
Public Safety Committee

SB 5605

Brief Description: Concerning misdemeanor marijuana offense convictions.

Sponsors: Senators Nguyen, Keiser, Hunt, Salomon, Hasegawa, Saldaña, Das, Randall, Darnelle, Kuderer, Pedersen and Wilson, C..

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires a court to vacate a misdemeanor marijuana possession conviction upon the application of a person who was age 21 or older at the time of the offense.

Hearing Date: 3/25/19

Staff: Kelly Leonard (786-7147).

Background:

Misdemeanor Marijuana Possession.

It is a misdemeanor offense for any person to possess 40 grams or less of marijuana, although this is subject to some exceptions. In 2012 Washington voters passed Initiative No. 502 (I-502), which legalized the recreational use of marijuana in certain circumstances and created a comprehensive regulatory scheme. Persons at least 21 years old may legally possess up to one ounce of marijuana and related products for personal use. They may also purchase up to one ounce of useable marijuana, 16 ounces of solid marijuana-infused product, 72 ounces of liquid marijuana-infused product, and seven grams of marijuana concentrate.

Marijuana possession is still a crime for persons under 21 years old, regardless of the amount possessed. Previous convictions or sentences for marijuana-related misdemeanor offenses were not retroactively modified by I-502.

Actions to Modify Prior Marijuana Convictions.

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.

In January 2019 the Governor announced a plan to expedite the pardon process for certain adults with misdemeanor marijuana convictions. The Governor will exercise his constitutional clemency authority to pardon individuals age 21 and older with a single misdemeanor conviction for marijuana possession between January 1, 1998, and December 5, 2012, when I-502 took effect. The conviction must have been prosecuted under Washington state law, not a local ordinance, and must be the only conviction on the petitioner's criminal record. Petitioners who qualify may submit a petition for clemency, which will officially start the request for a pardon of the conviction. Records indicate that roughly 3,500 individuals are eligible under the requirements established by the Governor.

In 2018 the Seattle City Attorney's Office moved to dismiss possession of marijuana charges filed between 1996 and 2010 in the Municipal Court of the City of Seattle. An order was signed by all seven Seattle Municipal Court judges on September 11, 2018.

Vacation of Misdemeanors or Gross Misdemeanors.

After completing all of the terms of the sentence, a person convicted of a misdemeanor or gross misdemeanor may apply to the sentencing court to vacate his or her conviction record. The sentencing court has discretion to vacate the applicant's conviction record. However, the court may not clear the applicant's record if:

- criminal charges against the applicant are pending;
- fewer than three years have passed since the applicant completed the terms of the sentence, including any financial obligations;
- the applicant has been convicted of a new crime since the date of conviction;
- the applicant has ever had the record of another conviction vacated; or
- the applicant is currently restrained, or has been restrained within the last five years, from contacting another party by a court order.

Certain offenses may not be vacated, including violent offenses and sex offenses, and additional restrictions apply to other specified offenses.

Once the court vacates a record of conviction, the person is released from all penalties and disabilities resulting from the conviction, and the conviction is not included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated may state that the person has never been convicted of that crime.

Summary of Bill:

A person with a prior conviction of misdemeanor marijuana possession occurring when he or she was age 21 years or older may apply to the sentencing court to vacate his or her conviction record. The court must vacate the applicant's conviction record and may not consider the restrictions applicable to vacating other misdemeanor convictions.

Appropriation: None.

Fiscal Note: Available.

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