

INITIATIVE 766

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 766 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to the regulation of marijuana; adding a new
2 chapter to Title 69 RCW; prescribing penalties; and providing an
3 effective date.

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

5 NEW SECTION. **Sec. 1.** PURPOSE AND INTENT. This chapter shall be
6 liberally construed to protect the economic, social, and moral well-
7 being and the safety of the state and of all its people, and to prevent
8 the return of marijuana to the black market.

9 This chapter should not be viewed as any kind of endorsement of the
10 consumption of marijuana. While prohibition had noble intentions, the
11 goal of stopping marijuana consumption by making it illegal has failed
12 in its task, and the people of the state of Washington acknowledge that
13 more harm is done from the prohibition of marijuana than the
14 consumption of marijuana. The main intent of this chapter is the
15 elimination of the criminal element currently involved in the sale of
16 marijuana.

17 This chapter shall operate uniformly throughout Washington and
18 fully replace and supersede all statutes, municipal charter enactments,

1 and local ordinances relating to marijuana, marijuana paraphernalia,
2 and any other act or product covered by this chapter.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Annual income" means total annual income, by all persons
7 living in the household in which the person being surveyed resides.

8 (2) "Board in charge" is the board in charge of marijuana
9 regulation, as provided by section 27 of this act.

10 (3) "Cannabis" is any plant from the genus *Cannabis*. This
11 includes, but is not limited to, *Cannabis sativa*, *Cannabis indica*, or
12 *Cannabis americana*.

13 (4) "Consume" includes smoking, inhaling, eating, or any other way
14 of introducing marijuana into the human body.

15 (5) "Cultivation" is the planting, propagating, cultivating,
16 growing, harvesting, manufacturing, packaging, producing, or otherwise
17 preparing marijuana for consumption.

18 (6) "Distribution" means the sale of marijuana to marijuana retail
19 license holders for individual sale.

20 (7) "Government employee" means any nonelected government employee.

21 (8) "Hemp products" means any product that comes from the *Cannabis*
22 *sativa*, *Cannabis indica*, or *Cannabis americana* plants, for which the
23 ingestion, inhalation, or introduction of into the human body does not
24 result in noticeable psychoactive effects.

25 (9) "Individual sale" means the sale of no more than one-quarter of
26 one ounce of marijuana, made by a marijuana retail license holder to a
27 member of the general public who may purchase marijuana, with no
28 license, for personal use in accordance with section 11 of this act.

29 (10) "Marijuana" includes marijuana, hashish, hashish oil, or any
30 other product which comes from the *Cannabis sativa*, *Cannabis indica*, or
31 *Cannabis americana* plants, for which the ingestion, inhalation, or
32 introduction of into the human body does result in noticeable
33 psychoactive effects.

34 (11) "Marijuana test" means a test that shows whether a person has
35 or has not consumed marijuana. This includes, but is not limited to,
36 urine or blood analysis.

1 (12) "Official poverty level" is the official poverty level as
2 determined by the federal government, as adjusted for the year in which
3 the survey is being conducted.

4 NEW SECTION. **Sec. 3. MARIJUANA PARAPHERNALIA DEFINITIONS.** As
5 used in this chapter, "marijuana paraphernalia" means all equipment,
6 products, and materials of any kind which are used, intended for use,
7 or designed for use in planting, propagating, cultivating, growing,
8 harvesting, manufacturing, compounding, converting, producing,
9 processing, preparing, testing, analyzing, packaging, repackaging,
10 storing, containing, concealing, ingesting, inhaling, consuming, or
11 otherwise introducing marijuana into the human body. It includes, but
12 is not limited to:

13 (1) Kits used, intended for use, or designed for use in planting,
14 propagating, cultivating, growing, or harvesting of any species of
15 marijuana;

16 (2) Kits used, intended for use, or designed for use in
17 manufacturing, compounding, converting, producing, processing, or
18 preparing marijuana;

19 (3) Isomerization devices used, intended for use, or designed for
20 use in increasing the potency of any species of marijuana;

21 (4) Testing equipment used, intended for use, or designed for use
22 in identifying or in analyzing the strength, effectiveness, or purity
23 of marijuana;

24 (5) Scales and balances used, intended for use, or designed for use
25 in weighing or measuring marijuana;

26 (6) Separation gins and sifters used, intended for use, or designed
27 for use in removing twigs and seeds from, or in otherwise cleaning or
28 refining, marijuana;

29 (7) Capsules, balloons, envelopes, and other containers used,
30 intended for use, or designed for use in packaging small quantities of
31 marijuana;

32 (8) Containers and other objects used, intended for use, or
33 designed for use in storing or concealing marijuana;

34 (9) Objects used, intended for use, or designed for use in
35 ingesting, inhaling, or otherwise introducing marijuana, hashish, or
36 hashish oil into the human body, such as:

- 1 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
2 with or without screens, permanent screens, hashish heads, or punctured
3 metal bowls;
- 4 (b) Water pipes;
- 5 (c) Carburetion tubes and devices;
- 6 (d) Smoking and carburetion masks;
- 7 (e) Roach clips: Meaning objects used to hold burning material,
8 such as a marijuana cigarette, that has become too small or too short
9 to be held in the hand;
- 10 (f) Miniature cocaine spoons and cocaine vials;
- 11 (g) Chamber pipes;
- 12 (h) Carburetor pipes;
- 13 (i) Electric pipes;
- 14 (j) Air-driven pipes;
- 15 (k) Chillums;
- 16 (l) Bongs; and
- 17 (m) Ice pipes or chillers.

18 NEW SECTION. **Sec. 4.** HEMP PRODUCTS. (1) Hemp products are
19 available for purchase, possession, or use by any person in the state
20 of Washington, regardless of age.

21 (2) There is no license required for cultivation, production,
22 distribution, or sale of hemp products, with the exception of a
23 certificate of authority to transact business in the state of
24 Washington.

25 NEW SECTION. **Sec. 5.** CROSSING STATE LINES. (1) A person is
26 guilty of grade B personal marijuana exportation if the person intends
27 to transport one ounce or less of marijuana from the state of
28 Washington to a state or foreign nation in which the possession of
29 marijuana is prohibited. Violation of this subsection is a
30 misdemeanor.

31 (2) A person is guilty of grade A marijuana exportation if the
32 person intends to transport more than one ounce from the state of
33 Washington to a state or foreign nation in which the possession of
34 marijuana is prohibited. Violation of this subsection is a gross
35 misdemeanor, and every person convicted shall be punished by
36 imprisonment in the county jail for a maximum term fixed by the court
37 of not more than eighteen months, or by a fine in an amount fixed by

1 the court of not more than fifteen thousand dollars, or by both such
2 imprisonment and fine.

3 (3) A person is not guilty under this section if the person
4 transports marijuana to a state or foreign nation in which the
5 possession of marijuana is prohibited if the person has received prior
6 written permission from such state or foreign nation.

7 NEW SECTION. **Sec. 6.** MARIJUANA SALES TAX. A state sales tax
8 shall be imposed as follows:

9 (1) Forty-five percent on marijuana for personal use; and

10 (2) Twenty percent on marijuana paraphernalia and cannabis seeds.

11 NEW SECTION. **Sec. 7.** SALE OF MARIJUANA. (1) "Holder" as used in
12 this section means an individual, copartnership, association, or
13 corporation holding a marijuana retail license.

14 (2) A holder must be at least twenty-one years old, and pay a fee
15 fixed by the board in charge of no more than five hundred dollars per
16 annum, to receive or renew a marijuana retail license.

17 (3) A holder shall not sell marijuana to any person less than
18 twenty-one years old.

19 (4) A holder shall sell no more than one-quarter of one ounce of
20 marijuana to an individual in one day, and shall have no more than two
21 pounds of marijuana on the premise of such business at any time.

22 (5) A holder shall not give evidence in view of the general public,
23 in name or appearance, that such business sells marijuana.

24 (6) The board in charge shall be responsible for creating an
25 application for a marijuana retail license, and the issuing of a
26 marijuana retail license.

27 (7) The legislature is authorized to enact legislation, using
28 reasonable standards, establishing further qualifications to receive a
29 marijuana retail license, along with permitting the sale of marijuana
30 in state liquor stores, as described in chapter 66.16 RCW.

31 (8) The board in charge shall not issue a marijuana retail license
32 until either:

33 (a) May 1, 2002; or

34 (b) A date before May 1, 2002, that is assigned by the legislature.

1 NEW SECTION. **Sec. 8.** COMMERCIAL CULTIVATION OF MARIJUANA. (1)

2 This section applies only to an individual, copartnership, association,
3 or corporation holding a marijuana cultivation license.

4 (2) A holder must be at least twenty-one years old to receive, and
5 pay a fee fixed by the board in charge of no more than five hundred
6 dollars per annum, to receive or renew a marijuana cultivation license.

7 (3) The board in charge shall be responsible for creating an
8 application for a marijuana cultivation license, and the issuing of a
9 marijuana cultivation license.

10 (4) The legislature is authorized to enact legislation, using
11 reasonable standards, establishing further qualifications to receive a
12 marijuana cultivation license, and further restrictions for the
13 commercial cultivation of marijuana.

14 (5) The board in charge shall not issue a marijuana cultivation
15 license until either:

16 (a) May 1, 2002; or

17 (b) A date before May 1, 2002, that is assigned by the legislature.

18 NEW SECTION. **Sec. 9.** WHOLESALE DISTRIBUTION OF MARIJUANA. (1)

19 "Holder" as used in this section means an individual, copartnership,
20 association, or corporation holding a marijuana distribution license.

21 (2) A holder must be at least twenty-one years old, and pay a fee
22 fixed by the board in charge of no more than five hundred dollars per
23 annum, to receive or renew a marijuana distribution license.

24 (3) A holder shall be permitted to distribute marijuana solely to
25 an individual, copartnership, association, or corporation in possession
26 of a marijuana retail license.

27 (4) The board in charge shall be responsible for creating an
28 application for a marijuana distribution license, and the issuing of a
29 marijuana distribution license.

30 (5) The legislature is authorized to enact legislation, using
31 reasonable standards, establishing further qualifications to receive a
32 marijuana distribution license, and further restrictions for the
33 distribution of marijuana.

34 (6) The board in charge shall not issue a marijuana distribution
35 license until either:

36 (a) May 1, 2002; or

37 (b) A date before May 1, 2002, that is assigned by the legislature.

1 NEW SECTION. **Sec. 10.** FURNISHING TO MINORS. (1) It is unlawful

2 for any person to sell, give, or otherwise supply marijuana to any
3 person under the age of twenty-one years or permit any person under
4 that age to consume marijuana on his or her premises or on any premises
5 under his or her control. For the purposes of this subsection,
6 "premises" includes real property, houses, buildings, and other
7 structures, and motor vehicles and watercraft. A violation of this
8 subsection is a gross misdemeanor punishable as provided for in chapter
9 9A.20 RCW.

10 (2)(a) It is unlawful for any person under the age of twenty-one
11 years to possess, consume, or otherwise acquire marijuana. A violation
12 of this subsection is a gross misdemeanor punishable as provided for in
13 chapter 9A.20 RCW.

14 (b) It is unlawful for a person under the age of twenty-one years
15 to be in a public place, or to be in a motor vehicle in a public place,
16 while exhibiting the effects of having consumed marijuana. For
17 purposes of this subsection, exhibiting the effects of having consumed
18 marijuana means that a person has the odor of marijuana on his or her
19 breath and either: (i) Is in possession of or close proximity to a
20 marijuana product that has or recently had marijuana in it; or (ii) by
21 speech, manner, appearance, behavior, lack of coordination, or
22 otherwise, exhibits that he or she is under the influence of marijuana.
23 This subsection (2)(b) does not apply if the person is in the presence
24 of a parent or guardian or has consumed or is consuming marijuana under
25 circumstances described in subsection (3) or (4) of this section.

26 (3) Subsections (1) and (2)(a) of this section do not apply to
27 marijuana given or permitted to be given to a person under the age of
28 twenty-one years by a parent or guardian and smoked in the presence of
29 the parent or guardian. This subsection shall not authorize
30 consumption or possession of marijuana by a person under the age of
31 twenty-one years on any premises open to the view of the general
32 public.

33 (4) This section does not apply to marijuana give for medicinal
34 purposes to a person under the age of twenty-one years by a parent,
35 guardian, physician, or dentist as provided for in chapter 69.51A RCW.

36 (5) Conviction or forfeiture of bail for a violation of this
37 section by a person under the age of twenty-one years at the time of
38 such conviction or forfeiture shall not be a disqualification of that

1 person to acquire any license related to marijuana after that person
2 has attained the age of twenty-one years.

3 NEW SECTION. **Sec. 11.** REQUIREMENTS TO PURCHASE. A person who is
4 at least twenty-one years old may acquire no more than one-quarter of
5 one ounce of marijuana in one day, regardless of past criminal
6 activity, and is not required to hold a license.

7 NEW SECTION. **Sec. 12.** TREATMENT. Any treatment as prescribed in
8 this chapter shall be funded by the state of Washington. However, a
9 person must not have previously undergone treatment related to
10 marijuana or any other drug, including alcohol and nicotine, funded by
11 the state.

12 NEW SECTION. **Sec. 13.** PERSONAL CULTIVATION. A person who is at
13 least twenty-one years old may cultivate no more than five cannabis
14 plants for personal consumption without license or fee, which must
15 occur in a location not open to the view of the general public.

16 NEW SECTION. **Sec. 14.** PERSONAL POSSESSION. An individual who is
17 at least twenty-one years old may possess no more than one ounce of
18 marijuana for personal consumption without license or fee, which must
19 occur in a location not open to the view of the general public. This
20 section shall not apply to cannabis plants.

21 NEW SECTION. **Sec. 15.** MARIJUANA PARAPHERNALIA. (1) The
22 possession, use, acquisition, and sale of marijuana paraphernalia is
23 legal. However, this does not apply to a person less than twenty-one
24 years old.

25 (2) A person is guilty of a misdemeanor if the offender sells
26 marijuana paraphernalia to a person who is less than twenty-one years
27 old.

28 (3) A person who is less than twenty-one years old is subject to
29 forfeiture of any marijuana paraphernalia found in his or her
30 possession, but no other property of the person shall be seized for
31 violation of this section.

32 (4) No license or permit is required for the possession, use,
33 acquisition, or sale of marijuana paraphernalia.

1 NEW SECTION. **Sec. 16.** DISCLOSURE OF NAMES. Information on
2 applicants, licensees, and purchasers under this chapter shall not be
3 disclosed except upon the applicant's, licensee's, or purchaser's
4 request.

5 NEW SECTION. **Sec. 17.** MARIJUANA AND DRUG SURVEY. (1) The
6 legislature shall fund a survey to find the rate of drug consumption in
7 the state of Washington.

8 (a) Age categories in the survey are divided into the following:

9 (i) Persons who are at least twelve years old, but not more than
10 seventeen years old;

11 (ii) Persons who are at least eighteen years old, but not more than
12 twenty years old;

13 (iii) Persons who are at least twenty-one years old, but not more
14 than twenty-nine years old;

15 (iv) Persons who are at least thirty years old, but not more than
16 thirty-nine years old; and

17 (v) Persons who are at least forty years old.

18 (b) Categories for rate of consumption shall be divided into the
19 following:

20 (i) Heavy users, who consume on a daily basis;

21 (ii) High users, who consume at least four days per week;

22 (iii) Moderate users, who consume at least one day per week, but
23 not more than three days per week;

24 (iv) Low users, who consume at least one day per month, but less
25 than one day per week;

26 (v) Nonusers, who have not consumed in the past month, but consumed
27 at least one time in the past year; and

28 (vi) First-time users, who have consumed for the first time in the
29 past month.

30 (c) Economic status shall be divided into the following:

31 (i) Low income, which is an annual income not more than the
32 official poverty level, as defined by the federal government;

33 (ii) Low-medium income, which is an annual income more than the
34 official poverty level, but not more than two hundred percent higher
35 than the official poverty level;

36 (iii) Medium income, which is an annual income more than two
37 hundred percent higher than the official poverty level, but not more
38 than five hundred percent higher than the official poverty level;

1 (iv) High-medium income, which is an annual income at least more
2 than five hundred percent higher than the official poverty level, but
3 not more than one thousand percent higher than the official poverty
4 level; and

5 (v) High income, which is an annual income at least more than two
6 thousand percent higher than the official poverty level.

7 (d) Gender categories shall be divided into the following:

8 (i) Male; and

9 (ii) Female.

10 (e) Surveys shall include questions on alcohol, tobacco, marijuana,
11 cocaine, and heroin use.

12 (f) Surveys shall include questions on no more than five drugs, to
13 be determined by the board in charge, not cited in (e) of this
14 subsection, of which at least forty percent must have been included in
15 the previous survey, except in the survey to be conducted in 2002.

16 (2) A survey shall be conducted in the year 2002, and thereafter in
17 intervals of four years.

18 (3) A survey shall include rates of drug consumption in the states
19 of Oregon, California, Idaho, and at least two, but no more than five,
20 additional states, as determined by the legislature if such rates are
21 available.

22 (4) A survey shall include rates of drug consumption in the foreign
23 nations of Canada, the United Kingdom, the Netherlands, and at least
24 two, but no more than five, additional foreign nations, as determined
25 by the legislature.

26 (5) Subsections (3) and (4) of this section shall be based on the
27 most recent survey conducted in the state or foreign nation.

28 (6) Results of a survey shall be presented to the governor, the
29 House of Representatives, and the Senate, and be made available to the
30 general public for a fee of not more than five dollars.

31 NEW SECTION. **Sec. 18.** DRUG EDUCATION. (1) Drug education
32 programs in public schools in the state of Washington shall include
33 examples of common consequences of consuming marijuana. Uncommon
34 consequences of consuming marijuana may be presented if it is stated
35 that such consequences are uncommon. Drug education programs shall
36 take into consideration the possibility that exaggerated claims as to
37 the consequences of marijuana consumption may lead to doubting of
38 claims made as to the consequences of consumption of other drugs.

1 (2) The legislature is authorized to suggest guidelines for a state
2 drug education program. Individual school districts shall determine
3 the specific guidelines for drug education programs.

4 (3) All public school districts shall include a drug education
5 program in the curriculum.

6 NEW SECTION. **Sec. 19.** LICENSE TO POSSESS, CONSUME, ACQUIRE, AND
7 CULTIVATE. No license is required for the possession, consumption,
8 acquisition, or personal cultivation of marijuana, except as described
9 in chapter 69.51A RCW.

10 NEW SECTION. **Sec. 20.** ADVERTISING. A person is guilty of a gross
11 misdemeanor if the person created, paid for, displayed, or distributed
12 material that promotes or advertises marijuana for sale if the person
13 is in a position to profit financially from the sale of marijuana.

14 NEW SECTION. **Sec. 21.** MARIJUANA TESTING. (1) No government
15 agency in the state of Washington shall impose a marijuana test for the
16 consumption of marijuana for any social program, license, employment,
17 financial aid, or any other benefit.

18 (2) A government employee shall be subject to termination of
19 employment should it be discovered the consumption of marijuana
20 adversely affected the performance of an assigned task.

21 (3) No government employee is required to take a marijuana test,
22 unless such test is designed to determine current intoxication and the
23 supervisor of the government employee shall have reason to suspect the
24 government employee is currently intoxicated.

25 NEW SECTION. **Sec. 22.** CONSUMPTION DURING PREGNANCY CAUSING HARM.
26 A person is guilty of a class C felony when consumption of marijuana
27 during pregnancy shall be shown to have permanently caused harm to the
28 child.

29 NEW SECTION. **Sec. 23.** LAW ENFORCEMENT PROVISION. No Washington
30 law enforcement personnel or funds shall be used to assist enforcement
31 of federal marijuana laws governing marijuana-related acts that are
32 permitted in the state of Washington under this chapter.

1 NEW SECTION. **Sec. 24.** AMNESTY FOR PAST OFFENDERS. This chapter
2 is to be retroactive in its application to include amnesty and clearing
3 of all criminal records for all marijuana-related acts that are no
4 longer prohibited by this chapter. The attorney general, within sixty
5 days of the effective date of this act, shall develop and distribute a
6 one-page application, providing for the destruction of all criminal
7 records in Washington for marijuana-related acts that are no longer
8 illegal. Such forms shall be distributed to all county and city
9 attorneys and all police departments in the state of Washington, and be
10 made available to persons hereby affected. Upon filing such form with
11 the attorney general and payment of a fee no greater than five dollars,
12 all pertinent records anywhere in the state of Washington shall be
13 destroyed. Such persons may truthfully state that they have never been
14 convicted of marijuana acts that are no longer illegal.

15 NEW SECTION. **Sec. 25.** MUNICIPALITY AND COUNTY REGULATIONS.
16 Municipalities and counties may restrict the commercial sale of
17 marijuana to no less than one-eighth of one ounce, upon a vote of the
18 people. Municipalities and counties shall not limit the consumption,
19 possession, or personal cultivation of marijuana permitted by this
20 chapter, nor the option to limit the consumption, possession,
21 acquisition, sale, or cultivation of marijuana under chapter 69.51A
22 RCW.

23 NEW SECTION. **Sec. 26.** LIMITATIONS OF CHAPTER. (1) It is a
24 misdemeanor to consume or display marijuana in a manner or place that
25 is open to the view of the general public.

26 (2) Nothing in this chapter requires any accommodation of any
27 consumption of marijuana in any place of employment, in any school bus,
28 on any school grounds, or in any youth center.

29 (3) A plea of marijuana intoxication is not a defense to any
30 criminal act committed under its influence, nor shall proof of such
31 intoxication constitute a negation of specific intent.

32 (4) A person is absolutely liable in civil court for any damage to
33 person or property that occurred while the person was under the
34 influence of marijuana.

35 (5) Persons who possess, acquire, consume, sell, or cultivate
36 marijuana in accordance with chapter 69.51A RCW are not subject to
37 civil or criminal penalties stated in this chapter.

1 NEW SECTION. **Sec. 27.** BOARD OF ENFORCEMENT. (1) This chapter
2 shall be enforced by the Washington state liquor control board, until
3 such time as the legislature has established guidelines for a similar
4 board for marijuana.

5 (2) Until such times as a new board for marijuana is established,
6 the legislature is authorized to enact legislation expanding the power
7 of the Washington state liquor control board to include the control and
8 enforcement of marijuana under this chapter within one hundred eighty
9 days of the effective date of this act.

10 NEW SECTION. **Sec. 28.** LEGISLATIVE AMENDMENTS TO THIS CHAPTER.

11 (1) The legislature is authorized to enact legislation establishing
12 further regulations for the acquisition, consumption, cultivation,
13 distribution, possession, and sale of marijuana. However, such
14 regulations shall not: (a) Contradict any part of this chapter; and
15 (b) violate any part of section 1 of this act.

16 (2) The legislature is authorized to amend sections 2, 5 through
17 10, 12, 18, 20, 22, and 26 through 27 of this act within one hundred
18 twenty days of the effective date of this act, and as provided for by
19 the Washington state Constitution.

20 (3) The legislature is not authorized to amend sections 1, 3, 4,
21 11, 13 through 17, 19, 21, 23 through 25, and 28 through 32 of this
22 act, except as provided for by the Washington state Constitution.

23 NEW SECTION. **Sec. 29.** SHORT TITLE. This chapter may be known and
24 cited as the Washington state marijuana regulation act.

25 NEW SECTION. **Sec. 30.** CAPTIONS NOT LAW. Captions used in this
26 act are not any part of the law.

27 NEW SECTION. **Sec. 31.** SEVERABILITY. If any provision of this act
28 or its application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 32.** EFFECTIVE DATE. This act takes effect
32 January 1, 2002.

1 NEW SECTION. **Sec. 33.** LEGISLATIVE DIRECTIVE. Sections 1 through
2 32 of this act constitute a new chapter in Title 69 RCW.

--- **END** ---