

SENATE BILL REPORT

ESSB 5928

As Passed Senate, February 13, 2018

Title: An act relating to making financial services available to marijuana producers, processors, retailers, qualifying patients, health care professionals, and designated providers as authorized under chapters 69.50 and 69.51A RCW.

Brief Description: Making financial services available to marijuana producers, processors, retailers, qualifying patients, health care professionals, and designated providers as authorized under chapters 69.50 and 69.51A RCW.

Sponsors: Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Rivers, Palumbo and Hasegawa).

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/11/18, 1/18/18 [DPS, DNP].

Floor Activity:

Passed Senate: 2/13/18, 38-9.

Brief Summary of Engrossed First Substitute Bill

- Specifies that financial institutions that provide financial services to the regulated marijuana industry do not commit a crime for providing those financial services.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5928 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Baumgartner, Fortunato, Hobbs and Kuderer.

Minority Report: Do not pass.

Signed by Senator Angel, Ranking Member.

Staff: Jeff Olsen (786-7428)

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.

Background: Marijuana is classified as a Schedule I substance under the federal Controlled Substances Act. The manufacture, possession, or distribution of Schedule I substances is a criminal offense. On February 14, 2014, a Department of Justice Memo was issued stating the money laundering statutes, the unlicensed money remitter statute, and the Bank Secrecy Act remained in effect regarding marijuana and the financial sector. It also reminded financial institutions that they could face potential criminal liability if they engage in business with marijuana-related businesses.

On January 4, 2018, U.S. Attorney General Jefferson B. Sessions issued a short memorandum rescinding previously issued guidance from the U.S. Department of Justice as to marijuana-related businesses and the provision of financial services to marijuana-related businesses. Sessions' January 4, 2018 memo instructs federal prosecutors to follow pre-existing principles of prosecutorial discretion established in 1980 and as reflected in the U.S. Attorney's Manual, consistent with the U.S. Department of Justice's finite resources.

In 1998, Washington voters approved Initiative 692 which permitted the use of marijuana for medical purposes by qualifying patients. Initiative Measure No. 502 (I-502) was a ballot measure approved by Washington voters in November 2012 that legalized the production, processing, possession, and personal use of marijuana. I-502 also revised provisions in criminal statute to accommodate such legalization in accordance with the requirements of the initiative.

Washington is one of at least 29 states, plus Washington D.C., that have passed legislation allowing the use of marijuana for medicinal purposes and one of eight states, plus Washington D.C., that allow its recreational use. These activities, however, remain illegal under federal law.

Summary of Engrossed First Substitute Bill: Financial institutions that receive deposits, extend credit, conduct fund transfers, or provide other financial services for a marijuana producer, processor, retailer, qualifying patient, health care professional, or designated provider authorized under Washington law does not commit a crime for providing those financial services.

Certified public accountants do not commit a crime solely for providing professional accounting services to licensed marijuana businesses.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Washington needs to shut down the black market for marijuana and get cash out of the marijuana market. Having financial services that are traceable would improve the regulation of the industry. Previously, there

was federal guidance for financial institutions interacting with the regulated marijuana industry. However, recent guidance by the federal government has caused uncertainty regarding providing financial services to the marijuana industry.

CON: The provisions precluding financial transactions related to marijuana from being introduced as evidence in a Washington court should be removed from the bill.

Persons Testifying: PRO: Russ Rosendal, Salal Credit Union; Paula Sardinas, NWCUA; Russ Rosendal, Salal Credit Union; Krystelle Purkey, Consultant, NWCUA.

CON: John Kingsbury, Patients United; James McMahan, Washington Association of Sheriffs & Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.