
SUBSTITUTE HOUSE BILL 1237

State of Washington

66th Legislature

2019 Regular Session

By House Commerce & Gaming (originally sponsored by Representatives Kirby, MacEwen, Stanford, Vick, Blake, Eslick, and Appleton)

1 AN ACT Relating to reforming the compliance and enforcement
2 provisions for marijuana licensees; amending RCW 69.50.331;
3 reenacting and amending RCW 69.50.101; adding new sections to chapter
4 69.50 RCW; creating a new section; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) In the years since the creation of a legal and regulated
8 marketplace for adult use of cannabis, the industry, stakeholders,
9 and state agencies have collaborated to develop a safe, fully
10 regulated marketplace.

11 (b) As the regulated marketplace has been developing, Washington
12 residents with a strong entrepreneurial spirit have taken great
13 financial and personal risk to become licensed and part of this
14 nascent industry.

15 (c) It should not be surprising that mistakes have been made both
16 by licensees and regulators, and that both have learned from these
17 mistakes leading to a stronger, safer industry.

18 (d) While a strong focus on enforcement is an important component
19 of the regulated marketplace, a strong focus on compliance and
20 education is also critically necessary to assist licensees who strive
21 for compliance and in order to allow the board to focus its

1 enforcement priorities on those violations that directly harm public
2 health and safety.

3 (e) The risk taking entrepreneurs who are trying to comply with
4 board regulations should not face punitive consequences for mistakes
5 made during this initial phase of the industry that did not pose a
6 direct threat to public health and safety.

7 (2) Therefore, the legislature intends to provide amnesty for
8 violations that occurred before April 30, 2017, and to reform
9 enforcement penalties to better align with state priorities.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50
11 RCW to read as follows:

12 (1) The board must prescribe procedures for the following:

13 (a) Issuance of written warnings in lieu of violations with
14 respect to de minimis violations that have no direct or immediate
15 relationship to public safety;

16 (b) Waiving any fines, civil penalties, or administrative
17 sanctions for violations, that have no direct or immediate
18 relationship to public safety, and are corrected by the licensee
19 within seven days or such earlier period as specified by the board;
20 and

21 (c) A compliance program whereby licensees may request compliance
22 assistance and inspections without issuance of a violation provided
23 that any noncompliant issues are resolved within a specified period
24 of time.

25 (2) The board must adopt rules prescribing penalties for
26 violations of this chapter. The board:

27 (a) May establish escalating penalties for violation of this
28 chapter, provided that the cumulative effect of any such escalating
29 penalties cannot last beyond two years;

30 (b) May not include cancellation of a license for a single
31 violation or for cumulative violations, unless the board can prove by
32 clear, cogent, and convincing evidence that:

33 (i) The current or a prior administrative violation evidences:

34 (A) Diversion of marijuana product to the illicit market or sales
35 across state lines;

36 (B) Sales of marijuana product to minors;

37 (C) Diversion of revenue from the sale of marijuana product to
38 criminal enterprises, gangs, or cartels;

1 (D) Use of firearms in a facility licensed by the board that
2 poses a direct and significant threat to public safety; or

3 (E) Other nonmarijuana-related, criminal behavior; or

4 (ii) The licensee has engaged in a pattern and practice of
5 intentional and flagrant disregard of the law;

6 (c) May include cancellation of a license for cumulative
7 violations only if a marijuana licensee commits at least four
8 violations within a two-year period of time;

9 (d) Must consider aggravating and mitigating circumstances and
10 deviate from the prescribed penalties accordingly, and must authorize
11 enforcement officers to do the same, provided that such penalty may
12 not exceed the maximum escalating penalty prescribed by the board for
13 that violation; and

14 (e) May not issue a violation if there is unpreventable employee
15 misconduct that led to the violation, but the licensee must show the
16 existence of:

17 (i) A thorough compliance program, including rules, training, and
18 equipment designed to prevent the violation;

19 (ii) Adequate communication of these rules to employees;

20 (iii) Steps to discover and correct violations of its rules; and

21 (iv) Effective enforcement of its compliance program as written
22 in practice and not just in theory.

23 (3) The board may not consider any violation that occurred before
24 April 30, 2017, as grounds for denial, suspension, revocation,
25 cancellation, or nonrenewal, unless the board can prove by clear,
26 cogent, and convincing evidence that the prior administrative
27 violation evidences:

28 (a) Diversion of marijuana product to the illicit market or sales
29 across state lines;

30 (b) Sales of marijuana product to minors;

31 (c) Diversion of revenue from the sale of marijuana product to
32 criminal enterprises, gangs, or cartels;

33 (d) Use of firearms in a facility licensed by the board that
34 poses a direct and significant threat to public safety; or

35 (e) Other nonmarijuana-related, criminal behavior.

36 (4) This section expires August 1, 2024.

37 **Sec. 3.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to
38 read as follows:

1 (1) For the purpose of considering any application for a license
2 to produce, process, research, transport, or deliver marijuana,
3 useable marijuana, marijuana concentrates, or marijuana-infused
4 products subject to the regulations established under RCW 69.50.385,
5 or sell marijuana, or for the renewal of a license to produce,
6 process, research, transport, or deliver marijuana, useable
7 marijuana, marijuana concentrates, or marijuana-infused products
8 subject to the regulations established under RCW 69.50.385, or sell
9 marijuana, the ((~~state liquor and cannabis~~)) board must conduct a
10 comprehensive, fair, and impartial evaluation of the applications
11 timely received.

12 (a) The ((~~state liquor and cannabis~~)) board may cause an
13 inspection of the premises to be made, and may inquire into all
14 matters in connection with the construction and operation of the
15 premises. For the purpose of reviewing any application for a license
16 and for considering the denial, suspension, revocation, cancellation,
17 or renewal or denial thereof, of any license, the ((~~state liquor and~~
18 ~~cannabis~~)) board may consider any prior criminal ((~~conduct~~)) arrests
19 or convictions of the applicant ((~~including an administrative~~
20 ~~violation history record with the state liquor and cannabis board~~))
21 and a criminal history record information check. The ((~~state liquor~~
22 ~~and cannabis~~)) board may submit the criminal history record
23 information check to the Washington state patrol and to the
24 identification division of the federal bureau of investigation in
25 order that these agencies may search their records for prior arrests
26 and convictions of the individual or individuals who filled out the
27 forms. The ((~~state liquor and cannabis~~)) board must require
28 fingerprinting of any applicant whose criminal history record
29 information check is submitted to the federal bureau of
30 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
31 RCW do not apply to these cases. Subject to the provisions of this
32 section, the ((~~state liquor and cannabis~~)) board may, in its
33 discretion, grant or deny the renewal or license applied for. Denial
34 may be based on, without limitation, the existence of chronic illegal
35 activity documented in objections submitted pursuant to subsections
36 (7)(c) and (10) of this section. Authority to approve an uncontested
37 or unopposed license may be granted by the ((~~state liquor and~~
38 ~~cannabis~~)) board to any staff member the board designates in writing.
39 Conditions for granting this authority must be adopted by rule.

1 (b) For the purpose of reviewing any application for a license
2 and for considering the denial, suspension, revocation, cancellation,
3 or renewal or denial thereof, of any license, the board may also
4 consider any prior administrative violation history record with the
5 board. However, any prior administrative violation that occurred
6 before April 30, 2017, must not be considered unless the board can
7 prove by clear, cogent, and convincing evidence that the prior
8 administrative violation evidences:

9 (i) Diversion of marijuana product to the illicit market or sales
10 across state lines;

11 (ii) Sales of marijuana product to minors;

12 (iii) Diversion of revenue from the sale of marijuana product to
13 criminal enterprises, gangs, or cartels;

14 (iv) Trafficking of a controlled substance; or

15 (v) Use of firearms in a facility licensed by the board.

16 (c) No license of any kind may be issued to:

17 (i) A person under the age of twenty-one years;

18 (ii) A person doing business as a sole proprietor who has not
19 lawfully resided in the state for at least six months prior to
20 applying to receive a license;

21 (iii) A partnership, employee cooperative, association, nonprofit
22 corporation, or corporation unless formed under the laws of this
23 state, and unless all of the members thereof are qualified to obtain
24 a license as provided in this section; or

25 (iv) A person whose place of business is conducted by a manager
26 or agent, unless the manager or agent possesses the same
27 qualifications required of the licensee.

28 (2) (a) ~~The ((state liquor and cannabis))~~ board may, in its
29 discretion, subject to ~~((the provisions of))~~ subsection (1)(b) of
30 this section, section 2 of this act, and RCW 69.50.334, suspend or
31 cancel any license; and all protections of the licensee from criminal
32 or civil sanctions under state law for producing, processing,
33 researching, or selling marijuana, marijuana concentrates, useable
34 marijuana, or marijuana-infused products thereunder must be suspended
35 or terminated, as the case may be.

36 (b) ~~The ((state liquor and cannabis))~~ board must immediately
37 suspend the license of a person who has been certified pursuant to
38 RCW 74.20A.320 by the department of social and health services as a
39 person who is not in compliance with a support order. If the person
40 has continued to meet all other requirements for reinstatement during

1 the suspension, reissuance of the license is automatic upon the
2 ((~~state liquor and cannabis~~)) board's receipt of a release issued by
3 the department of social and health services stating that the
4 licensee is in compliance with the order.

5 (c) The ((~~state liquor and cannabis~~)) board may request the
6 appointment of administrative law judges under chapter 34.12 RCW who
7 shall have power to administer oaths, issue subpoenas for the
8 attendance of witnesses and the production of papers, books,
9 accounts, documents, and testimony, examine witnesses, ((~~and to~~))
10 receive testimony in any inquiry, investigation, hearing, or
11 proceeding in any part of the state, and consider mitigating and
12 aggravating circumstances in any case and deviate from any prescribed
13 penalty, under rules ((~~and regulations~~)) the ((~~state liquor and~~
14 ~~cannabis~~)) board may adopt.

15 (d) Witnesses must be allowed fees and mileage each way to and
16 from any inquiry, investigation, hearing, or proceeding at the rate
17 authorized by RCW 34.05.446. Fees need not be paid in advance of
18 appearance of witnesses to testify or to produce books, records, or
19 other legal evidence.

20 (e) In case of disobedience of any person to comply with the
21 order of the ((~~state liquor and cannabis~~)) board or a subpoena issued
22 by the ((~~state liquor and cannabis~~)) board, or any of its members, or
23 administrative law judges, or on the refusal of a witness to testify
24 to any matter regarding which he or she may be lawfully interrogated,
25 the judge of the superior court of the county in which the person
26 resides, on application of any member of the board or administrative
27 law judge, compels obedience by contempt proceedings, as in the case
28 of disobedience of the requirements of a subpoena issued from said
29 court or a refusal to testify therein.

30 (3) Upon receipt of notice of the suspension or cancellation of a
31 license, the licensee must forthwith deliver up the license to the
32 ((~~state liquor and cannabis~~)) board. Where the license has been
33 suspended only, the ((~~state liquor and cannabis~~)) board must return
34 the license to the licensee at the expiration or termination of the
35 period of suspension. The ((~~state liquor and cannabis~~)) board must
36 notify all other licensees in the county where the subject licensee
37 has its premises of the suspension or cancellation of the license;
38 and no other licensee or employee of another licensee may allow or
39 cause any marijuana, marijuana concentrates, useable marijuana, or

1 marijuana-infused products to be delivered to or for any person at
2 the premises of the subject licensee.

3 (4) Every license issued under this chapter is subject to all
4 conditions and restrictions imposed by this chapter or by rules
5 adopted by the (~~state liquor and cannabis~~) board to implement and
6 enforce this chapter. All conditions and restrictions imposed by the
7 (~~state liquor and cannabis~~) board in the issuance of an individual
8 license must be listed on the face of the individual license along
9 with the trade name, address, and expiration date.

10 (5) Every licensee must post and keep posted its license, or
11 licenses, in a conspicuous place on the premises.

12 (6) No licensee may employ any person under the age of twenty-one
13 years.

14 (7) (a) Before the (~~state liquor and cannabis~~) board issues a
15 new or renewed license to an applicant it must give notice of the
16 application to the chief executive officer of the incorporated city
17 or town, if the application is for a license within an incorporated
18 city or town, or to the county legislative authority, if the
19 application is for a license outside the boundaries of incorporated
20 cities or towns, or to the tribal government if the application is
21 for a license within Indian country, or to the port authority if the
22 application for a license is located on property owned by a port
23 authority.

24 (b) The incorporated city or town through the official or
25 employee selected by it, the county legislative authority or the
26 official or employee selected by it, the tribal government, or port
27 authority has the right to file with the (~~state liquor and
28 cannabis~~) board within twenty days after the date of transmittal of
29 the notice for applications, or at least thirty days prior to the
30 expiration date for renewals, written objections against the
31 applicant or against the premises for which the new or renewed
32 license is asked. The (~~state liquor and cannabis~~) board may extend
33 the time period for submitting written objections upon request from
34 the authority notified by the (~~state liquor and cannabis~~) board.

35 (c) The written objections must include a statement of all facts
36 upon which the objections are based, and in case written objections
37 are filed, the city or town or county legislative authority may
38 request, and the (~~state liquor and cannabis~~) board may in its
39 discretion hold, a hearing subject to the applicable provisions of
40 Title 34 RCW. If the (~~state liquor and cannabis~~) board makes an

1 initial decision to deny a license or renewal based on the written
2 objections of an incorporated city or town or county legislative
3 authority, the applicant may request a hearing subject to the
4 applicable provisions of Title 34 RCW. If a hearing is held at the
5 request of the applicant, (~~state liquor and cannabis~~) board
6 representatives must present and defend the (~~state liquor and~~
7 ~~cannabis~~) board's initial decision to deny a license or renewal.

8 (d) Upon the granting of a license under this title the (~~state~~
9 ~~liquor and cannabis~~) board must send written notification to the
10 chief executive officer of the incorporated city or town in which the
11 license is granted, or to the county legislative authority if the
12 license is granted outside the boundaries of incorporated cities or
13 towns.

14 (8)(a) Except as provided in (b) through (d) of this subsection,
15 the (~~state liquor and cannabis~~) board may not issue a license for
16 any premises within one thousand feet of the perimeter of the grounds
17 of any elementary or secondary school, playground, recreation center
18 or facility, child care center, public park, public transit center,
19 or library, or any game arcade admission to which is not restricted
20 to persons aged twenty-one years or older.

21 (b) A city, county, or town may permit the licensing of premises
22 within one thousand feet but not less than one hundred feet of the
23 facilities described in (a) of this subsection, except elementary
24 schools, secondary schools, and playgrounds, by enacting an ordinance
25 authorizing such distance reduction, provided that such distance
26 reduction will not negatively impact the jurisdiction's civil
27 regulatory enforcement, criminal law enforcement interests, public
28 safety, or public health.

29 (c) A city, county, or town may permit the licensing of research
30 premises allowed under RCW 69.50.372 within one thousand feet but not
31 less than one hundred feet of the facilities described in (a) of this
32 subsection by enacting an ordinance authorizing such distance
33 reduction, provided that the ordinance will not negatively impact the
34 jurisdiction's civil regulatory enforcement, criminal law
35 enforcement, public safety, or public health.

36 (d) The (~~state liquor and cannabis~~) board may license premises
37 located in compliance with the distance requirements set in an
38 ordinance adopted under (b) or (c) of this subsection. Before issuing
39 or renewing a research license for premises within one thousand feet
40 but not less than one hundred feet of an elementary school, secondary

1 school, or playground in compliance with an ordinance passed pursuant
2 to (c) of this subsection, the board must ensure that the facility:

3 (i) Meets a security standard exceeding that which applies to
4 marijuana producer, processor, or retailer licensees;

5 (ii) Is inaccessible to the public and no part of the operation
6 of the facility is in view of the general public; and

7 (iii) Bears no advertising or signage indicating that it is a
8 marijuana research facility.

9 (e) The (~~state liquor and cannabis~~) board may not issue a
10 license for any premises within Indian country, as defined in 18
11 U.S.C. Sec. 1151, including any fee patent lands within the exterior
12 boundaries of a reservation, without the consent of the federally
13 recognized tribe associated with the reservation or Indian country.

14 (9) A city, town, or county may adopt an ordinance prohibiting a
15 marijuana producer or marijuana processor from operating or locating
16 a business within areas zoned primarily for residential use or rural
17 use with a minimum lot size of five acres or smaller.

18 (10) In determining whether to grant or deny a license or renewal
19 of any license, the (~~state liquor and cannabis~~) board must give
20 substantial weight to objections from an incorporated city or town or
21 county legislative authority based upon chronic illegal activity
22 associated with the applicant's operations of the premises proposed
23 to be licensed or the applicant's operation of any other licensed
24 premises, or the conduct of the applicant's patrons inside or outside
25 the licensed premises. "Chronic illegal activity" means (a) a
26 pervasive pattern of activity that threatens the public health,
27 safety, and welfare of the city, town, or county including, but not
28 limited to, open container violations, assaults, disturbances,
29 disorderly conduct, or other criminal law violations, or as
30 documented in crime statistics, police reports, emergency medical
31 response data, calls for service, field data, or similar records of a
32 law enforcement agency for the city, town, county, or any other
33 municipal corporation or any state agency; or (b) an unreasonably
34 high number of citations for violations of RCW 46.61.502 associated
35 with the applicant's or licensee's operation of any licensed premises
36 as indicated by the reported statements given to law enforcement upon
37 arrest.

38 NEW SECTION. **Sec. 4.** A new section is added to chapter 69.50
39 RCW to read as follows:

1 (1) This section applies to the board's issuance of
2 administrative violations to licensed marijuana producers,
3 processors, retailers, transporters, and researchers, when a
4 settlement conference is held between a hearing examiner or designee
5 of the board and the marijuana licensee that received a notice of an
6 alleged administrative violation or violations.

7 (2) If a settlement agreement is entered between a marijuana
8 licensee and a hearing examiner or designee of the board at or after
9 a settlement conference, the terms of the settlement agreement are
10 binding on the board and the board may not subsequently disapprove,
11 modify, change, or add to the terms of the settlement agreement
12 including terms addressing penalties and license restrictions.

13 (3) For the purposes of this section:

14 (a) "Settlement agreement" means the agreement or compromise
15 between a licensed marijuana producer, processor, retailer,
16 researcher, transporter, or researcher and the hearing examiner or
17 designee of the board with authority to participate in the settlement
18 conference, that:

19 (i) Includes the terms of the agreement or compromise regarding
20 an alleged violation or violations by the licensee of this chapter,
21 chapter 69.51A RCW, or rules adopted under either chapter, and any
22 related penalty or licensing restriction; and

23 (ii) Is in writing and signed by the licensee and the hearing
24 examiner or designee of the board.

25 (b) "Settlement conference" means a meeting or discussion between
26 a licensed marijuana producer, processor, retailer, researcher,
27 transporter, researcher, or authorized representative of any of the
28 preceding licensees, and a hearing examiner or designee of the board,
29 held for purposes such as discussing the circumstances surrounding an
30 alleged violation of law or rules by the licensee, the recommended
31 penalty, and any aggravating or mitigating factors, and that is
32 intended to resolve the alleged violation before an administrative
33 hearing or judicial proceeding is initiated.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50
35 RCW to read as follows:

36 (1)(a) The board's officers and employees, while enforcing any
37 provision of this chapter, chapter 69.51A RCW, or any rule adopted
38 under authority of these chapters, are designated as inspectors or
39 employees and do not have law enforcement authority, except as

1 provided in (b) of this subsection, to enforce penal provisions of
2 any law of this state against marijuana licensees or employees of
3 marijuana licensees, relating to the manufacture, processing,
4 distribution, transportation, or sale of marijuana or marijuana
5 products.

6 (b) Subject to (c) of this subsection, officers and employees of
7 the board with enforcement authority under this chapter who are
8 designated as inspectors may, if and when authorized under another
9 section of this chapter:

10 (i) Inspect premises, books, and records of licensed marijuana
11 businesses, and investigate licensees, applicants, and premises of
12 licensed marijuana businesses, to ensure compliance with any
13 applicable provision of this chapter, chapter 69.51A RCW, or rules
14 adopted under these chapters; and

15 (ii) Issue a notice of violation to a marijuana licensee alleged
16 to have violated any applicable provision of this chapter, chapter
17 69.51A RCW, or rules adopted under these chapters.

18 (c) Other than as provided in (b) of this subsection, officers
19 and employees of the board with enforcement authority over licensed
20 marijuana businesses under this chapter may not exercise any law
21 enforcement authority, including but not limited to:

22 (i) Serving or executing any warrant or process of law issued by
23 a court enforcing any penal law of this state relating to the
24 production, processing, transportation, distribution, or sale of
25 marijuana or marijuana products;

26 (ii) Arresting, with or without a warrant, any person or persons
27 found in the act of violating, or in violation of, any of the penal
28 provisions of this chapter or chapter 69.51A RCW; and

29 (iii) Exercising any other law enforcement power or authority
30 over a marijuana licensee, other than issuing notices of violations
31 as provided in this subsection.

32 (2) Nothing in this section limits or restricts the power,
33 authority, or classification of any officer or employee of the board
34 with respect to enforcement of any provision of:

35 (a) Title 66 RCW or any other state laws relating to liquor for
36 which the board has enforcement authority in law;

37 (b) Chapters 82.24 and 82.26 RCW or any other state laws relating
38 to tobacco or cigarettes for which the board has enforcement
39 authority in law; or

1 (c) Chapter 70.345 RCW or any other state laws relating to vapor
2 products for which the board has enforcement authority in law.

3 (3) Nothing in this section grants the board any new power or
4 authority with respect to marijuana regulation or enforcement.

5 **Sec. 6.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and
6 amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

20 (c) "CBD concentration" has the meaning provided in RCW
21 69.51A.010.

22 (d) "CBD product" means any product containing or consisting of
23 cannabidiol.

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

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

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

32 (i) that has a stimulant, depressant, or hallucinogenic effect on
33 the central nervous system substantially similar to the stimulant,
34 depressant, or hallucinogenic effect on the central nervous system of
35 a controlled substance included in Schedule I or II; or

36 (ii) with respect to a particular individual, that the individual
37 represents or intends to have a stimulant, depressant, or
38 hallucinogenic effect on the central nervous system substantially
39 similar to the stimulant, depressant, or hallucinogenic effect on the

1 central nervous system of a controlled substance included in Schedule
2 I or II.

3 (2) The term does not include:

4 (i) a controlled substance;

5 (ii) a substance for which there is an approved new drug
6 application;

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

12 (iv) any substance to the extent not intended for human
13 consumption before an exemption takes effect with respect to the
14 substance.

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

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

19 (j) "Designated provider" has the meaning provided in RCW
20 69.51A.010.

21 (k) "Dispense" means the interpretation of a prescription or
22 order for a controlled substance and, pursuant to that prescription
23 or order, the proper selection, measuring, compounding, labeling, or
24 packaging necessary to prepare that prescription or order for
25 delivery.

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

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

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

30 (o) "Drug" means (1) a controlled substance recognized as a drug
31 in the official United States pharmacopoeia/national formulary or the
32 official homeopathic pharmacopoeia of the United States, or any
33 supplement to them; (2) controlled substances intended for use in the
34 diagnosis, cure, mitigation, treatment, or prevention of disease in
35 individuals or animals; (3) controlled substances (other than food)
36 intended to affect the structure or any function of the body of
37 individuals or animals; and (4) controlled substances intended for
38 use as a component of any article specified in (1), (2), or (3) of
39 this subsection. The term does not include devices or their
40 components, parts, or accessories.

1 (p) "Drug enforcement administration" means the drug enforcement
2 administration in the United States Department of Justice, or its
3 successor agency.

4 (q) "Electronic communication of prescription information" means
5 the transmission of a prescription or refill authorization for a drug
6 of a practitioner using computer systems. The term does not include a
7 prescription or refill authorization verbally transmitted by
8 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

20 (t) "Isomer" means an optical isomer, but in subsection (ff)(5)
21 of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b) (4),
22 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and
23 (42), and 69.50.210(c) the term includes any positional isomer; and
24 in RCW 69.50.204(a) (35), 69.50.204(c), and 69.50.208(a) the term
25 includes any positional or geometric isomer.

26 (u) "Lot" means a definite quantity of marijuana, marijuana
27 concentrates, useable marijuana, or marijuana-infused product
28 identified by a lot number, every portion or package of which is
29 uniform within recognized tolerances for the factors that appear in
30 the labeling.

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

35 (w) "Manufacture" means the production, preparation, propagation,
36 compounding, conversion, or processing of a controlled substance,
37 either directly or indirectly or by extraction from substances of
38 natural origin, or independently by means of chemical synthesis, or
39 by a combination of extraction and chemical synthesis, and includes
40 any packaging or repackaging of the substance or labeling or

1 relabeling of its container. The term does not include the
2 preparation, compounding, packaging, repackaging, labeling, or
3 relabeling of a controlled substance:

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

7 (2) by a practitioner, or by the practitioner's authorized agent
8 under the practitioner's supervision, for the purpose of, or as an
9 incident to, research, teaching, or chemical analysis and not for
10 sale.

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

17 (1) The mature stalks of the plant, fiber produced from the
18 stalks, oil or cake made from the seeds of the plant, any other
19 compound, manufacture, salt, derivative, mixture, or preparation of
20 the mature stalks (except the resin extracted therefrom), fiber, oil,
21 or cake, or the sterilized seed of the plant which is incapable of
22 germination; or

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

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

27 (z) "Marijuana processor" means a person licensed by the state
28 liquor and cannabis board to process marijuana into marijuana
29 concentrates, useable marijuana, and marijuana-infused products,
30 package and label marijuana concentrates, useable marijuana, and
31 marijuana-infused products for sale in retail outlets, and sell
32 marijuana concentrates, useable marijuana, and marijuana-infused
33 products at wholesale to marijuana retailers.

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

37 (bb) "Marijuana products" means useable marijuana, marijuana
38 concentrates, and marijuana-infused products as defined in this
39 section.

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

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

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

14 (ff) "Narcotic drug" means any of the following, whether produced
15 directly or indirectly by extraction from substances of vegetable
16 origin, or independently by means of chemical synthesis, or by a
17 combination of extraction and chemical synthesis:

18 (1) Opium, opium derivative, and any derivative of opium or opium
19 derivative, including their salts, isomers, and salts of isomers,
20 whenever the existence of the salts, isomers, and salts of isomers is
21 possible within the specific chemical designation. The term does not
22 include the isoquinoline alkaloids of opium.

23 (2) Synthetic opiate and any derivative of synthetic opiate,
24 including their isomers, esters, ethers, salts, and salts of isomers,
25 esters, and ethers, whenever the existence of the isomers, esters,
26 ethers, and salts is possible within the specific chemical
27 designation.

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

29 (4) Coca leaves, except coca leaves and extracts of coca leaves
30 from which cocaine, ecgonine, and derivatives or ecgonine or their
31 salts have been removed.

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

33 (6) Cocaine base.

34 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
35 thereof.

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

38 (gg) "Opiate" means any substance having an addiction-forming or
39 addiction-sustaining liability similar to morphine or being capable
40 of conversion into a drug having addiction-forming or addiction-

1 sustaining liability. The term includes opium, substances derived
2 from opium (opium derivatives), and synthetic opiates. The term does
3 not include, unless specifically designated as controlled under RCW
4 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
5 and its salts (dextromethorphan). The term includes the racemic and
6 levorotatory forms of dextromethorphan.

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

9 (ii) "Person" means individual, corporation, business trust,
10 estate, trust, partnership, association, joint venture, government,
11 governmental subdivision or agency, or any other legal or commercial
12 entity.

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

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

16 (ll) "Practitioner" means:

17 (1) A physician under chapter 18.71 RCW; a physician assistant
18 under chapter 18.71A RCW; an osteopathic physician and surgeon under
19 chapter 18.57 RCW; an osteopathic physician assistant under chapter
20 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
21 limitations in RCW 18.57A.040; an optometrist licensed under chapter
22 18.53 RCW who is certified by the optometry board under RCW 18.53.010
23 subject to any limitations in RCW 18.53.010; a dentist under chapter
24 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
25 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
26 registered nurse practitioner, or licensed practical nurse under
27 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
28 who is licensed under RCW 18.36A.030 subject to any limitations in
29 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
30 investigator under this chapter, licensed, registered or otherwise
31 permitted insofar as is consistent with those licensing laws to
32 distribute, dispense, conduct research with respect to or administer
33 a controlled substance in the course of their professional practice
34 or research in this state.

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

39 (3) A physician licensed to practice medicine and surgery, a
40 physician licensed to practice osteopathic medicine and surgery, a

1 dentist licensed to practice dentistry, a podiatric physician and
2 surgeon licensed to practice podiatric medicine and surgery, a
3 licensed physician assistant or a licensed osteopathic physician
4 assistant specifically approved to prescribe controlled substances by
5 his or her state's medical quality assurance commission or equivalent
6 and his or her supervising physician, an advanced registered nurse
7 practitioner licensed to prescribe controlled substances, or a
8 veterinarian licensed to practice veterinary medicine in any state of
9 the United States.

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

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

16 (oo) "Qualifying patient" has the meaning provided in RCW
17 69.51A.010.

18 (pp) "Recognition card" has the meaning provided in RCW
19 69.51A.010.

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

23 (rr) "Secretary" means the secretary of health or the secretary's
24 designee.

25 (ss) "State," unless the context otherwise requires, means a
26 state of the United States, the District of Columbia, the
27 Commonwealth of Puerto Rico, or a territory or insular possession
28 subject to the jurisdiction of the United States.

29 (tt) "THC concentration" means percent of delta-9
30 tetrahydrocannabinol content per dry weight of any part of the plant
31 *Cannabis*, or per volume or weight of marijuana product, or the
32 combined percent of delta-9 tetrahydrocannabinol and
33 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
34 regardless of moisture content.

35 (uu) "Ultimate user" means an individual who lawfully possesses a
36 controlled substance for the individual's own use or for the use of a
37 member of the individual's household or for administering to an
38 animal owned by the individual or by a member of the individual's
39 household.

1 (vv) "Useable marijuana" means dried marijuana flowers. The term
2 "useable marijuana" does not include either marijuana-infused
3 products or marijuana concentrates.

4 (ww) "Board" means the Washington state liquor and cannabis
5 board.

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