
HOUSE BILL 1131

State of Washington

66th Legislature

2019 Regular Session

By Representatives Blake, MacEwen, Dolan, Walsh, and Kloba

Prefiled 01/11/19.

1 AN ACT Relating to residential marijuana agriculture; amending
2 RCW 69.50.4013 and 69.50.505; and reenacting and amending RCW
3 69.50.101.

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

5 **Sec. 1.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to
6 read as follows:

7 (1) It is unlawful for any person to possess a controlled
8 substance unless the substance was obtained directly from, or
9 pursuant to, a valid prescription or order of a practitioner while
10 acting in the course of his or her professional practice, or except
11 as otherwise authorized by this chapter.

12 (2) Except as provided in RCW 69.50.4014, any person who violates
13 this section is guilty of a class C felony punishable under chapter
14 9A.20 RCW.

15 (3)(a) The possession, by a person twenty-one years of age or
16 older, of useable marijuana, marijuana concentrates, or marijuana-
17 infused products in amounts that do not exceed those set forth in RCW
18 69.50.360(3) is not a violation of this section, this chapter, or any
19 other provision of Washington state law.

20 (b) The possession of marijuana, useable marijuana, marijuana
21 concentrates, and marijuana-infused products being physically

1 transported or delivered within the state, in amounts not exceeding
2 those that may be established under RCW 69.50.385(3), by a licensed
3 employee of a common carrier when performing the duties authorized in
4 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
5 this section, this chapter, or any other provision of Washington
6 state law.

7 (4) (a) The delivery by a person twenty-one years of age or older
8 to one or more persons twenty-one years of age or older, during a
9 single twenty-four hour period, for noncommercial purposes and not
10 conditioned upon or done in connection with the provision or receipt
11 of financial consideration, of any of the following marijuana
12 products, is not a violation of this section, this chapter, or any
13 other provisions of Washington state law:

14 (i) One-half ounce of useable marijuana;

15 (ii) Eight ounces of marijuana-infused product in solid form;

16 (iii) Thirty-six ounces of marijuana-infused product in liquid
17 form; or

18 (iv) Three and one-half grams of marijuana concentrates.

19 (b) The act of delivering marijuana or a marijuana product as
20 authorized under this subsection (4) must meet one of the following
21 requirements:

22 (i) The delivery must be done in a location outside of the view
23 of general public and in a nonpublic place; or

24 (ii) The marijuana or marijuana product must be in the original
25 packaging as purchased from the marijuana retailer.

26 (5) No person under twenty-one years of age may possess,
27 manufacture, sell, or distribute marijuana, marijuana-infused
28 products, or marijuana concentrates, regardless of THC concentration.
29 This does not include qualifying patients with a valid authorization.

30 (6) The possession by a qualifying patient or designated provider
31 of marijuana concentrates, useable marijuana, marijuana-infused
32 products, or plants in accordance with chapter 69.51A RCW is not a
33 violation of this section, this chapter, or any other provision of
34 Washington state law.

35 (7) (a) It is not a violation of this section, this chapter, or
36 any other provision of Washington state law for a person twenty-one
37 years of age or older to produce or possess no more than six plants
38 on the premises of the housing unit occupied by the person, provided
39 the person complies with the requirements of this subsection.

1 (b) It is not a violation of this section, this chapter, or any
2 other provision of Washington state law for a person twenty-one years
3 of age or older to produce or possess marijuana, including all stalks
4 and roots, produced from no more than six plants grown by the person
5 on the premises of the housing unit occupied by the person, subject
6 to the limitations provided in (c) of this subsection, if the person
7 complies with the requirements of this subsection.

8 (c) The quantity of marijuana and marijuana products a person may
9 produce or possess under this subsection is subject to the following
10 limits:

11 (i) A person may possess useable marijuana in an amount not to
12 exceed what is produced by the person's plants in addition to useable
13 marijuana obtained in the manner and according to the limits
14 specified in RCW 69.50.360(3). However, a person may not possess
15 marijuana capable of being processed into useable marijuana,
16 marijuana-infused products, or marijuana concentrates, unless the
17 person possesses fewer than sixteen ounces of useable marijuana,
18 irrespective of source;

19 (ii) A person may not produce or possess a total of more than
20 sixteen ounces of marijuana-infused products in solid form,
21 irrespective of source;

22 (iii) A person may not produce or possess a total of more than
23 seventy-two ounces of marijuana-infused products in liquid form,
24 irrespective of source; and

25 (iv) A person may not produce or possess a total of more than
26 seven grams of marijuana concentrates, irrespective of source.

27 (d) No more than fifteen plants may be grown at any one time on
28 the premises of a single housing unit, regardless of the number of
29 residents living on the premises of the housing unit.

30 (e) All plants grown under this subsection must be clearly marked
31 with the name, residential address, and date of birth of the person
32 growing the plants, and the date on which the plants were planted.

33 (f) All marijuana capable of being processed into useable
34 marijuana, marijuana-infused products, or marijuana concentrate must
35 be clearly marked with the name, date of birth, and residential
36 address of the person who grew the plants from which the marijuana is
37 derived, the date on which the plants were planted, and the date on
38 which the plants were harvested.

39 (g) All containers containing more than one ounce of useable
40 marijuana must be clearly marked with the name, date of birth,

1 residential address of the person who grew the plants from which the
2 useable marijuana is derived, the date on which the plants were
3 planted, and the date on which the plants were harvested. Any
4 containers containing one ounce or less of useable marijuana are not
5 required to be labeled.

6 (h) Any extraction or separation of resin from marijuana and any
7 production or processing of any form of marijuana concentrates or
8 marijuana-infused products must be performed in accordance with rules
9 adopted under RCW 69.51A.270.

10 (i) This subsection (7) does not apply to plants or useable
11 marijuana possessed or delivered other than on the premises of the
12 housing unit at which the plants were grown.

13 (j) Nothing in this subsection (7) prevents or restricts a
14 property owner from prohibiting the cultivation of plants by a renter
15 or lessee upon or within the property under the terms of a rental
16 agreement, lease, or other contract.

17 (k) The production, possession, delivery, and acquisition of
18 plants or marijuana capable of being processed into useable
19 marijuana, marijuana-infused products, or marijuana concentrate, and
20 useable marijuana under this subsection (7) may not form the basis of
21 a seizure or forfeiture action pursuant to RCW 69.50.505.

22 (l) A person twenty-one years of age or older who possesses
23 marijuana in compliance with this subsection (7) is considered an
24 ultimate user who may not sell marijuana, useable marijuana,
25 marijuana concentrate, or marijuana-infused products produced from
26 the person's plants, and is not required to obtain a registration
27 under RCW 69.50.302 or a license under RCW 69.50.325.

28 (m) For purposes of this subsection (7), "housing unit" has the
29 meaning provided in RCW 69.51A.010.

30 **Sec. 2.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read
31 as follows:

32 (1) The following are subject to seizure and forfeiture and no
33 property right exists in them:

34 (a) All controlled substances which have been manufactured,
35 distributed, dispensed, acquired, or possessed in violation of this
36 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,
37 as defined in RCW 64.44.010, used or intended to be used in the
38 manufacture of controlled substances;

1 (b) All raw materials, products, and equipment of any kind which
2 are used, or intended for use, in manufacturing, compounding,
3 processing, delivering, importing, or exporting any controlled
4 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

5 (c) All property which is used, or intended for use, as a
6 container for property described in (a) or (b) of this subsection;

7 (d) All conveyances, including aircraft, vehicles, or vessels,
8 which are used, or intended for use, in any manner to facilitate the
9 sale, delivery, or receipt of property described in (a) or (b) of
10 this subsection, except that:

11 (i) No conveyance used by any person as a common carrier in the
12 transaction of business as a common carrier is subject to forfeiture
13 under this section unless it appears that the owner or other person
14 in charge of the conveyance is a consenting party or privy to a
15 violation of this chapter or chapter 69.41 or 69.52 RCW;

16 (ii) No conveyance is subject to forfeiture under this section by
17 reason of any act or omission established by the owner thereof to
18 have been committed or omitted without the owner's knowledge or
19 consent;

20 (iii) No conveyance is subject to forfeiture under this section
21 if used in the receipt of only an amount of marijuana for which
22 possession constitutes a misdemeanor under RCW 69.50.4014;

23 (iv) A forfeiture of a conveyance encumbered by a bona fide
24 security interest is subject to the interest of the secured party if
25 the secured party neither had knowledge of nor consented to the act
26 or omission; and

27 (v) When the owner of a conveyance has been arrested under this
28 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the
29 person is arrested may not be subject to forfeiture unless it is
30 seized or process is issued for its seizure within ten days of the
31 owner's arrest;

32 (e) All books, records, and research products and materials,
33 including formulas, microfilm, tapes, and data which are used, or
34 intended for use, in violation of this chapter or chapter 69.41 or
35 69.52 RCW;

36 (f) All drug paraphernalia(~~(21)~~) other than paraphernalia
37 possessed, sold, or used solely to facilitate marijuana-related
38 activities that are not violations of this chapter;

39 (g) All moneys, negotiable instruments, securities, or other
40 tangible or intangible property of value furnished or intended to be

1 furnished by any person in exchange for a controlled substance in
2 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
3 or intangible personal property, proceeds, or assets acquired in
4 whole or in part with proceeds traceable to an exchange or series of
5 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
6 and all moneys, negotiable instruments, and securities used or
7 intended to be used to facilitate any violation of this chapter or
8 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable
9 instruments, securities, or other tangible or intangible property
10 encumbered by a bona fide security interest is subject to the
11 interest of the secured party if, at the time the security interest
12 was created, the secured party neither had knowledge of nor consented
13 to the act or omission. No personal property may be forfeited under
14 this subsection (1)(g), to the extent of the interest of an owner, by
15 reason of any act or omission which that owner establishes was
16 committed or omitted without the owner's knowledge or consent; and

17 (h) All real property, including any right, title, and interest
18 in the whole of any lot or tract of land, and any appurtenances or
19 improvements which are being used with the knowledge of the owner for
20 the manufacturing, compounding, processing, delivery, importing, or
21 exporting of any controlled substance, or which have been acquired in
22 whole or in part with proceeds traceable to an exchange or series of
23 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
24 if such activity is not less than a class C felony and a substantial
25 nexus exists between the commercial production or sale of the
26 controlled substance and the real property. However:

27 (i) No property may be forfeited pursuant to this subsection
28 (1)(h), to the extent of the interest of an owner, by reason of any
29 act or omission committed or omitted without the owner's knowledge or
30 consent;

31 (ii) The bona fide gift of a controlled substance, legend drug,
32 or imitation controlled substance shall not result in the forfeiture
33 of real property;

34 (iii) The acquisition, delivery, production, or possession of
35 marijuana, useable marijuana, marijuana concentrates, or marijuana-
36 infused products, including in the manner and in the amount provided
37 in RCW 69.50.4013(7), shall not result in the forfeiture of real
38 property unless the marijuana is possessed for commercial purposes
39 that are unlawful under Washington state law, the amount possessed is
40 five or more plants or one pound or more of marijuana except as

1 provided in RCW 69.50.4013, and a substantial nexus exists between
2 the possession of marijuana and the real property. In such a case,
3 the intent of the offender shall be determined by the preponderance
4 of the evidence, including the offender's prior criminal history, the
5 amount of marijuana possessed by the offender, the sophistication of
6 the activity or equipment used by the offender, whether the offender
7 was licensed to produce, process, or sell marijuana, or was an
8 employee of a licensed producer, processor, or retailer, and other
9 evidence which demonstrates the offender's intent to engage in
10 unlawful commercial activity;

11 (iv) The unlawful sale of marijuana or a legend drug shall not
12 result in the forfeiture of real property unless the sale was forty
13 grams or more in the case of marijuana or one hundred dollars or more
14 in the case of a legend drug, and a substantial nexus exists between
15 the unlawful sale and the real property; and

16 (v) A forfeiture of real property encumbered by a bona fide
17 security interest is subject to the interest of the secured party if
18 the secured party, at the time the security interest was created,
19 neither had knowledge of nor consented to the act or omission.

20 (2) Real or personal property subject to forfeiture under this
21 chapter may be seized by any ((board)) commission inspector or law
22 enforcement officer of this state upon process issued by any superior
23 court having jurisdiction over the property. Seizure of real property
24 shall include the filing of a lis pendens by the seizing agency. Real
25 property seized under this section shall not be transferred or
26 otherwise conveyed until ninety days after seizure or until a
27 judgment of forfeiture is entered, whichever is later(~~(:—PROVIDED,~~
28 ~~That)~~). However, real property seized under this section may be
29 transferred or conveyed to any person or entity who acquires title by
30 foreclosure or deed in lieu of foreclosure of a security interest.
31 Seizure of personal property without process may be made if:

32 (a) The seizure is incident to an arrest or a search under a
33 search warrant or an inspection under an administrative inspection
34 warrant;

35 (b) The property subject to seizure has been the subject of a
36 prior judgment in favor of the state in a criminal injunction or
37 forfeiture proceeding based upon this chapter;

38 (c) A ((board)) commission inspector or law enforcement officer
39 has probable cause to believe that the property is directly or
40 indirectly dangerous to health or safety; or

1 (d) The (~~board~~) commission inspector or law enforcement officer
2 has probable cause to believe that the property was used or is
3 intended to be used in violation of this chapter.

4 (3) In the event of seizure pursuant to subsection (2) of this
5 section, proceedings for forfeiture shall be deemed commenced by the
6 seizure. The law enforcement agency under whose authority the seizure
7 was made shall cause notice to be served within fifteen days
8 following the seizure on the owner of the property seized and the
9 person in charge thereof and any person having any known right or
10 interest therein, including any community property interest, of the
11 seizure and intended forfeiture of the seized property. Service of
12 notice of seizure of real property shall be made according to the
13 rules of civil procedure. However, the state may not obtain a default
14 judgment with respect to real property against a party who is served
15 by substituted service absent an affidavit stating that a good faith
16 effort has been made to ascertain if the defaulted party is
17 incarcerated within the state, and that there is no present basis to
18 believe that the party is incarcerated within the state. Notice of
19 seizure in the case of property subject to a security interest that
20 has been perfected by filing a financing statement in accordance with
21 chapter 62A.9A RCW, or a certificate of title, shall be made by
22 service upon the secured party or the secured party's assignee at the
23 address shown on the financing statement or the certificate of title.
24 The notice of seizure in other cases may be served by any method
25 authorized by law or court rule including but not limited to service
26 by certified mail with return receipt requested. Service by mail
27 shall be deemed complete upon mailing within the fifteen day period
28 following the seizure.

29 (4) If no person notifies the seizing law enforcement agency in
30 writing of the person's claim of ownership or right to possession of
31 items specified in subsection (1)(d), (g), or (h) of this section
32 within forty-five days of the service of notice from the seizing
33 agency in the case of personal property and ninety days in the case
34 of real property, the item seized shall be deemed forfeited. The
35 community property interest in real property of a person whose spouse
36 or domestic partner committed a violation giving rise to seizure of
37 the real property may not be forfeited if the person did not
38 participate in the violation.

39 (5) If any person notifies the seizing law enforcement agency in
40 writing of the person's claim of ownership or right to possession of

1 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)
2 of this section within forty-five days of the service of notice from
3 the seizing agency in the case of personal property and ninety days
4 in the case of real property, the person or persons shall be afforded
5 a reasonable opportunity to be heard as to the claim or right. The
6 notice of claim may be served by any method authorized by law or
7 court rule including, but not limited to, service by first-class
8 mail. Service by mail shall be deemed complete upon mailing within
9 the forty-five day period following service of the notice of seizure
10 in the case of personal property and within the ninety-day period
11 following service of the notice of seizure in the case of real
12 property. The hearing shall be before the chief law enforcement
13 officer of the seizing agency or the chief law enforcement officer's
14 designee, except where the seizing agency is a state agency as
15 defined in RCW 34.12.020(4), the hearing shall be before the chief
16 law enforcement officer of the seizing agency or an administrative
17 law judge appointed under chapter 34.12 RCW, except that any person
18 asserting a claim or right may remove the matter to a court of
19 competent jurisdiction. Removal of any matter involving personal
20 property may only be accomplished according to the rules of civil
21 procedure. The person seeking removal of the matter must serve
22 process against the state, county, political subdivision, or
23 municipality that operates the seizing agency, and any other party of
24 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-
25 five days after the person seeking removal has notified the seizing
26 law enforcement agency of the person's claim of ownership or right to
27 possession. The court to which the matter is to be removed shall be
28 the district court when the aggregate value of personal property is
29 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
30 before the seizing agency and any appeal therefrom shall be under
31 Title 34 RCW. In all cases, the burden of proof is upon the law
32 enforcement agency to establish, by a preponderance of the evidence,
33 that the property is subject to forfeiture.

34 The seizing law enforcement agency shall promptly return the
35 article or articles to the claimant upon a determination by the
36 administrative law judge or court that the claimant is the present
37 lawful owner or is lawfully entitled to possession thereof of items
38 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of
39 this section.

1 (6) In any proceeding to forfeit property under this title, where
2 the claimant substantially prevails, the claimant is entitled to
3 reasonable attorneys' fees reasonably incurred by the claimant. In
4 addition, in a court hearing between two or more claimants to the
5 article or articles involved, the prevailing party is entitled to a
6 judgment for costs and reasonable attorneys' fees.

7 (7) When property is forfeited under this chapter the ((board))
8 commission or seizing law enforcement agency may:

9 (a) Retain it for official use or upon application by any law
10 enforcement agency of this state release such property to such agency
11 for the exclusive use of enforcing the provisions of this chapter;

12 (b) Sell that which is not required to be destroyed by law and
13 which is not harmful to the public;

14 (c) Request the appropriate sheriff or director of public safety
15 to take custody of the property and remove it for disposition in
16 accordance with law; or

17 (d) Forward it to the drug enforcement administration for
18 disposition.

19 (8)(a) When property is forfeited, the seizing agency shall keep
20 a record indicating the identity of the prior owner, if known, a
21 description of the property, the disposition of the property, the
22 value of the property at the time of seizure, and the amount of
23 proceeds realized from disposition of the property.

24 (b) Each seizing agency shall retain records of forfeited
25 property for at least seven years.

26 (c) Each seizing agency shall file a report including a copy of
27 the records of forfeited property with the state treasurer each
28 calendar quarter.

29 (d) The quarterly report need not include a record of forfeited
30 property that is still being held for use as evidence during the
31 investigation or prosecution of a case or during the appeal from a
32 conviction.

33 (9)(a) By January 31st of each year, each seizing agency shall
34 remit to the state treasurer an amount equal to ten percent of the
35 net proceeds of any property forfeited during the preceding calendar
36 year. Money remitted shall be deposited in the state general fund.

37 (b) The net proceeds of forfeited property is the value of the
38 forfeitable interest in the property after deducting the cost of
39 satisfying any bona fide security interest to which the property is
40 subject at the time of seizure; and in the case of sold property,

1 after deducting the cost of sale, including reasonable fees or
2 commissions paid to independent selling agents, and the cost of any
3 valid landlord's claim for damages under subsection (15) of this
4 section.

5 (c) The value of sold forfeited property is the sale price. The
6 value of retained forfeited property is the fair market value of the
7 property at the time of seizure, determined when possible by
8 reference to an applicable commonly used index, such as the index
9 used by the department of licensing for valuation of motor vehicles.
10 A seizing agency may use, but need not use, an independent qualified
11 appraiser to determine the value of retained property. If an
12 appraiser is used, the value of the property appraised is net of the
13 cost of the appraisal. The value of destroyed property and retained
14 firearms or illegal property is zero.

15 (10) Forfeited property and net proceeds not required to be paid
16 to the state treasurer shall be retained by the seizing law
17 enforcement agency exclusively for the expansion and improvement of
18 controlled substances related law enforcement activity. Money
19 retained under this section may not be used to supplant preexisting
20 funding sources.

21 (11) Controlled substances listed in Schedule I, II, III, IV, and
22 V that are possessed, transferred, sold, or offered for sale in
23 violation of this chapter are contraband and shall be seized and
24 summarily forfeited to the state. Controlled substances listed in
25 Schedule I, II, III, IV, and V, which are seized or come into the
26 possession of the ((~~board~~)) commission, the owners of which are
27 unknown, are contraband and shall be summarily forfeited to the
28 ((~~board~~)) commission.

29 (12) Species of plants from which controlled substances in
30 Schedules I and II may be derived which have been planted or
31 cultivated in violation of this chapter, or of which the owners or
32 cultivators are unknown, or which are wild growths, may be seized and
33 summarily forfeited to the ((~~board~~)) commission.

34 (13) The failure, upon demand by a ((~~board~~)) commission inspector
35 or law enforcement officer, of the person in occupancy or in control
36 of land or premises upon which the species of plants are growing or
37 being stored to produce an appropriate registration or proof that he
38 or she is the holder thereof constitutes authority for the seizure
39 and forfeiture of the plants.

1 (14) Upon the entry of an order of forfeiture of real property,
2 the court shall forward a copy of the order to the assessor of the
3 county in which the property is located. Orders for the forfeiture of
4 real property shall be entered by the superior court, subject to
5 court rules. Such an order shall be filed by the seizing agency in
6 the county auditor's records in the county in which the real property
7 is located.

8 (15)(a) A landlord may assert a claim against proceeds from the
9 sale of assets seized and forfeited under subsection (7)(b) of this
10 section, only if:

11 (i) A law enforcement officer, while acting in his or her
12 official capacity, directly caused damage to the complaining
13 landlord's property while executing a search of a tenant's residence;
14 and

15 (ii) The landlord has applied any funds remaining in the tenant's
16 deposit, to which the landlord has a right under chapter 59.18 RCW,
17 to cover the damage directly caused by a law enforcement officer
18 prior to asserting a claim under the provisions of this section;

19 (A) Only if the funds applied under (a)(ii) of this subsection
20 are insufficient to satisfy the damage directly caused by a law
21 enforcement officer, may the landlord seek compensation for the
22 damage by filing a claim against the governmental entity under whose
23 authority the law enforcement agency operates within thirty days
24 after the search;

25 (B) Only if the governmental entity denies or fails to respond to
26 the landlord's claim within sixty days of the date of filing, may the
27 landlord collect damages under this subsection by filing within
28 thirty days of denial or the expiration of the sixty-day period,
29 whichever occurs first, a claim with the seizing law enforcement
30 agency. The seizing law enforcement agency must notify the landlord
31 of the status of the claim by the end of the thirty-day period.
32 Nothing in this section requires the claim to be paid by the end of
33 the sixty-day or thirty-day period.

34 (b) For any claim filed under (a)(ii) of this subsection, the law
35 enforcement agency shall pay the claim unless the agency provides
36 substantial proof that the landlord either:

37 (i) Knew or consented to actions of the tenant in violation of
38 this chapter or chapter 69.41 or 69.52 RCW; or

1 (ii) Failed to respond to a notification of the illegal activity,
2 provided by a law enforcement agency under RCW 59.18.075, within
3 seven days of receipt of notification of the illegal activity.

4 (16) The landlord's claim for damages under subsection (15) of
5 this section may not include a claim for loss of business and is
6 limited to:

7 (a) Damage to tangible property and clean-up costs;

8 (b) The lesser of the cost of repair or fair market value of the
9 damage directly caused by a law enforcement officer;

10 (c) The proceeds from the sale of the specific tenant's property
11 seized and forfeited under subsection (7)(b) of this section; and

12 (d) The proceeds available after the seizing law enforcement
13 agency satisfies any bona fide security interest in the tenant's
14 property and costs related to sale of the tenant's property as
15 provided by subsection (9)(b) of this section.

16 (17) Subsections (15) and (16) of this section do not limit any
17 other rights a landlord may have against a tenant to collect for
18 damages. However, if a law enforcement agency satisfies a landlord's
19 claim under subsection (15) of this section, the rights the landlord
20 has against the tenant for damages directly caused by a law
21 enforcement officer under the terms of the landlord and tenant's
22 contract are subrogated to the law enforcement agency.

23 **Sec. 3.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and
24 amended to read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (a) "Administer" means to apply a controlled substance, whether
28 by injection, inhalation, ingestion, or any other means, directly to
29 the body of a patient or research subject by:

30 (1) a practitioner authorized to prescribe (or, by the
31 practitioner's authorized agent); or

32 (2) the patient or research subject at the direction and in the
33 presence of the practitioner.

34 (b) "Agent" means an authorized person who acts on behalf of or
35 at the direction of a manufacturer, distributor, or dispenser. It
36 does not include a common or contract carrier, public
37 warehouseperson, or employee of the carrier or warehouseperson.

38 (c) "CBD concentration" has the meaning provided in RCW
39 69.51A.010.

1 (d) "CBD product" means any product containing or consisting of
2 cannabidiol.

3 (e) "Commission" means the pharmacy quality assurance commission.

4 (f) "Controlled substance" means a drug, substance, or immediate
5 precursor included in Schedules I through V as set forth in federal
6 or state laws, or federal or commission rules, but does not include
7 industrial hemp as defined in RCW 15.120.010.

8 (g)(1) "Controlled substance analog" means a substance the
9 chemical structure of which is substantially similar to the chemical
10 structure of a controlled substance in Schedule I or II and:

11 (i) that has a stimulant, depressant, or hallucinogenic effect on
12 the central nervous system substantially similar to the stimulant,
13 depressant, or hallucinogenic effect on the central nervous system of
14 a controlled substance included in Schedule I or II; or

15 (ii) with respect to a particular individual, that the individual
16 represents or intends to have a stimulant, depressant, or
17 hallucinogenic effect on the central nervous system substantially
18 similar to the stimulant, depressant, or hallucinogenic effect on the
19 central nervous system of a controlled substance included in Schedule
20 I or II.

21 (2) The term does not include:

22 (i) a controlled substance;

23 (ii) a substance for which there is an approved new drug
24 application;

25 (iii) a substance with respect to which an exemption is in effect
26 for investigational use by a particular person under Section 505 of
27 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or
28 chapter 69.77 RCW to the extent conduct with respect to the substance
29 is pursuant to the exemption; or

30 (iv) any substance to the extent not intended for human
31 consumption before an exemption takes effect with respect to the
32 substance.

33 (h) "Deliver" or "delivery" means the actual or constructive
34 transfer from one person to another of a substance, whether or not
35 there is an agency relationship.

36 (i) "Department" means the department of health.

37 (j) "Designated provider" has the meaning provided in RCW
38 69.51A.010.

39 (k) "Dispense" means the interpretation of a prescription or
40 order for a controlled substance and, pursuant to that prescription

1 or order, the proper selection, measuring, compounding, labeling, or
2 packaging necessary to prepare that prescription or order for
3 delivery.

4 (l) "Dispenser" means a practitioner who dispenses.

5 (m) "Distribute" means to deliver other than by administering or
6 dispensing a controlled substance.

7 (n) "Distributor" means a person who distributes.

8 (o) "Drug" means (1) a controlled substance recognized as a drug
9 in the official United States pharmacopoeia/national formulary or the
10 official homeopathic pharmacopoeia of the United States, or any
11 supplement to them; (2) controlled substances intended for use in the
12 diagnosis, cure, mitigation, treatment, or prevention of disease in
13 individuals or animals; (3) controlled substances (other than food)
14 intended to affect the structure or any function of the body of
15 individuals or animals; and (4) controlled substances intended for
16 use as a component of any article specified in (1), (2), or (3) of
17 this subsection. The term does not include devices or their
18 components, parts, or accessories.

19 (p) "Drug enforcement administration" means the drug enforcement
20 administration in the United States Department of Justice, or its
21 successor agency.

22 (q) "Electronic communication of prescription information" means
23 the transmission of a prescription or refill authorization for a drug
24 of a practitioner using computer systems. The term does not include a
25 prescription or refill authorization verbally transmitted by
26 telephone nor a facsimile manually signed by the practitioner.

27 (r) "Immature plant or clone" means a plant or clone that has no
28 flowers, is less than twelve inches in height, and is less than
29 twelve inches in diameter.

30 (s) "Immediate precursor" means a substance:

31 (1) that the commission has found to be and by rule designates as
32 being the principal compound commonly used, or produced primarily for
33 use, in the manufacture of a controlled substance;

34 (2) that is an immediate chemical intermediary used or likely to
35 be used in the manufacture of a controlled substance; and

36 (3) the control of which is necessary to prevent, curtail, or
37 limit the manufacture of the controlled substance.

38 (t) "Isomer" means an optical isomer, but in subsection (ff)(5)
39 of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b) (4),
40 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and

1 (42), and 69.50.210(c) the term includes any positional isomer; and
2 in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term
3 includes any positional or geometric isomer.

4 (u) "Lot" means a definite quantity of marijuana, marijuana
5 concentrates, useable marijuana, or marijuana-infused product
6 identified by a lot number, every portion or package of which is
7 uniform within recognized tolerances for the factors that appear in
8 the labeling.

9 (v) "Lot number" must identify the licensee by business or trade
10 name and Washington state unified business identifier number, and the
11 date of harvest or processing for each lot of marijuana, marijuana
12 concentrates, useable marijuana, or marijuana-infused product.

13 (w) "Manufacture" means the production, preparation, propagation,
14 compounding, conversion, or processing of a controlled substance,
15 either directly or indirectly or by extraction from substances of
16 natural origin, or independently by means of chemical synthesis, or
17 by a combination of extraction and chemical synthesis, and includes
18 any packaging or repackaging of the substance or labeling or
19 relabeling of its container. The term does not include the
20 preparation, compounding, packaging, repackaging, labeling, or
21 relabeling of a controlled substance:

22 (1) by a practitioner as an incident to the practitioner's
23 administering or dispensing of a controlled substance in the course
24 of the practitioner's professional practice; or

25 (2) by a practitioner, or by the practitioner's authorized agent
26 under the practitioner's supervision, for the purpose of, or as an
27 incident to, research, teaching, or chemical analysis and not for
28 sale.

29 (x) "Marijuana" or "marihuana" means all parts of the plant
30 *Cannabis*, whether growing or not, with a THC concentration greater
31 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
32 extracted from any part of the plant; and every compound,
33 manufacture, salt, derivative, mixture, or preparation of the plant,
34 its seeds or resin. The term does not include:

35 (1) The mature stalks of the plant, fiber produced from the
36 stalks, oil or cake made from the seeds of the plant, any other
37 compound, manufacture, salt, derivative, mixture, or preparation of
38 the mature stalks (except the resin extracted therefrom), fiber, oil,
39 or cake, or the sterilized seed of the plant which is incapable of
40 germination; or

1 (2) Industrial hemp as defined in RCW 15.120.010.

2 (y) "Marijuana concentrates" means products consisting wholly or
3 in part of the resin extracted from any part of the plant *Cannabis*
4 and having a THC concentration greater than ten percent.

5 (z) "Marijuana processor" means a person licensed by the state
6 liquor and cannabis board to process marijuana into marijuana
7 concentrates, useable marijuana, and marijuana-infused products,
8 package and label marijuana concentrates, useable marijuana, and
9 marijuana-infused products for sale in retail outlets, and sell
10 marijuana concentrates, useable marijuana, and marijuana-infused
11 products at wholesale to marijuana retailers.

12 (aa) "Marijuana producer" means a person licensed by the state
13 liquor and cannabis board to produce and sell marijuana at wholesale
14 to marijuana processors and other marijuana producers.

15 (bb) "Marijuana products" means useable marijuana, marijuana
16 concentrates, and marijuana-infused products as defined in this
17 section.

18 (cc) "Marijuana researcher" means a person licensed by the state
19 liquor and cannabis board to produce, process, and possess marijuana
20 for the purposes of conducting research on marijuana and marijuana-
21 derived drug products.

22 (dd) "Marijuana retailer" means a person licensed by the state
23 liquor and cannabis board to sell marijuana concentrates, useable
24 marijuana, and marijuana-infused products in a retail outlet.

25 (ee) "Marijuana-infused products" means products that contain
26 marijuana or marijuana extracts, are intended for human use, are
27 derived from marijuana as defined in subsection (x) of this section,
28 and have a THC concentration no greater than ten percent. The term
29 "marijuana-infused products" does not include either useable
30 marijuana or marijuana concentrates.

31 (ff) "Narcotic drug" means any of the following, whether produced
32 directly or indirectly by extraction from substances of vegetable
33 origin, or independently by means of chemical synthesis, or by a
34 combination of extraction and chemical synthesis:

35 (1) Opium, opium derivative, and any derivative of opium or opium
36 derivative, including their salts, isomers, and salts of isomers,
37 whenever the existence of the salts, isomers, and salts of isomers is
38 possible within the specific chemical designation. The term does not
39 include the isoquinoline alkaloids of opium.

1 (2) Synthetic opiate and any derivative of synthetic opiate,
2 including their isomers, esters, ethers, salts, and salts of isomers,
3 esters, and ethers, whenever the existence of the isomers, esters,
4 ethers, and salts is possible within the specific chemical
5 designation.

6 (3) Poppy straw and concentrate of poppy straw.

7 (4) Coca leaves, except coca leaves and extracts of coca leaves
8 from which cocaine, ecgonine, and derivatives or ecgonine or their
9 salts have been removed.

10 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

11 (6) Cocaine base.

12 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
13 thereof.

14 (8) Any compound, mixture, or preparation containing any quantity
15 of any substance referred to in subparagraphs (1) through (7).

16 (gg) "Opiate" means any substance having an addiction-forming or
17 addiction-sustaining liability similar to morphine or being capable
18 of conversion into a drug having addiction-forming or addiction-
19 sustaining liability. The term includes opium, substances derived
20 from opium (opium derivatives), and synthetic opiates. The term does
21 not include, unless specifically designated as controlled under RCW
22 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
23 and its salts (dextromethorphan). The term includes the racemic and
24 levorotatory forms of dextromethorphan.

25 (hh) "Opium poppy" means the plant of the species *Papaver*
26 *somniferum* L., except its seeds.

27 (ii) "Person" means individual, corporation, business trust,
28 estate, trust, partnership, association, joint venture, government,
29 governmental subdivision or agency, or any other legal or commercial
30 entity.

31 (jj) "Plant" has the meaning provided in RCW 69.51A.010.

32 (kk) "Poppy straw" means all parts, except the seeds, of the
33 opium poppy, after mowing.

34 (ll) "Practitioner" means:

35 (1) A physician under chapter 18.71 RCW; a physician assistant
36 under chapter 18.71A RCW; an osteopathic physician and surgeon under
37 chapter 18.57 RCW; an osteopathic physician assistant under chapter
38 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
39 limitations in RCW 18.57A.040; an optometrist licensed under chapter
40 18.53 RCW who is certified by the optometry board under RCW 18.53.010

1 subject to any limitations in RCW 18.53.010; a dentist under chapter
2 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
3 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
4 registered nurse practitioner, or licensed practical nurse under
5 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
6 who is licensed under RCW 18.36A.030 subject to any limitations in
7 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
8 investigator under this chapter, licensed, registered or otherwise
9 permitted insofar as is consistent with those licensing laws to
10 distribute, dispense, conduct research with respect to or administer
11 a controlled substance in the course of their professional practice
12 or research in this state.

13 (2) A pharmacy, hospital or other institution licensed,
14 registered, or otherwise permitted to distribute, dispense, conduct
15 research with respect to or to administer a controlled substance in
16 the course of professional practice or research in this state.

17 (3) A physician licensed to practice medicine and surgery, a
18 physician licensed to practice osteopathic medicine and surgery, a
19 dentist licensed to practice dentistry, a podiatric physician and
20 surgeon licensed to practice podiatric medicine and surgery, a
21 licensed physician assistant or a licensed osteopathic physician
22 assistant specifically approved to prescribe controlled substances by
23 his or her state's medical quality assurance commission or equivalent
24 and his or her supervising physician, an advanced registered nurse
25 practitioner licensed to prescribe controlled substances, or a
26 veterinarian licensed to practice veterinary medicine in any state of
27 the United States.

28 (mm) "Prescription" means an order for controlled substances
29 issued by a practitioner duly authorized by law or rule in the state
30 of Washington to prescribe controlled substances within the scope of
31 his or her professional practice for a legitimate medical purpose.

32 (nn) "Production" includes the manufacturing, planting,
33 cultivating, growing, or harvesting of a controlled substance.

34 (oo) "Qualifying patient" has the meaning provided in RCW
35 69.51A.010.

36 (pp) "Recognition card" has the meaning provided in RCW
37 69.51A.010.

38 (qq) "Retail outlet" means a location licensed by the state
39 liquor and cannabis board for the retail sale of marijuana
40 concentrates, useable marijuana, and marijuana-infused products.

1 (rr) "Secretary" means the secretary of health or the secretary's
2 designee.

3 (ss) "State," unless the context otherwise requires, means a
4 state of the United States, the District of Columbia, the
5 Commonwealth of Puerto Rico, or a territory or insular possession
6 subject to the jurisdiction of the United States.

7 (tt) "THC concentration" means percent of delta-9
8 tetrahydrocannabinol content per dry weight of any part of the plant
9 *Cannabis*, or per volume or weight of marijuana product, or the
10 combined percent of delta-9 tetrahydrocannabinol and
11 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
12 regardless of moisture content.

13 (uu) "Ultimate user" means an individual who lawfully possesses a
14 controlled substance for the individual's own use or for the use of a
15 member of the individual's household or for administering to an
16 animal owned by the individual or by a member of the individual's
17 household.

18 (vv) "Useable marijuana" means dried marijuana flowers. The term
19 "useable marijuana" does not include either marijuana-infused
20 products or marijuana concentrates.

21 (ww) "Commercial activity" means an activity related to or
22 connected with buying, selling, or bartering.

23 NEW SECTION. Sec. 4. If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

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