
Commerce & Gaming Committee

HB 1131

Brief Description: Allowing residential marijuana agriculture.

Sponsors: Representatives Blake, MacEwen, Dolan, Walsh, Kloba, Ryu, Appleton, Goodman, Stonier and Young.

Brief Summary of Bill

- Authorizes adult recreational home cultivation of marijuana, subject to restrictions.
- Provides that adults may produce and possess up to six marijuana plants at their housing unit.
- Establishes production and possession limits for certain marijuana products derived from the plants.
- Establishes a 15-plant limit per housing unit, no matter how many people live there.
- Requires marking of marijuana plants and marijuana produced from those plants with the person's name, date of birth, address, planting date, and harvest date.
- Retains the right of property owners to prohibit cultivation of marijuana by a renter or lessee under a rental agreement.
- Modifies the seizure and forfeiture statute as it applies to marijuana.

Hearing Date: 1/21/19

Staff: Peter Clodfelter (786-7127).

Background:

It is legal for an adult age 21 or over to possess any combination of the following types and amounts of marijuana products:

- 1 ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form;
- 72 ounces of marijuana-infused product in liquid form; and

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- 7 grams of marijuana concentrate.

State law does not authorize adults age 21 or over to possess any marijuana plants, and doing so is punishable as a class C felony under the Controlled Substances Act. However, if a person is a qualifying patient or designated provider, the person may possess and grow a limited amount of marijuana plants and possess a limited amount of marijuana produced from those plants in accordance with the Washington State Medical Use of Cannabis Act. Such a qualifying patient or designated provider may extract or separate the resin from marijuana using noncombustible methods when done in compliance with the Liquor Control Board's rules governing this activity.

Generally, illegally manufacturing a controlled substance can result in seizure and forfeiture of the real property on which the manufacturing occurs. However, the possession of marijuana may not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property.

For purposes of marijuana statutes, the word "plant" is defined as a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system are considered part of the same single plant.

Additionally, a "housing unit" is a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

Summary of Bill:

Adults age 21 and over may legally produce or possess up to six marijuana plants on the premises of their housing unit, subject to restrictions. Generally, a person may possess useable marijuana in an amount not to exceed what is produced by the person's plants in addition to useable marijuana obtained at retail outlets.

However, a person may not possess marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrates, unless the person possesses fewer than 16 ounces of useable marijuana, irrespective of source. Additionally, a person may not produce or possess, irrespective of source, a total of more than:

- 16 ounces of marijuana-infused products in solid form;
- 72 ounces of marijuana-infused products in liquid form; and
- 7 grams of marijuana concentrates.

No more than 15 plants may be grown at any one time on the premises of a single housing unit. All plants must be clearly marked with the name, residential address, and date of birth of the person growing the plants, and the date on which the plants were planted.

All marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrate must be clearly marked with the name, date of birth, and residential address of the person who grew the plants from which the marijuana is derived, the date the plants were planted, and the date the plants were harvested.

All containers containing more than one ounce of useable marijuana must be clearly marked with the name, date of birth, residential address of the person who grew the plants from which the useable marijuana is derived, the date the plants were planted, and the date the plants were harvested. Any containers containing one ounce or less of useable marijuana are not required to be labeled.

Any extraction or separation of resin from marijuana and any production or processing of any form of marijuana concentrates or marijuana-infused products must be performed in accordance with rules governing how qualifying patients and designated providers may currently engage in these activities.

It is provided that the new authorization does not restrict a property owner from prohibiting the cultivation of plants by a renter or lessee upon or within the property under the terms of a rental agreement, lease, or other contract.

The production, possession, delivery, and acquisition of plants or marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrate, and useable marijuana produced under the new authorization may not form the basis of a seizure or forfeiture action.

A person age 21 or older who possesses marijuana under the new authorization is considered an ultimate user who may not sell marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products produced from the person's plants, and is not required to obtain a registration related to manufacturing, distributing, or dispensing controlled substances, and is not required to hold a marijuana license issued by the LCB.

The acquisition, delivery, production, or possession of marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products in accordance with the new authorization may not result in forfeiture of real property under the forfeiture statutes that otherwise apply.

A definition of "commercial activity" is added to the Controlled Substances Act. It means an activity related to or connected with buying, selling, or bartering.

References to the Pharmacy Quality Assurance Commission are updated in the Uniform Controlled Substances Act.

A savings clause is included.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.