional practice.

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.

Marijuana is categorized as a Schedule I substance under the Washington Uniform Controlled Substances Act (state CSA) and federal CSA. Marijuana is defined under the state CSA to mean all parts of the plant Cannabis with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks—except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

Criminal Penalties for Drug Offenses. Drug offenses are sentenced according to a drug sentencing grid that takes into account the seriousness level of the offense, as defined in statute, and the offender score of the person being sentenced, which is based on the offender's individual criminal history.

Unlawful possession of a controlled substance is a Class C felony, ranked as a seriousness Level I offense. Depending on the offender score, the term of confinement may range from 0 to 24 months.

Industrial Hemp. Hemp is not defined in the state CSA. The Legislature enacted the Industrial Hemp Research Program (IHRP) in state law under the WA State Department of Agriculture (WSDA). Congress authorized states to adopt this type of industrial hemp research program in the Agricultural Act of 2014. The IHRP is a pilot program to research the cultivation and commercial viability of an industrial hemp industry in our state. Industrial hemp is defined in IHRP as all parts and varieties of the genera Cannabis, cultivated or possessed by a grower, whether growing or not, that contain a THC concentration of 0.3 percent or less by dry weight.

Industrial hemp may be grown, produced, possessed, processed, and exchanged in the state solely as part of the IHRP. The WSDA is required to establish rules to implement the program and to license individual growers who may grow industrial hemp and transfer industrial hemp and industrial hemp products within the parameters of the research program. Processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited.

Industrial hemp does not include plants of the genera Cannabis that meet the definition of marijuana as defined in the state CSA.

Summary of Bill: Industrial hemp is excluded from the definitions of controlled substance and marijuana in the Washington Uniform Controlled Substances Act.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The purpose of the bill is to harmonize state law with federal law and federal case law. HR 525 is a federal bill to un-schedule Hemp and it should pass. Federal case law, in a ninth circuit court opinion, the court ruled that Hemp is not under the federal controlled substances law. In our state, there is some question about whether Hemp is a controlled substance under state law, so this bill is to harmonize and clarify that Hemp is not a controlled substance. Recently, the DEA granted Washington State an import license for Hemp seeds. This will be a boost to the economy and leave Washington as a cleaner state. Hemp was used for paper and other products for a long time. There is no other crop that has ever been regulated to this extent. It is difficult to attract farmers. Farmers need protection and it should be decriminalized.

CON: Private processors have worked with WSDA to ensure compliance with federal law and to be protected from federal civil forfeiture. Over \$580 million of Hemp is imported into the United States. This bill threatens the pilot program and processors. Unlicensed growers will not have the seed quality required by federal law and cross pollination may threaten licensed growers. This bill is not in step with the pilot program.

OTHER: Federal law created a narrow window for growing Hemp. It must not have a THC level beyond .3 percent and there are other controls. There is a lot of potential for Hemp as an industrial product but we have to maintain compliance with federal law. The pilot program run by the WSDA ensures the strongest possible seed certification. The seed certification ensures that only Hemp is grown and not marijuana. If Hemp is no longer a controlled substance then how will the seed certification be protected when anyone can grow Hemp? The WSDA has no enforcement tool other than licensing. WSDA would need authority to issue civil penalties that it currently does not possess.

Persons Testifying: PRO: Representative Shea, Prime Sponsor; Steve Sarich, WA Hemp Commission; Megan Holt, citizen.

CON: Jedidiah Haney, Evergreen Industries, SPC.

OTHER: Bailey Hirschberg, WA Normal PAC; Steve Fuller, WA State Dept. of Agriculture.

Persons Signed In To Testify But Not Testifying: Yanahg Rios-Cook, Our Revolution Thurston County.