

# Initiative Measure No. 911, filed March 20, 2017

AN ACT Relating to cannabis human rights; amending RCW 66.12.010 and 66.28.140; adding new sections to chapter 69.50 RCW; adding a new chapter to Title 9 RCW; adding a new chapter to Title 10 RCW; adding a new chapter to Title 15 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** (1) Washington state has had a long history of compassionate actions towards cannabis. In 1979, the Washington state legislature passed the controlled substance therapeutic research act, creating chapter 69.51 RCW. In 1998, the voters overwhelmingly approved the medical use of cannabis creating chapter 69.51A RCW. In 2012, the voters approved the possession and sale of up to an ounce of cannabis flower, along with small amounts of edibles and liquids, to adults twenty-one years of age or older, amending chapter 69.50 RCW.

(2)(a) The voters intended to stop the treatment of adult cannabis use as a crime and allow law enforcement resources to be focused on violent and property crimes with the approval of Initiative Measure No. 502 in 2012; and

(b) The people do not give up their sovereignty to government in order to plant a seed, grow to harvest, and enjoy its full produce as a right of nature, or to engage in culture and society with other consenting adults, or the given right to the pursuit of happiness in the development of one's own personality.

(3)(a) The people, legislators, governor, and courts of Washington all have found the cannabis plant to have amazing medicinal value for numerous qualifying conditions;

(b) Numerous patents have been issued by the United States patent office for cannabis, calling into question the status of cannabis being a controlled substance at all, with more dangerous substances like alcohol and tobacco left off the list;

(c) The American herbal pharmacopoeia and other agencies have put cannabis on the botanical herb list, which is where the most medicinal plant on the planet belongs; and

(d) Article 1, section 7 of the Washington state constitution states, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law."

(4) Therefore, humanitarian compassion necessitates this act and declares:

(a) Adult cultivation and noncommercial sharing of the cannabis plant, in all its varieties and forms, is a personal choice in a free society;

(b) As more states work towards decriminalization they have allowed adults to grow their own cannabis, which was not addressed in Initiative Measure No. 502;

(c) Washingtonians were told that the intent was to regulate cannabis like alcohol. Adults are allowed to brew beer and wine at home, therefore they should be allowed to grow their own cannabis at home;

(d) The only way to eliminate the illicit criminal market of cannabis is by allowing adults to grow and share with other adults, along with the ability to buy it from state stores, without fear of arrest, prosecution and property forfeiture;

(e) Public use of cannabis at businesses that wish to cater to those customers, like providing cannabis lounges, must be allowed;

(f) Restoration of proof of impairment for driving under the influence with cannabis laws;

(g) Cannabis use must not be discriminated against or considered illicit drug use; and

(h) Amnesty for past nonviolent cannabis crimes, along with freeing convicted nonviolent cannabis offenders of crimes that are no longer crimes in Washington state law.

(5) Therefore, the people further strengthen reform to the Revised Code of Washington state by enacting changes.

**Sec. 2.** RCW 66.12.010 and 2009 c 360 s 1 are each amended to read as follows:

Nothing in this title, other than RCW 66.28.140, applies to wine or beer manufactured and cannabis grown in any home for private consumption, and not for sale.

**Sec. 3.** RCW 66.28.140 and 2009 c 360 s 2 are each amended to read as follows:

(1) An adult member of a household may remove family cannabis, beer or wine from the home subject to the following conditions:

(a) The quantity removed by a home producer is limited to a quantity not exceeding twenty gallons of beer or

wine, or one pound of cannabis, and six live cannabis plants;

(b) Family cannabis, beer, or wine is not removed for sale; and

(c) Family cannabis, beer, or wine is removed from the home for private use, including use at organized affairs, exhibitions, or competitions such as cannabis or homemaker's contests, tastings, or judging.

(2) As used in this section, "family cannabis, beer, or wine" means cannabis, beer or wine manufactured or grown in the home for private consumption, and not for sale.

(3) Any adult age twenty-one years and older may assist another adult in the growing and harvesting of cannabis plants for personal use, and no criminal or civil penalties may be assessed.

(4) All adults age twenty-one years and older may contract with licensed testing facilities for the personal product testing of cannabis and no criminal or civil penalties may be assessed.

(5) The growing of family cannabis, and the transfer of the amounts in this section and in RCW 69.50.360(3), are not considered manufacture, distribution, or delivery according to chapter 69.50 RCW or any other provisions in state law.

(6) The possession of cannabis must not result in the forfeiture of real property unless the cannabis is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is nineteen or more plants or more than all of the cannabis grown by those plants at the same location, and a substantial nexus exists between the possession of cannabis and the real property. In such a case, the intent of the offender must be determined by the preponderance of the evidence by the peace officer, including the offender's prior criminal history, the amount of cannabis possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell cannabis, or was an employee of a licensed producer, processor, or retailer, or adult twenty-one or older and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity.

(7) No more than a total of eighteen flowering plants and twelve starter plants may be grown in a single domicile, rental housing unit or on real property.

(8) Neither the production, processing nor transfer of cannabis or cannabis-infused products pursuant to this section nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision from a public place or private property of another housing unit.

(9) Home extraction of resin from family cannabis must be in compliance with RCW 69.50.450.

(10) Cities, towns, counties, and other municipalities may create and enforce civil penalties, including abatement procedures, for the growing and processing of cannabis beyond or otherwise not in compliance with this section, and for keeping cannabis plants beyond or otherwise not in compliance with this section, and as in chapter 69.51A RCW.

(11) For the purposes of this section:

(a) "Cannabis" means the flowering or fruiting tops of the cannabis plant, roots, stems, seeds and leaves, and the resin extracted;

(b) "Cannabis plants" means any plant of the genus Cannabis; and

(c) "Cannabis resin" means the separated resin, whether crude or purified, obtained from the cannabis plant.

**NEW SECTION. Sec. 4.** (1) All individuals convicted of past nonviolent cannabis crimes made legal by Washington state law must have the conviction vacated, removing it entirely from their record.

(2) All individuals incarcerated for past nonviolent cannabis crimes only made legal by Washington state law must be released, the conviction vacated, removing it entirely from their record.

**NEW SECTION. Sec. 5.** Nothing in the chapter precludes individuals who have obtained cannabis through legal access described in this act, chapter 69.51A RCW, and any other provisions under Washington state law to be held civilly or criminally liable for the consumption of cannabis or cannabis infused products in a private space. Individuals may consume cannabis products in commercial spaces which are not open to the general public.

**NEW SECTION. Sec. 6.** State funds, including those obtained through grants or other sources, must not be used to enforce cannabis grown at a person's home for personal, private use in accordance with this act or any other provisions regarding cannabis under state law.

**NEW SECTION. Sec. 7.** (1) The Washington state national guard counterdrug program must remove marijuana from the list of priorities in Washington state.

(2) All state and local agencies as well as businesses must align their policies, procedures, and priorities to become consistent with cannabis laws in the state of Washington.

**NEW SECTION. Sec. 8.** Recorded video evidence of impairment or determination of culpability in an

accident must accompany THC concentration results tested under RCW 46.61.502 and 46.61.506 when presented as evidence in criminal or civil trials.

**NEW SECTION. Sec. 9.** All residents and nonresidents of Washington state are exempt for cannabis use from all carboxy delta-11 urinalysis samples when an employer or anyone is testing for illicit drug use, including other tests, such as hair testing.

**NEW SECTION. Sec. 10.** A new section is added to chapter 69.50 RCW to read as follows:

(1) No rules shall be made regarding the juicing of cannabis that limits the amounts of usable cannabis to the point where juicing becomes impossible.

(2) Rules must be adopted to allow adults twenty-one years of age or older and medical cannabis patients according to chapter 69.51A RCW to purchase cannabis seeds and clones from licensed cannabis producers, and seeds from licensed cannabis retailers wishing to sell them within ninety days of this section being enacted into law. Rules adopted for clone and seed sales must contain language that prevents licensees from obtaining the personal identifying information without the expressed, written permission of the purchaser.

(3) The smell of cannabis must not constitute probable cause, and any rules or laws must not be adopted to make the smell of cannabis a crime.

(4) Rules must be adopted within ninety days of this section being enacted into law to prevent genetic modification of the cannabis plant that involves the incorporation of a foreign gene into the genome of the target organism, or creates a dependence on synthetic fertilizers in Washington state. This does not include hybridization or cross-breeding of cannabis.

(5) Rules must be made to examine the use of natural alternatives for solving the issue of pests within ninety days of this section being enacted into law.

(6) All rules and laws adopted must be based upon existing agriculture and cannabis industry standards and best practices for the regulation of the cannabis, along with the science of cannabis learned from studies around the world.

**NEW SECTION. Sec. 11.** (1) Within ninety days of this section being enacted into law, rules must be adopted establishing:

(a) Standards for cannabis and cannabis products produced and processed in a manner consistent with, to the extent of practical, 7 C.F.R. Part 205;

(b) A self-sustaining program for certifying cannabis producers and cannabis processors as meeting the standards established under (a) of this subsection; and

(c) Other rules necessary for administration of this chapter.

(2) To the extent of practical, the program must be consistent with the program established by the director under chapter 15.86 RCW.

(3) The rules must include a fee schedule that will provide for the recovery of the full cost of the program including, but not limited to, application, processing, inspections, sampling and testing, notifications, public awareness programs, and enforcement.

**NEW SECTION. Sec. 12.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Pursuant to this chapter, the enumeration of the cannabis plant and any cannabis plant-based tetrahydrocannabinols in this chapter as a controlled substance does not apply to:

(a) The therapeutic or medical authorizations by a licensed health care professional to a qualifying patient;

(b) The use, manufacture, delivery, transportation, not-for-profit transfer, or possession of cannabis plants, cannabis products, and cannabis plant-based tetrahydrocannabinols by qualifying patients according to chapter 69.51A, and adults twenty-one years of age and older in compliance with cannabis laws in the Revised Code of Washington, and noncommercial cannabis gardens;

(c) The use, manufacture, delivery, transportation, sale, not-for-profit transfer, or possession of cannabis plants, cannabis products, and cannabis plant-based tetrahydrocannabinols by any licensed cannabis retailers, licensed cannabis producers, and licensed cannabis processors; and

(d) Licensed research and testing facilities.

(2) Synthetic derivatives of tetrahydrocannabinols, such as marinol, are not subject to the protections of this chapter.

(3) Cannabis must be restored to the list of available medicines and therapeutic herbs for health care professionals to prescribe or authorize to patients according to their hippocratic oath to first do no harm.

(4) International industrial hemp standards define hemp as one percent or less THC concentration.

Therefore, the Washington state definitions of hemp products and cannabis products must be changed in the Revised Code of Washington and Washington Administration Code to reflect the international industrial hemp

standards.

**NEW SECTION. Sec. 13.** (1) An employer may not refuse to hire a person, discharge or bar a person from employment, or discriminate against a person in compensation or in terms and conditions of employment of the person's positive drug test for cannabis components or metabolites.

(2) This section does not apply:

(a) In any case in which the person was impaired on the premise of the place of employment or during the hours of employment; or

(b) If compliance with this section would cause an employer to lose monetary or license-related benefits.

**NEW SECTION. Sec. 14.** The attorney general must examine the state controlled substance list, as it might not have been adopted properly into state law. If it was not adopted properly, the attorney general must make sure that proper procedure is followed to make it Washington state law.

**NEW SECTION. Sec. 15.** The only ban allowed for cannabis advertising shall be on advertising targeting the youth or any propaganda not based on the science about cannabis.

**NEW SECTION. Sec. 16.** This act may be known and cited as the Washington state cannabis human rights act.

**NEW SECTION. Sec. 17.** The code reviser is directed to change: (1) All references to the racial slur "marijuana" and the Spanish word "marihuana" to "cannabis" and (2) the spelling correction of "useable" to "usable" in the Revised Code of Washington.

**NEW SECTION. Sec. 18.** A sensible approach to cannabis violations of state law must be adopted, removing all felonies for cannabis related crimes, replacing with graduated punishments of civil infractions and misdemeanors depending on the offenses and consistent with this act by the end of legislative session 2019. If the legislature and governor fail to enact legislation, all cannabis felonies will become misdemeanors and follow chapter 9.92.030 RCW.

**NEW SECTION. Sec. 19.** (1) The code reviser shall remove all references to cannabis and the Washington state liquor and cannabis board from the controlled substance act in the Revised Code of Washington, chapter 69.50 RCW, to take effect within one year after this section is enacted into law.

(2) The legislature must pass a bill to place cannabis regulation into Title 15 and 66 RCW that include section 10 and 12 of this act during the 2019 legislative session.

(3) If the legislature and governor fail to enact legislation, the commercial growing and sales of cannabis shall require no more than standard agricultural business licensing and be treated as an agricultural crop for tax purposes.

(4) The Washington state attorney general must prepare and deliver a letter within thirty days of this section being enacted into law to the United Nations informing the secretary general that cannabis has been found to have medical value by Washingtonians, patent US6630507 B1, and therefore it is being removed from the controlled substance act.

**NEW SECTION. Sec. 20.** In the event that any section 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. 21.** If any provision of this act or its application to any person or circumstances is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 22.** The attorney general must vigorously defend this act from all challenges by, yet not limited to, persons, officials, agents, cities, counties, state, or federal governments by all legal means to the fullest extent possible.

**NEW SECTION. Sec. 23.** Section 4 of this act constitutes a new chapter in Title 9 RCW.

**NEW SECTION. Sec. 24.** Section 8 and 9 of this act constitutes a new chapter in Title 10 RCW.

**NEW SECTION. Sec. 25.** Section 11 of this act constitutes a new chapter in Title 15 RCW.