

Initiative Measure No. 1068

FILED

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SECRETARY OF STATE
STATE OF WASHINGTON

An Act relating to the removal of civil and criminal penalties associated with adult marijuana use; amending RCW 9.94A.518, 69.50.101, 69.50.4014; adding a new section to RCW 9.94A; adding new sections to RCW 69.50; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec. 1.**

Statement of Purpose.

(1) The People of the State of Washington are concerned about the millions of dollars spent each year to arrest, prosecute and incarcerate people for marijuana offenses. It is widely accepted that marijuana is a benign therapeutic substance that, unlike other legal substances such as tobacco and alcohol, has never caused a single death.

(2) In 1998, the People recognized the medicinal benefits of marijuana by approving and enacting Initiative 692, codified at RCW 69.51A, which authorized the medical use of marijuana by qualified patients. Since RCW 69.51A only provides an affirmative defense, it has proven ineffective at protecting qualified patients from arrest and prosecution.

(3) Several bills have been introduced in the legislature seeking decriminalization of marijuana, but none of the bills have been permitted to reach the floor of the legislature for a vote.

(4) Under current law:

(a) Washington citizens face the prospect of arrest, prosecution and incarceration, as well as the loss of employment and important parental and property rights, for marijuana offenses.

(b) Under current law, Washington farmers and landowners are prohibited from growing industrial hemp on their land, depriving them of the ability to grow a valuable, environmentally-friendly crop.

(5) The People intend to remove all existing civil and criminal penalties for adults eighteen years of age or older who cultivate, possess, transport, sell, or use marijuana, without impacting existing laws proscribing dangerous activities while under the influence of marijuana or certain conduct that exposes younger persons to marijuana.

Sec. 2. RCW 9.94A.518 and 2003 c 53 s 57 are each amended to read as follows:

TABLE 4 DRUG OFFENSES

INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- III Any felony offense under chapter 69.50 RCW
with a deadly weapon special verdict under
RCW 9.94A.602
- Controlled Substance Homicide (RCW 69.50.415)
- Delivery of imitation controlled substance by person eighteen
or over to person under eighteen (RCW 69.52.030(2))
- Involving a minor in drug dealing (RCW 69.50.4015)
- Manufacture of methamphetamine (RCW 69.50.401(2)(b))
- Over 18 and deliver heroin, methamphetamine, a narcotic from
Schedule I or II, or flunitrazepam from Schedule IV to someone
under 18 (RCW 69.50.406)

Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)

Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)

II Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.4011)

Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b))

Delivery of a material in lieu of a controlled substance (RCW 69.50.4012)

Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f))

Manufacture, deliver, or possess with intent to
deliver amphetamine (RCW 69.50.401(2)(b))

Manufacture, deliver, or possess with intent to deliver narcotics from
Schedule I or II or flunitrazepam from Schedule IV
(RCW 69.50.401(2)(a))

Manufacture, deliver, or possess with intent to deliver narcotics
from Schedule III, IV, or V or nonnarcotics from Schedule I-V
(except marijuana, amphetamine, methamphetamines, or
flunitrazepam) (RCW 69.50.401(2) (c) through (e))

Manufacture, distribute, or possess with intent to distribute an
imitation controlled substance (RCW 69.52.030(1))

I Forged Prescription (RCW 69.41.020)

Forged Prescription for a Controlled Substance (RCW 69.50.403)

~~((Manufacture, deliver, or possess with intent to deliver
marijuana (RCW 69.50.401(2)(e))))~~

Possess Controlled Substance that is a Narcotic from
Schedule III, IV, or V or Nonnarcotic from Schedule I-V
(RCW 69.50.4013)

Possession of Controlled Substance that is either heroin or
narcotics from Schedule I or II (RCW 69.50.4013)

Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

NEW SECTION. **Sec. 3.** A new section is added to Chapter 69.50 to read as follows:

Construction Clause.

Nothing in this act shall be construed to affect the provisions or penalties set forth in RCW 13.40, the juvenile justice act of 1977, or to legalize or authorize the possession, use, or manufacture of marijuana by persons under the age of eighteen.

Sec. 4. RCW 69.50.101 and 2003 c 142 s 57 are each amended to read as follows:

Definitions.

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the state board of pharmacy.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules. "Controlled substance" does not include marijuana.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5), 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208 (a) the term includes any positional or geometric isomer.

(p) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(q) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(r) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(s) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(t) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(u) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(v) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(w) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, a physician assistant under chapter 18.71A RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute,

dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(x) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(y) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(z) "Secretary" means the secretary of health or the secretary's designee.

(aa) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(bb) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(cc) "Electronic communication of prescription information" means the communication of

prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

Sec. 5. RCW 69.50.4014 and 2003 c 53 s 335 are each amended to read as follows:

Possession of forty grams or less.

Except as provided in RCW 69.50.401(2)(c), any person under eighteen years of age found guilty of possession of forty grams or less of ~~((marihuana))~~ marijuana is guilty of a misdemeanor.

NEW SECTION. **Sec. 6.**

A new section is added to chapter RCW 69.50 to read as follows:

The civil and criminal penalties relating to drug paraphernalia shall not apply to marijuana or marijuana-related offenses committed by persons eighteen years of age or older.

NEW SECTION. **Sec. 7.**

A new section is added to RCW 69.50 to read as follows:

No seizure or forfeiture of property may result from marijuana or marijuana-related offenses committed by persons eighteen years of age or older.

NEW SECTION. **Sec. 8.**

Severability.

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.

NEW SECTION. **Sec. 9.**

Conflict of Laws.

In the event that any sections of this Act are in conflict with any other law codified in the Revised Code of Washington, the provisions of this Act shall control.

NEW SECTION. **Sec. 10.**

Captions Not Laws.

Captions used in this chapter are not any part of the law.

NEW SECTION. **Sec. 11.**

This act may be known and cited as the Marijuana Reform Act.