

# Initiative Measure No. 584

filed March 26, 2013

AN ACT Relating to marijuana or cannabis; amending RCW 69.50.500, 69.50.504 and 69.50.4014; adding a new section to chapter 69.50 RCW; adding new sections to chapter 46.61 RCW; adding a new section to chapter 46.20 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 to their child;

(e) Treating medical marijuana/cannabis patients like prescription drugs patients regarding the driving under the influence law;

(f) That blood THC levels have not been shown to correlate with driving impairment the way blood alcohol levels have. Current video technology allows juries to witness the impairment the officer experienced at the time of the arrest, therefore video evidence of impairment needs to accompany THC test results in court;

(g) Ending the stigma of past marijuana or cannabis convictions that are no longer crimes;

(3) Therefore the People intend to further reform the Washington state marijuana/cannabis laws by enacting the following changes to the Revised Code of Washington (RCW).

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 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) 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 46.61 RCW to read as follows:

Recorded video evidence of impairment or determination of culpability in an accident must accompany THC concentration results tested under RCW 46.61.506 when presented as evidence in a criminal or civil trial.

NEW SECTION. Sec. 6. 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) Every person convicted of a felony marijuana offense under chapter 69.50 RCW may apply to the sentencing court for a new trial under current law. The applicant must provide written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought.

The court shall vacate the judgment and sentence and:

(a) Schedule a new trial; or (b) Vacate the record of conviction by dismissing the information, indictment, complaint, or citation against the applicant; and

(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.

(3) Once the court vacates a record of conviction under subsection (2) of this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be 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, housing or student aid applications, a person whose conviction has been vacated under subsection

(2) of this section may state that he or she has never been convicted of that crime.

(4) All costs incurred by the court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent at the time the motion is brought or a verdict of not guilty is returned at the trial under subsection (2)(a) of this section.

(5) 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. 7.** RCW 69.50.500 and 2013 c 3 s 24 (Initiative Measure No. 502) are each amended to read as follows:

~~((a))~~ (1) It is hereby made the duty of the state board of pharmacy, the department, the state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws ~~((of the United States,))~~ of this state, of the United States, and all other states, relating to controlled substances as defined in this chapter.

~~((b))~~ (2) Employees of the department of health, who are so designated by the board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter.

(3) This section does not apply to marijuana or cannabis-related offenses that are not also criminal offenses for persons twenty-one years of age or older under the laws of Washington state.

**Sec. 8.** RCW 69.50.504 and 1971 ex.s. c 308 s 69.50.504 are each amended to read as follows:

(1) The state board of pharmacy shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances.

(2) This section does not apply to marijuana or cannabis-related offenses that are not also criminal offenses for persons twenty-one years of age or older under the laws of Washington state.

**Sec. 9** 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 RCW 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. 10.** 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. 11.** 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. 12** 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.