**Recreational Marijuana Home Grows Study – Input Requested by October 4, 2017**

The Washington State Legislature passed ESSB 5131 during the 2017 legislative session, directing the Washington State Liquor and Cannabis Board (WSLCB) to “conduct a study of regulatory options for the legalization of marijuana plant possession and cultivation by recreational marijuana users.” The study must consider the federal guidelines provided by the U.S. Department of Justice in the Cole Memo (Cole Memo). The WSLCB must deliver the findings and recommendations of this study to the Legislature by December 1, 2017.

You or your organization/agency have been identified as an interested party or stakeholder. The WSLCB requests your input on the regulatory options being considered as part of this study. Information on the regulatory options that the WSLCB will include in this study, guidelines of the Cole Memo, and specific questions we would like your input on are below.

**Cole Memo**

The Department of Justice issued eight enforcement guidelines for marijuana businesses in a 2014 memo, commonly called the Cole Memo. These guidelines are separate from Washington’s and are enforced at the discretion of the US Department of Justice, however, the WSLCB aims to ensure the regulated system adheres to the eight guidelines.

1. Preventing distribution to minors.
2. Preventing the revenue from going to criminal enterprises, gangs and cartels.
3. Preventing the diversion of marijuana from states where it is legal to other states.
4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
6. Preventing drugged driving and other adverse public health consequences associated with marijuana use.
7. Preventing the growing of marijuana on public lands and the environmental dangers posed by marijuana production on public lands.
8. Preventing marijuana possession or use on federal property.

**Regulatory Options**

The WSLCB is including the following regulatory options, based on regulatory frameworks in other jurisdictions, in the Recreational Home Grows Study. The WSLCB will assess each option individually under the lens of the Cole Memo with attention to the feasibility, enforceability, and resource impacts of each option. For each option, the WSLCB defines “recreational home grows” as the growing of marijuana for personal use.

1. **Strictly Regulated Recreational Home Grows.**
	* Allow recreational home grows under a strict state regulatory framework that requires a permit and tracking of plants throughout the state, with enforcement jurisdiction shared between the WSLCB and local authorities.
	* Absent a permit, growing marijuana for any purpose is illegal.
	* Require tracking of all plants in the traceability system to help prevent diversion.
	* Limit of no more than 4 plants per household.
	* Include a statutory provision that allows law enforcement to seize and destroy all plants possessed by a person if the person has more plants than the law allows.
	* Include a statutory provision to allow recreational growers to acquire plants from licensed producers so long as the person possesses a valid permit.
	* Include requirements for security, preventing youth access, preventing diversion, etc.
	* Include the same restrictions that apply to medical marijuana patients on processing marijuana in recreational home grows (no extraction with combustible materials. See WAC 314-55-430).
2. **State Framework, Local Authority Recreational Home Grows.**
	* Allow recreational home grows under a regulatory framework based on statewide standards set in statute, but authorized, controlled, and enforced by local jurisdictions (counties, cities).
	* Include statutory requirements for security, preventing youth access, preventing diversion, etc. (Cole Memo).
	* Require a permit to possess plants. Absent a permit, growing marijuana for any purpose is illegal.
	* Limit of no more than 4 plants per household.
	* Include a statutory provision to allow recreational growers to acquire plants from licensed producers so long as the person possesses a valid permit.
	* Include a statutory provision that allows law enforcement to seize and destroy all plants possessed by a person if the person has more plants than the law allows.
	* Include the same restrictions that apply to medical marijuana patients on processing marijuana in recreational home grows (no extraction with combustible materials. See WAC 314-55-430).
	* The Legislature may choose to allow local jurisdictions to “opt-in” for or “opt-out” of allowing recreational home grows, similar to the approach the Legislature took with marijuana licenses and registered medical marijuana patient cooperative grows.
3. **Prohibit Recreational Home Grows.**
	* Do not allow recreational home grows. Maintain current status.
	* A regulated market is in place and widely available throughout the state.
	* Home grows for medical purposes, including cooperatives, are currently allowed under state law.
	* Allowing recreational home grows may provide a cover for the illicit market. This has been seen in other states that permit home grows for both medical and recreational purposes.
	* Recreational home grows may contribute to diversion, youth access, etc., primary considerations under the guidelines set in the Cole Memo.

**Questions**

1. Which of the above options best protects the state under the Cole Memo from intervention by the federal government?
2. What resource impacts (work hours, costs, etc.), positive or negative, do you foresee for the regulatory options listed above?
3. What are the challenges or benefits (or both) associated with each of the regulatory options listed above?
4. Please provide any additional feedback you believe would be helpful to consider as part of this study.