
Regulated Substances & Gaming Committee

HB 2194

Brief Description: Legalizing the home cultivation of cannabis.

Sponsors: Representatives Kloba, Wylie, Doglio, Goodman, Macri, Berry, Reed, Ormsby, Peterson, Fitzgibbon, Simmons, Fosse and Waters.

Brief Summary of Bill

- Legalizes the production and possession, by a person age 21 or over, of six cannabis plants and the cannabis and cannabis products derived from those plants, on the premises of the housing unit occupied by the person.
- Creates a class 1 civil infraction for the production or knowing possession of more than six but fewer than 16 cannabis plants, and specifies it is a class C felony to produce or knowingly possess 16 or more cannabis plants.
- Modifies real property seizure and forfeiture provisions in the Uniform Controlled Substances Act (UCSA) related to to cannabis.
- Adds a definition of "commercial activity" to the UCSA.

Hearing Date: 1/16/24

Staff: Peter Clodfelter (786-7127).

Background:

It is legal under Washington law for an adult age 21 or over to purchase from a licensed cannabis retailer and possess any combination of the following types and amounts of cannabis products:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- 1 ounce of useable cannabis;
- 16 ounces of cannabis-infused product in solid form;
- 72 ounces of cannabis-infused product in liquid form; and
- 7 grams of cannabis concentrate.

Washington law does not authorize adults age 21 or over to possess any cannabis plants, and doing so is punishable as a class C felony under the Uniform Controlled Substances Act (UCSA). However, if a person is a qualifying patient or designated provider, the person may possess and grow a limited number of cannabis plants in their domicile and possess a limited amount of cannabis produced from those plants in accordance with the Washington State Medical Use of Cannabis Act (WSMUCA).

For certain purposes including a 15-plant limit per housing unit, the WSMUCA defines "housing unit" as a house, apartment, mobile home, group of rooms, or a single room 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.

Pursuant to the UCSA, all real property, appurtenances, and improvements are subject to seizure and forfeiture if they are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substances, including cannabis, or have been acquired in whole or in part with proceeds traceable to an exchange or exchanges in violation of the UCSA, so long as the activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property.

However, an exception provides that the possession of cannabis may not result in the forfeiture of real property unless the cannabis is possessed for commercial purposes that are unlawful under Washington law, the amount possessed is five or more plants or 1 pound or more of cannabis, 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, 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, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity

For a violation of Washington law designated as a class 1 civil infraction, the maximum penalty and the default amount is \$250, not including statutory assessments, except for an infraction involving specific violations for which a greater monetary penalty is provided in law.

Summary of Bill:

The production and possession by a person 21 years of age or older of no more than six cannabis plants and the cannabis and cannabis products derived from those plants, on the premises of the housing unit occupied by the person, is not a violation of the UCSA or any other provision of Washington law.

However, no more than 15 cannabis plants may be produced at any one time on the premises of a single housing unit, regardless of the number of residents living on the premises of the housing unit.

It is a class 1 civil infraction for a person to produce and knowingly possess more than six cannabis plants but fewer than 16 cannabis plants.

It is a class C felony for a person to produce and knowingly possess 16 or more cannabis plants.

The seizure and forfeiture statute in the UCSA is modified, to specify that the acquisition, delivery, production, or possession of cannabis or cannabis products may not result in forfeiture of real property unless the cannabis is possessed for commercial purposes that are unlawful under Washington law, the amount possessed is 16 or more plants (instead of five or more plants) or, except as allowed by the bill, 1 pound or more of cannabis, and a substantial nexus exists between the possession of cannabis and the real property.

The term "commercial activity" is defined for purposes of the UCSA as an activity related to or connected with buying, selling, or bartering.

Appropriation: None.

Fiscal Note: Requested on January 8, 2024.

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