

State of Washington

INITIATIVE MEASURE 595
REGULATED TOLERANCE & TAXATION OF MARIJUANA

(November, 1993)

OFFICIAL BALLOT SUMMARY

This measure would allow people over twenty-one to grow, sell, and use cannabis (marijuana) as licensed by a new "cannabis control board." A tax would be imposed, and sale and use would be limited to places not accessible to minors. Advertising would be limited to medical journals, packaging, and point-of-sale signs not publicly visible. Persons over twenty-one could grow limited quantities without obtaining a license. Criminal penalties would be revised, and certain prior convictions vacated.

AN ACT Relating to cannabis; amending RCW 10.31.100, 69.50.102, 69.50.204, and 69.50.401; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 69 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the following definitions apply throughout this chapter and section 10 of this act:

- (1) "Board" means the cannabis control board.
- (2) "Personal use quantity of pharmacoeactive cannabis" means:
 - (a) Twenty or fewer growing cannabis plants; or
 - (b) One hundred ounces or less of pharmacoeactive cannabis in any form.
- (3) "Pharmacoeactive cannabis" means medicinal or recreational cannabis.

NEW SECTION. Sec. 2. (1) A person may not sell or give to a minor, nor may a minor use or possess, pharmacoeactive cannabis except by prescription of a licensed physician.

(2) A person may not sell, publicly display, or publicly use pharmacoeactive cannabis or its paraphernalia except in locations to which access and view by minors is prohibited.

NEW SECTION. Sec. 3. Cultivated plants capable of

producing pharmacoeactive cannabis must be screened from public view by a visual barrier.

NEW SECTION. Sec. 4. (1) No person who is in a position to profit from the sale of pharmacoeactive cannabis or its paraphernalia may create, display, perform, or distribute advertising or promotional material for pharmacoeactive cannabis or its paraphernalia within the state of Washington, other than:

- (a) In medical journals directed to and distributed principally to licensed physicians;
- (b) Package labeling;
- (c) Point-of-sale advertising on the premises of licensed sellers of pharmacoeactive cannabis presented such that it cannot be perceived by minors; and
- (d) On the exterior of stores where pharmacoeactive cannabis is sold, a sign indicating with words only that pharmacoeactive cannabis is sold therein, or words to that effect, but not otherwise depicting or promoting pharmacoeactive cannabis or its use. By local option, each local government may prohibit advertising on the exterior of stores where pharmacoeactive cannabis is sold.

(2) For the purposes of this section, a person in a position to profit from the sale of pharmacoeactive cannabis is a business enterprise that, for pay or other consideration, cultivates, processes, transports, or sells pharmacoeactive cannabis, or whose property is used for cultivation, processing, transport, or sale of pharmacoeactive cannabis, and any beneficial owner of a five percent or greater interest in such an enterprise.

(3) For the purposes of this section, a person in a position to profit from the sale of paraphernalia for pharmacoeactive cannabis is a business enterprise that, for pay or other consideration, manufactures or sells paraphernalia for pharmacoeactive cannabis, and any beneficial owner of a five percent or greater interest in such an enterprise.

(4) A violation of this section shall be punished by a fine of up to five thousand dollars or four times the amount paid to procure the advertising in violation of this section, whichever is greater.

NEW SECTION. Sec. 5. Each of the following activities requires a license for each location where the activity is performed:

- (1) Cultivating and selling cannabis hemp for industrial products made from its stalks;
- (2) Cultivating cannabis flowering female tops or seeds;
- (3) Producing nutritional, medicinal, and recreational products made from cannabis leaves, flowers, and seeds; and
- (4) Selling pharmacoactive cannabis products made from flowering female tops other than seeds.

NEW SECTION. Sec. 6. A licensed seller of pharmacoactive cannabis may sell cannabis paraphernalia, with the same restrictions on access and view by minors as provided for pharmacoactive cannabis under sections 2 and 4 of this act.

NEW SECTION. Sec. 7. Without a license, a person over twenty-one years of age may cultivate and possess a personal use quantity of pharmacoactive cannabis that was cultivated without a license and on which taxes have not been paid. Cultivation or possession of more than a personal use quantity of such cannabis is prohibited.

NEW SECTION. Sec. 8. An owner of a parcel of real estate may allow other persons over the age of twenty-one to cultivate up to twenty plants on the property if the owner obtains, and retains for inspection at any time by officials, an acknowledged affidavit less than one year old reciting the address or legal description of the property, claiming ownership of up to twenty cannabis plants on the property, denying ownership of any other cannabis plants, signed and dated by the cultivator, and stating the cultivator's full legal name, address, and date of birth.

NEW SECTION. Sec. 9. The fee for a license under section 5 of this act is fifty dollars.

NEW SECTION. Sec. 10. A new section is added to chapter 82.04 RCW to read as follows:

(1) A tax is assessed on the importation or production for sale of pharmacoactive cannabis at the rate of fifteen dollars per ounce at standard cured moisture content.

(2) Chapter 69.--RCW (sections 1 through 9 and 11 through 25 of this act) applies to this section.

NEW SECTION. Sec. 11. Sellers of pharmacoactive cannabis shall place a label indicating that the tax under section 10 of this act has been paid on each package of pharmacoactive cannabis, or pay the tax before possession may be transferred to another. Labels to indicate that the tax has been paid shall be provided by the board.

NEW SECTION. Sec. 12. Possession of more than a personal use quantity of pharmacologically active cannabis on which the tax under section 10 of this act has not been paid creates a presumption of selling or offering for sale, which is prohibited without a license.

NEW SECTION. Sec. 13. There shall be a board, known as the "cannabis control board," consisting of three members, to be appointed by the governor, with the consent of the senate, who shall each be paid an annual salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The governor may, in his discretion, appoint one of the members as chair of the board, and a majority of the members shall constitute a quorum of the board.

NEW SECTION. Sec. 14. (1) The members of the board to be appointed after the effective date of this act shall be appointed for terms beginning on the effective date of this act, and expiring as follows: one member of the board for a term of three years from the effective date of this act; one member of the board for a term of six years from the date of this act; and one member of the board for a term of nine years from the effective date of this act. A member of the board appointed under this section shall hold office until the member's successor is appointed and qualified. Upon the expiration of the term of a member, the succeeding member of the board shall be appointed and hold office for the term of six years. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. A vacancy in the membership of the board does not impair the right of the remaining member or members to act, except as otherwise provided in this chapter.

(2) The principal office of the board shall be at the state capitol, and it may establish such other offices as it deems necessary.

(3) A member of the board may be removed for inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the governor, who shall transmit the written charges to the member accused and to the chief justice of the supreme court. The chief justice shall, upon the charges, designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. The tribunal shall fix the time of the hearing, which must be public, and the procedure for the hearing, and the decision of the tribunal is final. Removal of a member of the board by the tribunal disqualifies the member for reappointment.

(4) A member of the board shall devote his or her entire time to the duties of his or her office and a member of the board may not hold another public office. Before

entering upon the duties of office, a member of the board shall enter into a surety bond executed by a surety company authorized to do business in this state, payable to the state of Washington, to be approved by the governor in the penal sum of fifty thousand dollars conditioned upon the faithful performance of the member's duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the secretary of state. The board shall pay the premium for the bond.

NEW SECTION. Sec. 15. The board may employ the number of employees as in its judgment are required.

NEW SECTION. Sec. 16. The attorney general shall be the general counsel of the board and shall institute and prosecute all actions and proceedings necessary in the enforcement and carrying out of the provisions of this chapter and section 10 of this act.

The attorney general shall assign assistants necessary to the exclusive duty of assisting the board in the enforcement of this chapter and section 10 of this act.

NEW SECTION. Sec. 17. The state auditor shall audit the books, records, and affairs of the board annually. The board may provide for additional audits by certified public accountants. The audits under this section are public records of the state. The payment of the audits provided for in this section shall be paid as provided in section 18 of this act for other administrative expenses.

NEW SECTION. Sec. 18. All administrative expenses of the board incurred on and after the effective date of this act shall be appropriated and paid from the general fund. These administrative expenses include, but are not limited to: The salaries and expenses of the board and its employees, the cost of legal services, annual or other audits, and other general costs of conducting the business of the board.

NEW SECTION. Sec. 19. The board shall, from time to time, make reports to the governor covering matters in connection with the administration and enforcement of this chapter and section 10 of this act as the governor may require, and, subject to RCW 40.07.040, the board shall prepare and forward to the governor biennially, to be laid before the legislature, a report for the fiscal period containing:

- (1) A financial statement and balance sheet showing in general the condition of the business and its operation during the year;
- (2) A summary of all prosecutions for infractions and the results of the prosecutions;

- (3) General information and remarks; and
- (4) Any further information requested by the governor.

NEW SECTION. Sec. 20. The administration of this chapter and section 10 of this act is under the board, and it shall adopt rules to administer this act. The board may not restrict the number of licenses granted.

NEW SECTION. Sec. 21. State agencies shall refrain from enforcing any provision of United States criminal law not consistent with the purposes of this act, to avoid a waste of resources.

NEW SECTION. Sec. 22. All persons incarcerated in prisons in the state of Washington based solely on use, possession, or sale of marijuana, as a result of conviction after trial or by plea bargain with no other crime charged, shall be released and their civil rights restored.

NEW SECTION. Sec. 23. (1) Thirty percent of tax revenues raised under section 10 of this act shall be reserved to subsidize job retraining programs for unemployed Washington state residents with financial need. The department of labor and industries shall select worthy private and state-run programs to receive these funds.

(2) Ten percent of the tax revenues raised under section 10 of this act shall be reserved to subsidize drug treatment programs. The board shall select worthy private and state-run programs to receive these funds.

(3) The balance of the tax revenues raised under section 10 of this act shall be deposited in the general fund.

NEW SECTION. Sec. 24. If, within one hundred twenty days of the effective date of this act, the board has not yet begun issuing licenses to cultivate hemp for fiber and cellulose and licenses for cultivating pharmacoactive cannabis and seeds, any person twenty-one years of age or older may commence the cultivation upon delivery to the Washington State Department of Agriculture a sworn notarized statement with the name, address, and date of birth of the applicant and the address or legal description of the property to be used for the cultivation.

NEW SECTION. Sec. 25. The following penalties apply to this chapter:

(1) For unauthorized selling or giving pharmacoactive cannabis to a minor in violation of section 2(1) of this act: Imprisonment for a term of up to one hundred and eighty days and a fine of up to \$5,000.

(2) For cultivating or possessing more than a personal use quantity of pharmacoactive cannabis without a

license in violation of section 7 of this act: Imprisonment for a term of up to ninety days and a fine of up to \$2,500.

(3) For cultivation, possession, or use of pharmacoactive cannabis by a person under twenty-one years of age in violation of section 2(1) of this act: A misdemeanor and a fine of up to \$500.

(4) For selling or offering for sale pharmacoactive cannabis or its paraphernalia in a place perceivable by minors in violation of section 2(2) of this act: A misdemeanor and a fine of up to \$5,000.

(5) For display or use of pharmacoactive cannabis or its paraphernalia in a public place perceivable by minors in violation of section 2(3) of this act: A misdemeanor and a fine of up to \$500.

(6) For failure to screen pharmacoactive cannabis plants from public view: A fine to be set by the Board.

(7) For cultivating or selling cannabis hemp for products made from its stalks without a license: A fine to be set by the board.

Sec. 26. RCW 10.31.100(1) and 1988 c 190 s 1(1) are each amended to read as follows:

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the illegal use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270 shall have the authority to arrest the person.

Sec. 27. RCW 69.50.102 and 1981 c 48 s 1 are each amended to read as follows:

(a) As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. For purposes of this chapter, "controlled substance" does not include cannabis or its derivatives. Drug paraphernalia ((It)) includes, but is not limited to:

... .

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining ((, marihuana;)) a controlled substance.

... .

(12) Object used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing ((marihuana,)) cocaine((, hashish, or hashish oil)) into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, ((hashish heads,)) or punctured metal bowls;

((ii) Water pipes;))

((iii)) (ii) Carburetion tubes and devices;

((iv)) (iii) Smoking and carburetion masks;

((v) Roach clips: Meaning objects used to hold burning material such as a marijuana cigarette, that has become too small or too short to be held in the hand;))

((vi)) (iv) Miniature cocaine spoons ((,)) and cocaine vials;

((vii) Chamber pipes;))

((viii)) (v) Carburetor pipes;

((ix)) (vi) Electric pipes;

((x)) (vii) Air-driven pipes; and;

((xi) Chillums;

(xii) Bongos; and

(xiii)) (viii) Ice pipes or chillers.

(b) "Drug paraphernalia does not include equipment and accessories used by persons for cannabis use, growth, production, transportation, or sale.

(c)

Sec. 28. RCW 69.50.204(d) and 1986 c 124 s 3(d) are each amended to read as follows:

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (For purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers.):

... .

(13) ((Marijuana;

(14)) Mescaline;

((15)) (14) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

((16)) (15) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule I(c) (12));

((17)) (16) N-ethyl-3-piperidyl benzilate;

((18)) (17) N-methyl-3-peperidyl benzilate;

((19)) (18) Psilocybin;

((20)) (19) Psilocyn;

((21) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis, specifically, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(ii) Delta 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) Delta 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered, are all included.))

((22)) (20) Ethylamine analog of phencyclidine:

Some trade or other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexyl) ethylamine;

N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

((23)) (21) Pyrrolidine analog of phencyclidine:

Some trade or other names:

1- (1--phenylcyclohexyl)pyrrolidine; PCPy; PHP;

((24)) (22) Thiophene analog of phencyclidine:

Some trade or other names: 1- (1-[2-thenyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP.

Sec. 29. RCW 69.50.401(d)(e) and (f) and 1989 c 271 s 104(d)(e) and (f) are each amended to read as follows:

(d) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a crime, and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both(, except as provided for in subsection (e) of this section)).

(e) ((Except as provided for in subsection (a)(1)(ii) of this section any person found guilty of possession of forty grams or less of marihuana shall be guilty of a misdemeanor

(f)) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a transaction unlawfully to manufacture, sell, or deliver a controlled substance. A violation of this subsection shall be punished as a class C felony punishable in accordance with RCW 9A.20.021.

This section shall not apply to offenses defined and

punishable under the provisions of RCW 69.50.410.

NEW SECTION. Sec. 30. Sections 1 through 9 and 11 through 25 of this act constitute a new chapter in Title 69 RCW.

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