

Initiative Measure No. 738

filed April 21, 2015

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-2998.1/15

ATTY/TYPIST: AI:akl

BRIEF DESCRIPTION:

Initiative Measure No. 738

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AN ACT Relating to marijuana or cannabis; amending RCW 69.50.4014; adding a new section to chapter 69.50 RCW; adding a new section to chapter 46.20 RCW; adding a new section to chapter 46.61 RCW; adding a new section to chapter 9.96 RCW; creating new sections; and prescribing penalties.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) Recently, Washington state voters opted to legalize the possession and use of small quantities of marijuana or cannabis by adults twenty-one years of age or older.

(2) Some important issues not addressed include:

(a) Home growing, the gardening of small amounts of marijuana or cannabis for personal use at one's home;

(b) Sharing, the not-for-profit transfer of small amounts of marijuana or cannabis between adults twenty-one years of age or older;

(c) How those under age twenty-one should be charged for their first marijuana or cannabis offense that would not be a crime if they were twenty-one years of age or older;

(d) That parents or legal guardians should not be prohibited from providing the safest most effective treatment for their child;

(e) Treating medical marijuana or cannabis patients like prescription drug patients with regard to driving under the influence;

(f) Ending the stigma of past marijuana or cannabis convictions.

(3) Therefore, the people intend to further reform the Washington state marijuana and cannabis laws by enacting changes to the Revised Code of Washington.

NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50 RCW to read as follows:

(1) No license, fee, tax, or permit is required of any adult twenty-one years of age or older to possess or cultivate the amounts of marijuana or cannabis specified in RCW 69.51A.040 Laws of 2014 in a person's legal residence. Cultivating marijuana or cannabis plants under this section in a manner or place that a reasonable person would know to be open to the naked eye, in view of a member of the general public positioned in or moving through a public place other than from an aircraft, roof, tree, or temporary elevated platform, is a class 3 civil infraction under chapter 7.80 RCW.

(2) No license, fee, tax, or permit is required of adults twenty-one years of age or older to transfer not-for-profit the amounts specified in RCW 69.50.360(3) Laws of 2014 to any other person twenty-one years of age or older.

(3) The first offense involving marijuana or cannabis for a person under twenty-one years of age, that would not be a violation of criminal or civil law for a person twenty-one years of age or older, is a class 3 civil infraction under chapter 7.80 RCW.

(4) There is no civil or criminal penalty when a person under twenty-one years of age consumes marijuana or cannabis-related products under the supervision and with the approval of his or her parent or legal guardian, and out of view of the general public.

(5) For the purposes of this section, "legal residence" means a person's permanent address where he or she physically resides and maintains his or her abode.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.20 RCW to read as follows:

THC limits specified in RCW 46.20.308 and 46.20.3101 do not apply to patients with a recommendation under chapter 69.51A RCW.

NEW SECTION. **Sec. 4.** A new section is added to chapter 46.61 RCW to read as follows:

THC limits specified in RCW 46.61.502, 46.61.503, 46.61.504, and 46.61.506 do not apply to patients with a recommendation under chapter 69.51A RCW.

NEW SECTION. **Sec. 5.** A new section is added to chapter 9.96 RCW to read as follows:

(1) Every person convicted of a misdemeanor marijuana offense under RCW 69.50.4014 may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. The court shall vacate the record of conviction by:

(a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or

(ii) If the applicant has been convicted after a plea of not guilty, setting aside the verdict of guilty; and

(b) Dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local law enforcement agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local law enforcement agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the Washington state patrol or local law enforcement agency to any person.

Sec. 6. RCW 69.50.4014 and 2003 c 53 s 335 are each amended to read as follows:

Except as provided in RCW 69.50.401(2)(c) and 69.50.4013(3), any person found guilty of possession of forty grams or less of

marihuana or cannabis is guilty of a (~~misdemeanor~~) class 3 civil infraction under chapter 7.80 RCW.

NEW SECTION. **Sec. 7.** In the event that any sections of this act are in conflict with any other laws codified in the Revised Code of Washington, the provisions of this act shall control.

NEW SECTION. **Sec. 8.** The attorney general must vigorously defend this act from all challenges by persons, officials, cities, counties, and state or federal governments by all legal means to the fullest extent possible.

NEW SECTION. **Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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