

Initiative Measure No.1387

filed January 20, 2015

BILL REQUEST - CODE REVISER'S OFFICE

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BRIEF DESCRIPTION:

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AN ACT Relating to the Jack Herer act; amending RCW 69.51A.010; adding new sections to chapter 69.51A RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** (1) This act is an exercise of the police powers of the state of Washington for the protection of the safety, welfare, health, and peace of the people and the environment of the state, to protect the industrial and medicinal uses of cannabis hemp, to eliminate the unlicensed and unlawful cultivation, selling, and dispensing of cannabis hemp, and to encourage temperance in the consumption of cannabis hemp euphoric products. It is hereby declared that this act involves, in the highest degree, the ecological, economic, social, and moral well-being and safety of the state and of all its people. All provisions of this act shall be liberally construed.

(2) Enactment of this act includes: Amnesty, immediate release from prison, jail, parole, and probation, and clearing; expungement; and deletion of all criminal records for all persons currently charged with, or convicted of any nonviolent cannabis hemp marijuana offenses included in this act that are no longer illegal in the state of Washington. People who fall within this category that triggered an original sentence are included within this subsection.

(3) Pursuant to the ninth and tenth amendments of the Constitution of the United States, the people of Washington repudiate and challenge federal cannabis hemp marijuana prohibitions that conflict with this act.

NEW SECTION. **Sec. 2.** No person, individual, or corporate entity shall be arrested or prosecuted, be denied any right or

privilege, nor be subject to any criminal or civil penalties for the possession, cultivation, transportation, distribution, or consumption of cannabis hemp marijuana, including:

- (1) Cannabis hemp industrial products;
- (2) Cannabis hemp medicinal preparations;
- (3) Cannabis hemp nutritional products;
- (4) Cannabis hemp religious and spiritual products; and
- (5) Cannabis hemp recreational and euphoric use and products.

Sec. 3. RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming (~~(marijuana)~~) cannabis obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(d) Is the designated provider to only one patient at any one time.

(2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) "Medical use of (~~(marijuana)~~) cannabis" means the production, possession, or administration of (~~(marijuana, as defined in RCW 69.50.101(q))~~) cannabis, for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

(4) "Qualifying patient" means a person who:

(a) Is a patient of a health care professional;

(b) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that health care professional about the risks and benefits of the medical use of (~~marijuana~~) cannabis; and

(e) Has been advised by that health care professional that they may benefit from the medical use of (~~marijuana~~) cannabis.

(5) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit valid documentation.

(6) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms,

or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

(7) "Valid documentation" means:

(a) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of ~~((marijuana))~~ cannabis; and

(b) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035.

(8) "Cannabis hemp" and "cannabis hemp marijuana" means the natural, nongenetically modified plant hemp, cannabis, marihuana, marijuana, cannabis sativa L, cannabis Americana, cannabis chinensis, cannabis indica, cannabis ruderalis, cannabis sativa, or any variety of cannabis, including any derivative, concentrate, extract, flower, leaf, particle, preparation, resin, root, salt, seed, stalk, stem, or any product thereof.

(9) "Cannabis hemp euphoric products" means cannabis hemp intended for personal recreational or religious use, other than cannabis hemp industrial products, cannabis hemp medicinal preparations, or cannabis hemp nutritional products.

(10) "Cannabis hemp industrial products" means all products made from cannabis hemp that are not designed or intended for human consumption including, but not limited to: Clothing, building materials, paper, fiber, fuel, lubricants, plastics, paint, seed for cultivation, animal feed, veterinary medicine, oil, or any other product that is not designed for internal human consumption; as well as cannabis hemp plants used for crop rotation, erosion control, pest control, weed control, or any other horticultural or

environmental purposes, such as, the reversal of the greenhouse effect and toxic soil reclamation.

(11) "Cannabis hemp medicinal preparations" means all products made from cannabis hemp that are designed, intended, or used for human consumption for the treatment of any human disease or condition, for pain relief, or for any healing purpose including, but not limited to, the treatment or relief of: Alzheimer's and pre-Alzheimer's disease, stroke, arthritis, asthma, cramps, epilepsy, glaucoma, migraine, multiple sclerosis, nausea, premenstrual syndrome, side effects of cancer chemotherapy, fibromyalgia, sickle cell anemia, spasticity, spinal injury, stress, easement of posttraumatic stress disorder, Tourette syndrome, attention deficit disorder, immunodeficiency, wasting syndrome from AIDS or anorexia; use as an antibiotic, antibacterial, antiviral, or antiemetic; as a healing agent, or as an adjunct to any medical or herbal treatment. Mental conditions not limited to bipolar disorder, depression, attention deficit disorder, or attention deficit hyperactivity disorder, are conditions considered for medical use.

(12) "Cannabis hemp nutritional products" means cannabis hemp for consumption by humans and animals as food including, but not limited to: The seed, seed protein, seed oil, essential fatty acids, seed cake, dietary fiber, or any preparation or extract thereof.

(13) "Commercial production" means the production of cannabis hemp products for sale or profit.

(14) "Personal use" means the internal consumption of cannabis hemp by persons twenty-one years of age or older for any relaxational, meditative, religious, spiritual, recreational, or other purpose not including sales.

NEW SECTION. Sec. 4. Industrial cannabis hemp farmers, manufacturers, processors, and distributors are not subject to any special zoning requirement, licensing fee, or tax that is excessive, discriminatory, or prohibitive.

NEW SECTION. **Sec. 5.** Cannabis hemp medicinal preparations are restored to the list of available medicines in Washington state. Licensed physicians shall not be penalized for, nor restricted from, prescribing or recommending cannabis hemp for medical purposes to any patient, regardless of age. No tax shall be applied to prescribed cannabis hemp medicinal preparations. Medical research shall be encouraged. No recommending physician is subject to any professional licensing review or hearing as a result of recommending or approving medical use of cannabis hemp marijuana.

NEW SECTION. **Sec. 6.** (1) No permit, license, or tax is required for the noncommercial cultivation, transportation, distribution, or consumption of cannabis hemp.

(2) Testing for inactive and/or inert residual cannabis metabolites shall not be required for employment or insurance, nor be considered in determining employment, other impairment, or intoxication.

(3) Use of cannabis hemp products for religious or spiritual purposes is considered an inalienable right; and is protected by the full force of the state and United States Constitutions.

(4) Commerce in cannabis hemp euphoric products is limited to adults twenty-one years of age and older, and is regulated in a manner analogous to the wine provisions of Title 66 RCW. For the purpose of distinguishing personal from commercial production, ninety-nine flowering female plants and twelve pounds of dried, cured cannabis hemp flowers, including bud, but not the leaf, produced per adult twenty-one years of age and older, per year is considered personal use.

NEW SECTION. **Sec. 7.** The manufacture, marketing, distribution, or sales between adults of equipment or accessories designed to assist in the planting, cultivation, harvesting, curing, processing, packaging, storage, analysis, consumption, or transportation of cannabis hemp, cannabis hemp industrial products, cannabis hemp

medicinal preparations, cannabis hemp nutritional products, or cannabis hemp euphoric products is not prohibited.

NEW SECTION. **Sec. 8.** (1) Law enforcement agencies and law enforcement personnel may not use resources to assist or aid and abet in the enforcement of federal cannabis hemp marijuana laws involving acts that are legal in the state of Washington.

(2) Any person in violation of this section is guilty of a misdemeanor.

NEW SECTION. **Sec. 9.** Within sixty days of the effective date of this section, the attorney general shall develop and distribute a one page application, providing for the destruction of all cannabis hemp marijuana criminal records in Washington for any offense covered by this act. The forms shall be distributed to prosecuting and city attorneys and made available at all law enforcement agencies in the state to persons affected. Upon a person filing a form with any superior court and a payment of a fee of ten dollars, the court shall review the form. Upon the court's ruling, the arrest record shall be set aside and be expunged. Such persons may then truthfully state that they have never been arrested or convicted of any cannabis hemp marijuana related offense which is hereby no longer illegal in the state of Washington.

NEW SECTION. **Sec. 10.** The legislature shall prepare bills for introduction at the next legislative session that:

(1) License concessionary establishments to distribute cannabis hemp euphoric products in a manner analogous to Washington's wine provisions under Title 66 RCW, considering that (a) sufficient community outlets shall be licensed to provide reasonable commercial access to persons of legal age, so as to discourage and prevent the misuse of, and illicit traffic in, such products, and (b) any license or permit fee required by the state for commercial

production, distribution, or use does not exceed one thousand dollars;

(2) Place an excise tax on the commercial sale of cannabis hemp euphoric products, analogous to Washington's wine provisions under Title 66 RCW, so long as no excise tax or combination of excise taxes exceeds ten dollars per ounce;

(3) Determine an acceptable and uniform standard of impairment based on performance testing, to restrict persons impaired by cannabis hemp euphoric products from operating a motor vehicle or heavy machinery, or otherwise engaging in conduct that may affect public safety;

(4) Regulate the personal use of cannabis hemp euphoric products in enclosed and/or restricted public places.

NEW SECTION. **Sec. 11.** 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. 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.

NEW SECTION. **Sec. 13.** The attorney general must vigorously defend this act from all challenges by, yet not limited to, persons, officials, cities, counties, state, or federal governments by all legal means to the fullest extent possible.

NEW SECTION. **Sec. 14.** Sections 2 and 4 through 9 of this act are each added to chapter 69.51A RCW.

NEW SECTION. **Sec. 15.** This act may be known and cited as the Jack Herer act.

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