

# The Marijuana Reform Act

END CRIMINAL PENALTIES FOR ADULTS

# INITIATIVE 1149

## BALLOT MEASURE SUMMARY

This measure would remove state civil and criminal penalties for the cultivation, possession, transportation, sale, or use of marijuana. It would create new criminal penalties for manufacture, delivery, sale or possession of marijuana by persons younger than eighteen years old, and for adults who distribute marijuana to them. Persons under eighteen would be permitted to possess marijuana obtained pursuant to a valid prescription. Certain penalties relating to drug paraphernalia would not apply to marijuana-related offenses.

### Ballot Title

Initiative Measure No. 1149 concerns marijuana.

This measure would remove existing state civil and criminal penalties regarding marijuana. It would create new criminal penalties regarding marijuana for persons under eighteen years and for adults who distribute marijuana to them.

Should this measure be enacted into law? Yes [ ] No [ ]

### INITIATIVE PETITION FOR SUBMISSION TO THE PEOPLE

To the Honorable Sam Reed,

Secretary of State of the State of Washington

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that the proposed measure known as Initiative Measure No. 1149, and entitled, "Initiative Measure No. 1149 concerns marijuana. This measure would remove existing state civil and criminal penalties regarding marijuana. It would create new criminal penalties regarding marijuana for persons under eighteen years and for adults who distribute marijuana to them," a full, true and correct copy of which is printed on the reverse side of this petition, be submitted to the legal voters of the State of Washington for their approval or rejection at the General Election to be held on the 8<sup>TH</sup> day of November, 2011; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

## WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when she or he is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

**YOU MUST BE A REGISTERED VOTER IN WASHINGTON STATE FOR SIGNATURE TO BE VALID.**

PLEASE DO NOT CUT—INVALIDATES SIGNATURES

PLEASE DO NOT CUT—INVALIDATES SIGNATURES

PLEASE DO NOT CUT—INVALIDATES SIGNATURES

PETITIONER'S SIGNATURE <small>PLEASE SIGN YOUR NAME AS YOU ARE REGISTERED TO VOTE</small>	PLEASE PRINT NAME HERE <small>FOR IDENTIFICATION PURPOSES</small>	ADDRESS <small>STREET NUMBER OR RURAL ROUTE AND BOX NUMBER</small>	CITY OR TOWN	COUNTY	OPTIONAL INFORMATION	I WANT TO HELP ✓
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[sensiblewashington.org](http://sensiblewashington.org) ▼ [info@sensiblewashington.org](mailto:info@sensiblewashington.org)

Please collect as many signatures as fast as you can and return sheets to your area coordinator or mail to:

Sensible Washington • P.O. Box 1184 • Seattle, WA 98111-1184 • (206) 707-5502

We need 241,153 valid signatures to make the General Election Ballot in November.

PAID FOR BY VOLUNTEERS



AN ACT Relating to the removal of civil and criminal penalties associated with adult marijuana use; amending RCW 9.94A.518, 69.50.101, 69.50.4014, 69.50.412, and 69.50.4121; reenacting and amending RCW 69.50.505; adding new sections to chapter 69.50 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The people of the state of Washington are concerned about the millions of dollars spent each year to arrest, prosecute, and incarcerate people for marijuana offenses. It is widely accepted that marijuana is a benign therapeutic substance that, unlike other legal substances such as tobacco and alcohol, has never caused a single death. (2) In 1998, the people recognized the medicinal benefits of marijuana by approving and enacting Initiative Measure No. 692, codified in chapter 69.51A RCW, which authorized the medical use of marijuana by qualified patients. Since chapter 69.51A RCW only provides an affirmative defense, it has proven ineffective at protecting qualified patients from arrest and prosecution. (3) Several bills have been introduced in the legislature seeking decriminalization of marijuana, but none have been permitted to reach the floor of the legislature for a vote. (4) Under current law: (a) Washington citizens face the prospect of arrest, prosecution, and incarceration, as well as the loss of employment and important parental and property rights, for marijuana offenses; and (b) Washington farmers and landowners are prohibited from growing industrial hemp on their land, depriving them of the ability to grow a valuable, environmentally friendly crop. (5) The people intend to remove all existing civil and criminal penalties for adults eighteen years of age or older who cultivate, possess, transport, sell, or use marijuana, without impacting existing laws proscribing dangerous activities while under the influence of marijuana or certain conduct that exposes younger persons to marijuana.

Sec. 2. RCW 9.94A.518 and 2003 c 53 s 57 are each amended to read as follows:

TABLE 4 DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

III Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW ((9-94A-662)) 9.94A.825

Controlled Substance Homicide (RCW 69.50.415)

Delivery of imitation Controlled Substance by persons eighteen or over to persons under eighteen (RCW 69.52.030(2))

Involving a minor in drug dealing (RCW 69.50.4015) Manufacture of methamphetamine (RCW 69.50.4012(b)) Over eighteen and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under eighteen (RCW 69.50.406)

Over 18 and deliver a narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)

Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)

II Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.4011)

Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2) (b))

Delivery of a material in lieu of a controlled substance (RCW 69.50.4012)

Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f))

Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW69.50.401(2)(a))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW69.52.030(1))

I Forged Prescription (RCW 69.41.020) Forged Prescription for a Controlled Substance (RCW 69.50.403) ((Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(2)(e)))

Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V (RCW 69.50.4013)

Possession of Controlled Substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.4013)

Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

NEW SECTION. Sec. 3. A new section is added to chapter 69.50 RCW to read as follows:

Nothing in this act shall be construed to affect the provisions or penalties set forth in the juvenile justice act, chapter 13.40 RCW, or the crimes enumerated in Title 46 RCW, or to legalize or authorize the possession, use, or manufacture of marijuana by persons under the age of eighteen.

Sec. 4. RCW 69.50.101 and 2010 c 177 s 1 are each amended to read as follows: Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter: (a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by: (1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or (2) the patient or research subject at the direction and in the presence of the practitioner. (b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson. (c) "Board" means the state board of pharmacy. (d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules. "Controlled substance" does not include marijuana. (e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and: (i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or (ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. (2) The term does not include: (i) a controlled substance; (ii) a substance for which there is an approved new drug application; (iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or (iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance. (f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship. (g) "Department" means the department of health. (h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery. (i) "Dispenser" means a practitioner who dispenses. (j) "Distribute" means to deliver other than by administering or dispensing a controlled substance. (k) "Distributor" means a person who distributes. (l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories. (m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency. (n) "Immediate

precursor" means a substance: (1) that the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance; (2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and (3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance. (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5), 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer. (p) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance: (1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or (2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale. (q) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. (r) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium. (2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. (3) Poppy straw and concentrate of poppy straw. (4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed. (5) Cocaine, or any salt, isomer, or salt of isomer thereof. (6) Cocaine base. (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof. (8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7). (s) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan. (t) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds. (u) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity. (v) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing. (w) "Practitioner" means: (1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state. (2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state. (3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine in any state of the United States. (x) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose. (y) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance. (z) "Secretary" means the secretary of health or the secretary's designee. (aa) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States. (bb) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household. (cc) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

Sec. 5. RCW 69.50.4014 and 2003 c 53 s 335 are each amended to read as follows: Except as provided in RCW 69.50.401(2)(c), any person under eighteen years of age found guilty of possession of forty grams or less of (marihuana) marijuana is guilty of a misdemeanor.

NEW SECTION. Sec. 6. A new section is added to chapter 69.50 RCW to read as follows: (1) It is unlawful for any person under the age of eighteen to manufacture, deliver, or possess with intent to manufacture or deliver marijuana. Any person who violates this subsection is guilty of a class C felony. (2) It is unlawful for any person under the age of eighteen to create, deliver, or possess counterfeit marijuana. Any person who violates this subsection is guilty of a class C felony. (3) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person under the age of eighteen to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of marijuana to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such marijuana. Any person who violates this subsection is guilty of a class C felony. (4) It is unlawful for any person under the age of eighteen to possess marijuana 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 or her professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a class C felony. (5) Any person eighteen years of age or over who distributes marijuana or any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years younger is guilty of a class B felony punishable by the fine authorized by RCW 69.50.401(2) (c), (d), or (e), by a term of imprisonment up to twice that authorized by RCW 69.50.401(2) (c), (d), or (e), or both. Sec. 7. RCW 69.50.412 and 2002 c 213 s 1 are each amended to read as follows: (1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor. (2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor. (3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor. (4) It is unlawful for any person to place in any newspaper, magazine, handbook, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor. (5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles

for the purpose of reducing bloodborne diseases. (6) This section does not apply to marijuana-related offenses for persons over the age of eighteen. Sec. 8. RCW 69.50.4121 and 2002 c 213 s 2 are each amended to read as follows: (1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "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. Drug paraphernalia includes, but is not limited to objects 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: (a) (Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; (b) Water pipes; (c) Carburatore tubes and devices; (d) Smoking and carburetion masks; (e) Roach clips; Meaning objects used to hold burning material((such as a marihuana cigarette)).) that has become too small or too short to be held in the hand; (f) Miniature cocaine spoons and cocaine vials; (g) Chamber pipes; (h) Carburator pipes; (i) Electric pipes; (j) Air-driven pipes; (k) Chillums; (l) Bongos; and (m) Ice pipes or chillers. (2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another. (3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs, and pharmacies. (4) This section does not apply to marijuana-related offenses for persons over the age of eighteen.

Sec. 9. RCW 69.50.505 and 2009 c 479 s 46 and 2009 c 364 s 1 are each reenacted and amended to read as follows: (1) The following are subject to seizure and forfeiture and no property right exists in them: (a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances; (b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW; (c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection; (d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that: (i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW; (ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent; (iii) ((No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014; (iv))) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and ((v)) (v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest; (e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW; (f) All drug paraphernalia; (g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and (h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However: (i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent; (ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property; (iii) ((The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property in such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, and other evidence which demonstrates the offender's intent to engage in commercial activity; (iv))) The unlawful sale of ((marijuana or)) a legend drug shall not result in the forfeiture of real property unless the sale was ((forty grams or more in the case of marijuana or)) one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and ((v)) (v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission. (2) Real or personal property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later; PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if: (a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; (b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter; (c) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or (d) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter. (3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. (4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation. (5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items

specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section. (6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees. (7) When property is forfeited under this chapter the board or seizing law enforcement agency may: (a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter; (b) Sell that which is not required to be destroyed by law and which is not harmful to the public; (c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or (d) Forward it to the drug enforcement administration for disposition. (8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property. (b) Each seizing agency shall retain records of forfeited property for at least seven years. (c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter. (d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction. (9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund. (b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section. (c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero. (10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources. (11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board. (12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board. (13) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants. (14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located. (15) (a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if: ((#)) (i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and ((#)) (ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section; ((#)) (A) Only if the funds applied under ((#)) (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search; ((#)) (B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period. ((#)) (b) For any claim filed under ((#)) (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either: (i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or (ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity. (16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to: (a) Damage to tangible property and clean-up costs; (b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer; (c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and (d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section. (17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency. (18) No seizure or forfeiture of property may result from marijuana-related offenses committed by persons eighteen years of age or older.

NEW SECTION. Sec. 10. 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. 11. If this act is validly submitted to and is approved and ratified by the voters at the next general election, the legislature must adopt rules and if appropriate, tax provisions, to carry out the provisions of this act by final adjournment of the 2012 regular legislative session.

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. This act may be known and cited as the marijuana reform act.

-- END --

"Does the signature gatherer need to sign the declaration on the back of the petition? No. Due to an opinion published by the Attorney General's office in 2006, the Office of the Secretary of State does not require that the signature gatherer sign the declaration in order for the petition to be accepted. For more information, see AGO 2006 No. 13"

SOURCE: WASHINGTON STATE SECRETARY OF STATE'S WEB SITE FAQ LINK

I, \_\_\_\_\_, swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

Address \_\_\_\_\_ City \_\_\_\_\_ County \_\_\_\_\_

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.