



May 16, 2012

## SUMMARY OF INITIATIVE 502 TO THE LEGISLATURE

Concerning the regulation and taxation of marijuana.

*This summary has been prepared in response to specific questions about the provisions and effects of Initiative 502 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to pages 8-9 of the 2010-11 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how commenting on ballot measures is appropriate.*

### BRIEF SUMMARY

Initiative 502 to the legislature amends Washington's controlled substances statutes to allow adults, age 21 and over, to purchase small amounts of marijuana for their personal use.

The Initiative includes four main components and will:

- license and regulate marijuana production, distribution, including wholesale and resale, and possession for persons over the age of 21;
- remove state criminal and civil penalties on certain amounts of marijuana;
- tax marijuana sales at the state and local level; and
- dedicate a percentage of the tax revenue for substance-abuse prevention, research, education, and healthcare.

The amounts of marijuana available for purchase under I-502 are:

- one ounce of useable marijuana<sup>1</sup>;
- sixteen ounces of marijuana-infused product<sup>2</sup> in a solid form; and
- seventy-two ounces of marijuana-infused products in liquid form.

### BACKGROUND

Under the Uniform Controlled Substances Act, the degree of restriction placed over a controlled substance depends on the potential for abuse and the degree of psychic dependency which may be caused by use of the controlled substance.

Controlled substances are placed in five different schedules to reflect the amount of restriction necessary, with Schedule I being the most restricted, and Schedule V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed. Marijuana is a Schedule I controlled substance. The possession of 40 grams or less of marijuana is a misdemeanor offense. All other offenses relating to the possession, manufacturing, delivering or possessing with intent to deliver marijuana are class C

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<sup>1</sup> "Useable marijuana" is defined as dried marijuana flowers (dried buds).

<sup>2</sup> "Marijuana- infused products is defined as products that contain marijuana or marijuana extracts and are intended for human use. An example of this product in solid form would be baked goods and an example of the product in liquid form would be teas.

felony offenses. The maximum punishment for a class C felony offense is five years imprisonment, a \$10,000 fine, or both.

In 1998 Washington voters approved Initiative 692, the Medical Use of Marijuana Act (Act). The Act creates an affirmative defense to the violation of state laws relating to marijuana if the individual uses and possesses it for medicinal purposes. Qualifying patients, or their designated provider, may establish the defense if they only possess the amount of marijuana necessary for their personal use, up to a 60-day supply, and if they present valid documentation to law enforcement officers. Qualifying patients are those who (1) have been diagnosed with a terminal or debilitating medical condition; (2) have been advised by a physician about the risks and benefits of the medical use of marijuana; and (3) may benefit from such use.

Under federal law, the use of marijuana for any purposes violates the Uniform Controlled Substances Act. Absent congressional action, state laws permitting the use of marijuana for any purposes will not protect an individual from legal action by the federal government.

## **SUMMARY OF INITIATIVE 502**

Initiative 502 authorizes the Liquor Control Board (LCB) to license and regulate marijuana use for persons over the age of 21, and establishes driving-under-the-influence legal thresholds for marijuana (THC levels), as is done for adult use of alcohol.

The LCB must adopt rules by December 1, 2013, that establish procedures and criteria necessary to perform the following:

- license marijuana producers, marijuana processors and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees;
- determine, in consultation with the Office of Financial Management (OFM), the maximum number of retail outlets that may be licensed in each county;
- determine the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location or retail outlet at any time without violating state law;
- determine the nature, form, and capacity of all containers to be used by licensees to contain marijuana and marijuana infused projects, and their labeling requirements;
- establish reasonable time, place and manner restrictions and requirements regarding advertising of marijuana; and
- specify procedures for the identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, processed, packaged, labeled or offered for sale in Washington State that do not conform in all respects to the standards prescribed by the Initiative.

Prior to issuing or renewing a license to an applicant, the LCB is required to provide notice of the application to the chief executive officer of the incorporated city or town, or to the county legislative authority, if the application is for a license within that jurisdiction. The official or employee designated by the city, town, or county has the right to file with the LCB a written objection against the applicant and may request an administrative hearing.

No person under the age of 21 may be licensed as a producer, processor, or retailer of marijuana nor can a person under the age of 21 be employed by any licensed producer, processor or retailer of marijuana.

Under, Initiative 502, marijuana would be sold to consumers exclusively by privately owned and operated, licensed retail outlets who may sell only marijuana, marijuana-infused products, and related products that are for using and storing marijuana. Retailers may only sell marijuana produced by LCB licensed producers and processed by LCB licensed processors. Processors must purchase marijuana from licensed Washington producers, and retailers must purchase marijuana from Washington licensed producers and processors.

Current DUI laws remain unchanged. However, Initiative 502 establishes a per se driving under-the-influence threshold for marijuana of 5 nanograms of active THC metabolite per milliliter of blood.

Initiative 502 levies a new marijuana excise tax equal to 25 percent of the selling price on each producer, processor and retailer. The marijuana excise tax will be administered by the LCB. The initiative provides for annual distributions of \$500,000 for the Washington State Health Youth survey; \$200,000 for cost-benefit evaluations by the Washington State Institute for Public Policy; \$20,000 for web-based public educational materials about the health and safety risks posed by marijuana use; and \$5 million for LCB administration. The remaining excise taxes are to be distributed as follows:

- 50 percent to the state's Basic Health Plan;
- 18.7 percent to the state general fund;
- 15 percent to the Department of Social and Health Services Division of Behavioral Health and Recovery for youth substance abuse prevention programs selected in consultation with the University of Washington (UW) Social Development Research Group and Alcohol and Drug Abuse Institute;
- 10 percent to the Department of Health for marijuana education and public health programs, to include a Marijuana Quitline and a local health department grants program that supports coordinated intervention strategies for youth;
- 5 percent to community health centers;
- 1 percent to the UW and Washington State University for research on the short and long term effects of marijuana use, to include intoxication and impairment; and
- 0.3 percent to Building Bridges programs to prevent and reverse student drop-out.

General state and local sales and use taxes, and business and occupation taxes will also apply to the sale of marijuana and marijuana-infused products.

Initiative 502 will not change Washington's Medical Use of Marijuana Act.

For information on assumptions, see the OFM statement of fiscal impacts (given only in total dollars) at the following website: <http://www.ofm.wa.gov/initiatives/default.asp>.

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For further information, please contact:  
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*This summary should not be considered legislative history for purposes of interpreting Initiative 502.*