

Preserve Patient Access: Fully Implement 2011 Bipartisan Medical Cannabis Bill (SB 5073)

HISTORY

Engrossed Second Substitute Senate Bill (E2SSB) 5073 was passed by the 2011 Legislature with bipartisan support¹. This bill established a well-regulated framework for safe access through a three-tiered system of licensing for medical cannabis producers, processors and dispensers, in addition to allowing individual patients to grow 15 plants and/or become designated providers for up to one other person. E2SSB 5073 also codified the concept of patient cooperatives known as *collective gardens*.

Unfortunately, under threat of federal intervention, then-Governor Christine Gregoire vetoed 36 sections of the bill. That action forced patients and care providers to adapt to a half-written law with boundaries that are unclear.

CURRENT LANDSCAPE

Collective gardens are the sole remaining provision after Governor Gregoire's veto which allow medical distribution on a broader scale. Attorneys were able to piece together a legal model for to allow medical cannabis operations to expand to serve patients needs utilizing ambiguities in the law. As a result, there is uncertainty around sales and advertising. However, many medical collectives have obtained standard business licenses from the Department of Revenue (DOR) and follow industry-designed best practices for product safety, local compliance, employment and paying taxes.

According to DOR estimates, existing medical cannabis outlets generated over \$14 million in tax revenue in FY2014. Unfortunately, some businesses in the recreational marijuana space have taken advantage of the ambiguous regulations governing medical cannabis in order to skirt the law, taxation and oversight. These businesses endanger patient rights and undermine the legitimacy of both markets

E2SSB 5073 IS STILL THE BEST APPROACH

The simplest way to fix the unintended consequences we face today, without placing a burden on patients, is to fully restore all provisions vetoed in 2011. Concerns about another veto have been significantly mitigated by a change in federal law which prohibits the Department of Justice from interfering in state-legal medical marijuana programs². Governor Jay Inslee has also shown a commitment to uphold voter initiatives which legalized both recreational and medical cannabis. Additionally, the benefit of experience allows for further improvements, if desired, to discourage any suspected abuse.

¹ E2SSB 5073 passed the House on April 11, 2011 with a vote of 54-43. After concurrence, the bill passed the Senate on April 21, 2011 with a vote of 27-21 with one Senator excused. It was partially vetoed by Governor Gregoire on April 29, 2011.

² Section 538 of the "Consolidated and Further Continuing Appropriations Act" of 2015 states, "None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and Wisconsin, to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

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General Information

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SUGGESTED ENHANCEMENTS

1. Tight Parameters around Patient Cooperatives (Collective Gardens)
 - a) Prohibit Advertising
 - b) Prohibit Sales of Any Kind
 - c) Prohibit Continuous Rotation of Patients
2. Robust Authorization Process
 - a) Direct DOH to Establish Recommendations for Continuing Education
 - b) Create Workgroup to Study Reporting Component (Patients seen, authorizations Issued, related diagnoses)
3. Incentivize Cities & Counties
 - a) Revenue Sharing for Participation
 - b) Total Opt Out Requires Public Vote
4. Update Intent Section
 - a) Add Affirmative Defense and Non-Commercial Patient Cooperatives
 - b) Amend Subsection on Health Care Professionals to include Continuing Education & Reporting
 - c) Amend Public Safety subsection to Remove Supervision & Add City/County Incentives

PATH TO SUCCESS

Step One: Introduce Legislation to Restore E2SSB 5073's Vetoed Provisions (*House Bill 2058*)

This provides a clean slate to work from and encourages bipartisan leadership in the House. Language initially introduced should come directly from E2SSB 5073, with nothing added or taken away. This not only provides a safety net, but incentive to hammer out any planned compromises prior to the scheduled hearing.

Step Two: Amend Language from E2SSB 5073 to Reflect Current Needs

Lawmakers and advocates will continue to work together to reach consensus on amendment language, allowing a striker to be adopted and/or individual amendments as agreed upon. If further progress cannot be attained, E2SSB 5073 is a mutually-acceptable framework and represents a vast improvement over the state's existing medical cannabis law.

YEA VOTES ON E2SSB 5073

Representatives: Anderson, Appleton, Billig, Blake, Carlyle, Chopp, Clibborn, Cody, Condotta, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hope, Hunt, Hunter, Hurst, Jinkins, Kagi, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Walsh

Senators: Baumgartner, Brown, Chase, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Hill, Hobbs, Keiser, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom, White, Zarelli

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