
HOUSE BILL 2767

State of Washington

63rd Legislature

2014 Regular Session

By Representative Fagan

Read first time 02/04/14. Referred to Committee on Government
Accountability & Oversight.

1 AN ACT Relating to clarifying the definitions of marijuana and THC
2 concentration as adopted by Initiative Measure No. 502 to avoid an
3 implication that the legal definition of marijuana includes industrial
4 hemp; reenacting and amending RCW 69.50.101; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 69.50.101 and 2013 c 276 s 2 and 2013 c 116 s 1 are
8 each reenacted and amended to read as follows:

9 Unless the context clearly requires otherwise, definitions of terms
10 shall be as indicated where used in this chapter:

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

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

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

18 (b) "Agent" means an authorized person who acts on behalf of or at

1 the direction of a manufacturer, distributor, or dispenser. It does
2 not include a common or contract carrier, public warehouseperson, or
3 employee of the carrier or warehouseperson.

4 (c) (~~"Board" means the state board of pharmacy.~~) "Commission"
5 means the pharmacy quality assurance commission.

6 (d) "Controlled substance" means a drug, substance, or immediate
7 precursor included in Schedules I through V as set forth in federal or
8 state laws, or federal or board rules.

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

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

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

22 (2) The term does not include:

23 (i) a controlled substance;

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

26 (iii) a substance with respect to which an exemption is in effect
27 for investigational use by a particular person under Section 505 of the
28 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
29 conduct with respect to the substance is pursuant to the exemption; or

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

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

35 (g) "Department" means the department of health.

36 (h) "Dispense" means the interpretation of a prescription or order
37 for a controlled substance and, pursuant to that prescription or order,

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

3 (i) "Dispenser" means a practitioner who dispenses.

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

6 (k) "Distributor" means a person who distributes.

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

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

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

26 (o) "Immediate precursor" means a substance:

27 (1) that the (~~state board of pharmacy~~) pharmacy quality assurance
28 commission has found to be and by rule designates as being the
29 principal compound commonly used, or produced primarily for use, in the
30 manufacture of a controlled substance;

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

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

35 (p) "Industrial hemp" means the plant of the genus Cannabis and any
36 part of such plant, whether growing or not, with a tetrahydrocannabinol
37 (THC) concentration that does not exceed three-tenths percent.

1 (g) "Isomer" means an optical isomer, but in subsection ~~((y))~~
2 (z)(5) of this section, RCW 69.50.204(a) (12) and (34), and
3 69.50.206(b)(4), the term includes any geometrical isomer; in RCW
4 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
5 positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and
6 69.50.208(a) the term includes any positional or geometric isomer.

7 ~~((q))~~ (r) "Lot" means a definite quantity of marijuana, useable
8 marijuana, or marijuana-infused product identified by a lot number,
9 every portion or package of which is uniform within recognized
10 tolerances for the factors that appear in the labeling.

11 ~~((r))~~ (s) "Lot number" shall identify the licensee by business or
12 trade name and Washington state unified business identifier number, and
13 the date of harvest or processing for each lot of marijuana, useable
14 marijuana, or marijuana-infused product.

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

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

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

30 ~~((t))~~ (u) "Marijuana" or "marihuana" means all parts of the plant
31 Cannabis, whether growing or not ~~((, with a THC concentration greater
32 than 0.3 percent on a dry weight basis))~~; the seeds thereof; the resin
33 extracted from any part of the plant; and every compound, manufacture,
34 salt, derivative, mixture, or preparation of the plant, its seeds or
35 resin. The term does not include industrial hemp, the mature stalks of
36 the plant, fiber produced from the stalks, oil or cake made from the
37 seeds of the plant, any other compound, manufacture, salt, derivative,

1 mixture, or preparation of the mature stalks (except the resin
2 extracted therefrom), fiber, oil, or cake, or the sterilized seed of
3 the plant which is incapable of germination.

4 ~~((+u))~~ (v) "Marijuana processor" means a person licensed by the
5 state liquor control board to process marijuana into useable marijuana
6 and marijuana-infused products, package and label useable marijuana and
7 marijuana-infused products for sale in retail outlets, and sell useable
8 marijuana and marijuana-infused products at wholesale to marijuana
9 retailers.

10 ~~((+v))~~ (w) "Marijuana producer" means a person licensed by the
11 state liquor control board to produce and sell marijuana at wholesale
12 to marijuana processors and other marijuana producers.

13 ~~((+w))~~ (x) "Marijuana-infused products" means products that
14 contain marijuana or marijuana extracts and are intended for human use.
15 The term "marijuana-infused products" does not include useable
16 marijuana.

17 ~~((+x))~~ (y) "Marijuana retailer" means a person licensed by the
18 state liquor control board to sell useable marijuana and marijuana-
19 infused products in a retail outlet.

20 ~~((+y))~~ (z) "Narcotic drug" means any of the following, whether
21 produced directly or indirectly by extraction from substances of
22 vegetable origin, or independently by means of chemical synthesis, or
23 by a combination of extraction and chemical synthesis:

24 (1) Opium, opium derivative, and any derivative of opium or opium
25 derivative, including their salts, isomers, and salts of isomers,
26 whenever the existence of the salts, isomers, and salts of isomers is
27 possible within the specific chemical designation. The term does not
28 include the isoquinoline alkaloids of opium.

29 (2) Synthetic opiate and any derivative of synthetic opiate,
30 including their isomers, esters, ethers, salts, and salts of isomers,
31 esters, and ethers, whenever the existence of the isomers, esters,
32 ethers, and salts is possible within the specific chemical designation.

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

34 (4) Coca leaves, except coca leaves and extracts of coca leaves
35 from which cocaine, ecgonine, and derivatives or ecgonine or their
36 salts have been removed.

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

38 (6) Cocaine base.

1 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
2 thereof.

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

5 ~~((z))~~ (aa) "Opiate" means any substance having an addiction-
6 forming or addiction-sustaining liability similar to morphine or being
7 capable of conversion into a drug having addiction-forming or
8 addiction-sustaining liability. The term includes opium, substances
9 derived from opium (opium derivatives), and synthetic opiates. The
10 term does not include, unless specifically designated as controlled
11 under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-
12 methylmorphinan and its salts (dextromethorphan). The term includes
13 the racemic and levorotatory forms of dextromethorphan.

14 ~~((aa))~~ (bb) "Opium poppy" means the plant of the species *Papaver*
15 *somniferum* L., except its seeds.

16 ~~((bb))~~ (cc) "Person" means individual, corporation, business
17 trust, estate, trust, partnership, association, joint venture,
18 government, governmental subdivision or agency, or any other legal or
19 commercial entity.

20 ~~((ee))~~ (dd) "Poppy straw" means all parts, except the seeds, of
21 the opium poppy, after mowing.

22 ~~((dd))~~ (ee) "Practitioner" means:

23 (1) A physician under chapter 18.71 RCW; a physician assistant
24 under chapter 18.71A RCW; an osteopathic physician and surgeon under
25 chapter 18.57 RCW; an osteopathic physician assistant under chapter
26 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
27 limitations in RCW 18.57A.040; an optometrist licensed under chapter
28 18.53 RCW who is certified by the optometry board under RCW 18.53.010
29 subject to any limitations in RCW 18.53.010; a dentist under chapter
30 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
31 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
32 registered nurse practitioner, or licensed practical nurse under
33 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
34 who is licensed under RCW 18.36A.030 subject to any limitations in RCW
35 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
36 investigator under this chapter, licensed, registered or otherwise
37 permitted insofar as is consistent with those licensing laws to

1 distribute, dispense, conduct research with respect to or administer a
2 controlled substance in the course of their professional practice or
3 research in this state.

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

8 (3) A physician licensed to practice medicine and surgery, a
9 physician licensed to practice osteopathic medicine and surgery, a
10 dentist licensed to practice dentistry, a podiatric physician and
11 surgeon licensed to practice podiatric medicine and surgery, a licensed
12 physician assistant or a licensed osteopathic physician assistant
13 specifically approved to prescribe controlled substances by his or her
14 state's medical quality assurance commission or equivalent and his or
15 her supervising physician, an advanced registered nurse practitioner
16 licensed to prescribe controlled substances, or a veterinarian licensed
17 to practice veterinary medicine in any state of the United States.

18 ~~((+ee))~~ (ff) "Prescription" means an order for controlled
19 substances issued by a practitioner duly authorized by law or rule in
20 the state of Washington to prescribe controlled substances within the
21 scope of his or her professional practice for a legitimate medical
22 purpose.

23 ~~((+ff))~~ (gg) "Production" includes the manufacturing, planting,
24 cultivating, growing, or harvesting of a controlled substance.

25 ~~((+gg))~~ (hh) "Retail outlet" means a location licensed by the
26 state liquor control board for the retail sale of useable marijuana and
27 marijuana-infused products.

28 ~~((+hh))~~ (ii) "Secretary" means the secretary of health or the
29 secretary's designee.

30 ~~((+ii))~~ (jj) "State," unless the context otherwise requires, means
31 a state of the United States, the District of Columbia, the
32 Commonwealth of Puerto Rico, or a territory or insular possession
33 subject to the jurisdiction of the United States.

34 ~~((+jj))~~ (kk) "THC concentration" means percent total THC, which is
35 the combined percent of delta-9 tetrahydrocannabinol ~~((content per dry~~
36 ~~weight of))~~ and tetrahydrocannabinolic acid in any part of the plant
37 Cannabis, ~~((or per volume or weight of marijuana product, or the~~

1 ~~combined~~ ~~percent~~ ~~of~~ ~~delta 9~~ ~~tetrahydrocannabinol~~ ~~and~~
2 ~~tetrahydrocannabinolic acid in any part of the plant Cannabis~~)
3 regardless of moisture content.

4 ((~~kk~~)) (ll) "Ultimate user" means an individual who lawfully
5 possesses a controlled substance for the individual's own use or for
6 the use of a member of the individual's household or for administering
7 to an animal owned by the individual or by a member of the individual's
8 household.

9 ((~~ll~~)) (mm) "Useable marijuana" means dried marijuana flowers.
10 The term "useable marijuana" does not include marijuana-infused
11 products.

12 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and takes effect
15 immediately.

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