S-3337.3

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**SENATE BILL 5767**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Stanford, Rivers, and Hasegawa

AN ACT Relating to regulating hemp-derived cannabinoids; amending RCW 69.50.101, 69.50.325, 69.50.326, and 69.50.363; reenacting and amending RCW 69.50.101; adding a new section to chapter 69.50 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. **Sec.**  Since the inception of the legal, regulated marketplace for cannabis in Washington state, the industry across the United States continues to innovate and evolve. The legislature finds that while the legal, regulated industry has striven to provide safe products to consumers, the illicit market has continued to find ways to avoid regulation, resulting in unregulated, untested, and potentially unsafe products available outside of the regulated market. Due to this and the evolving nature of new cannabinoids identified in the *Cannabis sativa L.* plant, the legislature finds there is a need to provide consumers legal access to safe products in the regulated cannabis market. The legislature further finds there is a need to ensure appropriate labeling, serving size, and disclosure standards for any regulated cannabinoid. The legislature intends to create a robust regulatory framework for naturally occurring cannabinoids found in the *Cannabis sativa L.* plant while allowing continued innovation in the regulated market.

**Sec.**  RCW 69.50.101 and 2020 c 133 s 2 are each amended to read as follows:

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

(a) "11-hydroxy-delta-9-tetrahydrocannabinol" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 36557-05-8.

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

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

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

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

((~~(c)~~)) (d) "Artificial cannabinoid" means a cannabinoid that possesses either a similar chemical structure to any naturally occurring cannabinoid or exhibits agonist activity at one or more cannabinoid receptors and is not found in nature.

(e) "Board" means the Washington state liquor and cannabis board.

((~~(d)~~)) (f) "Cannabinoid" means any of the chemical compounds that are the active constituents of the plant *Cannabis* including, but not limited to, tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, cannabidiolic acid, cannabinol, cannabigeral, cannabichromence, cannabicyclol, cannabivarin, tetrahydrocannabivarin, cannabidivarin, cannabichromevarin, cannabigerovarin, cannabigerol monomethyl ether, cannabielsoin, and cannabicitran. Cannabinoids do not include artificial cannabinoids, as that term is defined in this section and in Schedules I through V of the Washington state controlled substances act.

(g) "CBD concentration" has the meaning provided in RCW 69.51A.010.

((~~(e)~~)) (h) "CBD product" means any product containing or consisting of cannabidiol.

((~~(f)~~)) (i) "Commission" means the pharmacy quality assurance commission.

((~~(g)~~)) (j) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

((~~(h)~~)) (k)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

((~~(j)~~)) (m) "Delta-7-tetrahydrocannabinol" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,9,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 162678-94-6.

(n) "Delta-8-tetrahydrocannabinol" has the meaning provided in RCW 69.50.204(c)(30)(i)(B).

(o) "Delta-9-tetrahydrocannabinol" has the meaning provided in RCW 69.50.204(c)(30)(i)(A).

(p) "Delta-9-tetrahydrocannabinolic acid" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, chemical abstracts service number 23978-85-0 or (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-4-carboxylic acid.

(q) "Delta-9-tetrahydrocannabiphorol" means (6aR,10aR)-6,6,9-trimethyl-3-heptyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 54763-99-4.

(r) "Delta-10-tetrahydrocannabinol" means (6aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,9-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 95543-62-7.

(s) "Department" means the department of health.

((~~(k)~~)) (t) "Designated provider" has the meaning provided in RCW 69.51A.010.

((~~(l)~~)) (u) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

((~~(m)~~)) (v) "Dispenser" means a practitioner who dispenses.

((~~(n)~~)) (w) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

((~~(o)~~)) (x) "Distributor" means a person who distributes.

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

((~~(q)~~)) (z) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

((~~(r)~~)) (aa) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

((~~(s)~~)) (bb) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

((~~(t)~~)) (cc) "Immediate precursor" means a substance:

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

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

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

((~~(u)~~)) (dd) "Impairing cannabinoid" means a substance that meets each of the following structural and functional criteria:

(1) Exhibits the structural backbone of tetrahydrocannabinols and tetrahydrocannabinol-like molecules that include the interconnected three-ring system of either a six-carbon aromatic ring, a pyran ring, or a cyclohexene ring. Known compounds that fit this description include:

(i) Tetrahydrocannabinols. A single double-bond in the C ring, such as delta-10 tetrahydrocannabinol and isomers, delta-9 tetrahydrocannabinol and isomers, delta-8-tetrahydrocannabinol and isomers, delta-7-tetrahydrocannabinol and isomers, delta-6a tetrahydrocannabinol and isomers, and delta-10a tetrahydrocannabinol and isomers;

(ii) Carboxylates (C-2 and C-4) of tetrahydrocannabinols, such as delta-9-tetrahydrocannabinolic acid, similar carboxylates of delta-9-tetrahydrocannabinolic acid for tetrahydrocannabinols such as in (1)(i) of this subsection, and carboxylate esters of tetrahydrocannabinols in (1)(i) of this subsection;

(iii) Alkyl analogues (C-3) of tetrahydrocannabinols, such as delta-9-tetrahydrocannabiphorol and n-alkyl analogues, and similar alkylated analogues of delta-9-tetrahydrocannabinol for tetrahydrocannabinols in (1)(i) of this subsection; and

(iv) Hydroxylated analogues of tetrahydrocannabinols, such as 11-hydroxy-delta-9-tetrahydrocannabinol and 8- and 10-hydroxy analogues, and similar hydroxylated analogues of delta-9 tetrahydrocannabinol for tetrahydrocannabinols in (1)(i) of this subsection;

(2) Possesses significant CB1 agonist activity as demonstrated by binding affinity (Ki) to the CB1 receptors at less than 200 nM; and

(3) Results in positive effects for all four components of the tetrad test in rodents or reliably causes functional impairment in humans as assayed by a method possessing scientific consensus.

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

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

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

((~~(x)~~)) (hh) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

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

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

~~(y)~~)); or

(3) By a marijuana processor licensed under RCW 69.50.325 and operating within the privileges granted to marijuana processors under RCW 69.50.326.

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

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

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

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

((~~(aa)~~)) (kk) "Marijuana processor" means a person licensed by the board to ((~~process~~)):

(1) Process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products((~~, package~~));

(2) Convert cannabinoids derived from the plant *Cannabis* into naturally occurring cannabinoids;

(3) Package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets((~~, and sell~~)); and

(4) Sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

((~~(bb)~~)) (ll) "Marijuana producer" means a person licensed by the board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

((~~(cc)~~)) (mm) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

((~~(dd)~~)) (nn) "Marijuana researcher" means a person licensed by the board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

((~~(ee)~~)) (oo) "Marijuana retailer" means a person licensed by the board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

((~~(ff)~~)) (pp) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana ((~~as defined in subsection (y) of this section~~)), and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

((~~(gg)~~)) (qq) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

((~~(hh)~~)) (rr) Naturally occurring cannabinoid means a cannabinoid found in the plant *Cannabis*.

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

((~~(ii)~~)) (tt) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

((~~(jj)~~)) (uu) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((~~(kk)~~)) (vv) "Plant" has the meaning provided in RCW 69.51A.010.

((~~(ll)~~)) (ww) "Plant *Cannabis*" means all plants of the genus *Cannabis*, including marijuana, and hemp as defined in RCW 15.140.020.

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

((~~(mm)~~)) (yy) "Practitioner" means:

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

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

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

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

((~~(oo)~~)) (aaa) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

((~~(pp)~~)) (bbb) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

((~~(qq)~~)) (ccc) "Recognition card" has the meaning provided in RCW 69.51A.010.

((~~(rr)~~)) (ddd) "Retail outlet" means a location licensed by the board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

((~~(ss)~~)) (eee) "Secretary" means the secretary of health or the secretary's designee.

((~~(tt)~~)) (fff) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

((~~(uu)~~)) (ggg) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

((~~(vv)~~)) (hhh) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

((~~(ww)~~)) (iii) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

((~~(xx)~~)) (jjj) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

**Sec.**  RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are each reenacted and amended to read as follows:

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

(a) "11-hydroxy-delta-9-tetrahydrocannabinol" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 36557-05-8.

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

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

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

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

((~~(c)~~)) (d) "Artificial cannabinoid" means a cannabinoid that possesses either a similar chemical structure to any naturally occurring cannabinoid or exhibits agonist activity at one or more cannabinoid receptors and is not found in nature.

(e) "Board" means the Washington state liquor and cannabis board.

((~~(d)~~)) (f) "Cannabinoid" means any of the chemical compounds that are the active constituents of the plant *Cannabis* including, but not limited to, tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, cannabidiolic acid, cannabinol, cannabigeral, cannabichromence, cannabicyclol, cannabivarin, tetrahydrocannabivarin, cannabidivarin, cannabichromevarin, cannabigerovarin, cannabigerol monomethyl ether, cannabielsoin, and cannabicitran. Cannabinoids do not include artificial cannabinoids, as that term is defined in this section and in Schedules I through V of the Washington state controlled substances act.

(g) "CBD concentration" has the meaning provided in RCW 69.51A.010.

((~~(e)~~)) (h) "CBD product" means any product containing or consisting of cannabidiol.

((~~(f)~~)) (i) "Commission" means the pharmacy quality assurance commission.

((~~(g)~~)) (j) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

((~~(h)~~)) (k)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

((~~(j)~~)) (m) "Delta-7-tetrahydrocannabinol" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,9,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 162678-94-6.

(n) "Delta-8-tetrahydrocannabinol" has the meaning provided in RCW 69.50.204(c)(30)(i)(B).

(o) "Delta-9-tetrahydrocannabinol" has the meaning provided in RCW 69.50.204(c)(30)(i)(A).

(p) "Delta-9-tetrahydrocannabinolic acid" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, chemical abstracts service number 23978-85-0 or (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-4-carboxylic acid.

(q) "Delta-9-tetrahydrocannabiphorol" means (6aR,10aR)-6,6,9-trimethyl-3-heptyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 54763-99-4.

(r) "Delta-10-tetrahydrocannabinol" means (6aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,9-tetrahydro-6H-benzo[c]chromen-1-ol, chemical abstracts service number 95543-62-7.

(s) "Department" means the department of health.

((~~(k)~~)) (t) "Designated provider" has the meaning provided in RCW 69.51A.010.

((~~(l)~~)) (u) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

((~~(m)~~)) (v) "Dispenser" means a practitioner who dispenses.

((~~(n)~~)) (w) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

((~~(o)~~)) (x) "Distributor" means a person who distributes.

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

((~~(q)~~)) (z) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

((~~(r)~~)) (aa) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

((~~(s)~~)) (bb) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

((~~(t)~~)) (cc) "Immediate precursor" means a substance:

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

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

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

((~~(u)~~)) (dd) "Impairing cannabinoid" means a substance that meets each of the following structural and functional criteria:

(1) Exhibits the structural backbone of tetrahydrocannabinols and tetrahydrocannabinol-like molecules that include the interconnected three-ring system of either a six-carbon aromatic ring, a pyran ring, or a cyclohexene ring. Known compounds that fit this description include:

(i) Tetrahydrocannabinols. A single double-bond in the C ring, such as delta-10 tetrahydrocannabinol and isomers, delta-9 tetrahydrocannabinol and isomers, delta-8-tetrahydrocannabinol and isomers, delta-7-tetrahydrocannabinol and isomers, delta-6a tetrahydrocannabinol and isomers, and delta-10a tetrahydrocannabinol and isomers;

(ii) Carboxylates (C-2 and C-4) of tetrahydrocannabinols, such as delta-9-tetrahydrocannabinolic acid, similar carboxylates of delta-9-tetrahydrocannabinolic acid for tetrahydrocannabinols such as in (1)(i) of this subsection, and carboxylate esters of tetrahydrocannabinols in (1)(i) of this subsection;

(iii) Alkyl analogues (C-3) of tetrahydrocannabinols, such as delta-9-tetrahydrocannabiphorol and n-alkyl analogues, and similar alkylated analogues of delta-9-tetrahydrocannabinol for tetrahydrocannabinols in (1)(i) of this subsection; and

(iv) Hydroxylated analogues of tetrahydrocannabinols, such as 11-hydroxy-delta-9-tetrahydrocannabinol and 8- and 10-hydroxy analogues, and similar hydroxylated analogues of delta-9 tetrahydrocannabinol for tetrahydrocannabinols in (1)(i) of this subsection;

(2) Possesses significant CB1 agonist activity as demonstrated by binding affinity (Ki) to the CB1 receptors at less than 200 nM; and

(3) Results in positive effects for all four components of the tetrad test in rodents or reliably causes functional impairment in humans as assayed by a method possessing scientific consensus.

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

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

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

((~~(x)~~)) (hh) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

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

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

~~(y)~~)); or

(3) By a marijuana processor licensed under RCW 69.50.325 and operating within the privileges granted to marijuana processors under RCW 69.50.326.

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

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

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

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

((~~(aa)~~)) (kk) "Marijuana processor" means a person licensed by the board to ((~~process~~)):

(1) Process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products((~~, package~~));

(2) Convert cannabinoids derived from the plant *Cannabis* into naturally occurring cannabinoids;

(3) Package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets((~~, and sell~~)); and

(4) Sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

((~~(bb)~~)) (ll) "Marijuana producer" means a person licensed by the board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

((~~(cc)~~)) (mm) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

((~~(dd)~~)) (nn) "Marijuana researcher" means a person licensed by the board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

((~~(ee)~~)) (oo) "Marijuana retailer" means a person licensed by the board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

((~~(ff)~~)) (pp) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana ((~~as defined in subsection (y) of this section~~)), and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

((~~(gg)~~)) (qq) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

((~~(hh)~~)) (rr) Naturally occurring cannabinoid means a cannabinoid found in the plant *Cannabis*.

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

((~~(ii)~~)) (tt) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

((~~(jj)~~)) (uu) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((~~(kk)~~)) (vv) "Plant" has the meaning provided in RCW 69.51A.010.

((~~(ll)~~)) (ww) "Plant *Cannabis*" means all plants of the genus *Cannabis*, including marijuana, and hemp as defined in RCW 15.140.020.

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

((~~(mm)~~)) (yy) "Practitioner" means:

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

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

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

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

((~~(oo)~~)) (aaa) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

((~~(pp)~~)) (bbb) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

((~~(qq)~~)) (ccc) "Recognition card" has the meaning provided in RCW 69.51A.010.

((~~(rr)~~)) (ddd) "Retail outlet" means a location licensed by the board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

((~~(ss)~~)) (eee) "Secretary" means the secretary of health or the secretary's designee.

((~~(tt)~~)) (fff) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

((~~(uu)~~)) (ggg) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

((~~(vv)~~)) (hhh) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

((~~(ww)~~)) (iii) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

((~~(xx)~~)) (jjj) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

**Sec.**  RCW 69.50.325 and 2020 c 236 s 6 are each amended to read as follows:

(1) There shall be a marijuana producer's license regulated by the board and subject to annual renewal. The licensee is authorized to produce: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products, including the processing and use of cannabinoids in accordance with RCW 69.50.326, for sale at wholesale to marijuana processors and marijuana retailers, regulated by the board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates, including the processing and use of cannabinoids in accordance with RCW 69.50.326, in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the board pursuant to this section.

(ii) The board shall adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after July 23, 2017. However, no license of a marijuana retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first nine calendar months of July 23, 2017.

(v) The board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail marijuana business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits the opening of a retail marijuana business; or

(B) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed marijuana retailer from becoming operational.

(d) The board may issue marijuana retailer licenses pursuant to this chapter and RCW 69.50.335.

**Sec.**  RCW 69.50.326 and 2018 c 132 s 1 are each amended to read as follows:

(1) Licensed marijuana ((~~producers and licensed marijuana processors may use a CBD product as an additive for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, and sale under this chapter. Except as otherwise provided in subsection (2) of this section, such CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed~~)) processors may use and process hemp and hemp derivatives obtained in accordance with this section to use or derive cannabinoids to add to any marijuana product authorized for production, processing, and sale under this chapter.

(2) Subject to the requirements set forth in (a) ((~~and (b)~~)) through (c) of this subsection, ((~~and for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, or sale under this chapter, licensed marijuana producers and~~)) licensed marijuana processors may use ((~~a CBD product~~)) hemp and hemp derivatives obtained from a source not licensed under this chapter, provided the ((~~CBD product~~)) hemp and hemp derivatives:

(a) ((~~Has~~)) Have a THC ((~~level~~)) concentration of 0.3 percent or less on a dry weight basis, excluding in-process hemp; ((~~and~~))

(b) ((~~Has been~~)) Are tested ((~~for contaminants and toxins by a testing laboratory accredited under this chapter and~~)) in accordance with ((~~testing standards established under this chapter and the~~)) applicable administrative rules and are accompanied by a certificate of analysis; and

(c) Were produced by a licensed hemp producer, handler, or processor in a state or country with a legal status and product safety protocols or any other plan or program authorized by the department of agriculture or by a federally recognized Indian tribe with an approved United States department of agriculture hemp plan or pilot program. A producer or supplier in compliance with any future federal or state hemp program or in compliance with the laws and regulations on the manufacture or importation of food in the United States is acceptable.

(3) ((~~Subject to the requirements of this subsection (3), the liquor and cannabis board may enact rules necessary to implement the requirements of this section. Such rule making is limited to regulations pertaining to laboratory testing and product safety standards for those cannabidiol products used by licensed producers and processors in the manufacture of marijuana products marketed by licensed retailers under chapter 69.50 RCW. The purpose of such rule making must be to ensure the safety and purity of cannabidiol products used by marijuana producers and processors licensed under chapter 69.50 RCW and incorporated into products sold by licensed recreational marijuana retailers. This rule-making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under chapter 69.50 RCW.~~)) Any marijuana products containing hemp or hemp derivatives processed in accordance with this section must be accompanied by a disclosure statement declaring and identifying the product has been derived from hemp and the processor must make available, upon request, a compliant certificate of analysis and the name of the licensed hemp producer.

(4) Artificial cannabinoids may not be used, processed, or sold by any person.

(5) Subject to the requirements of this subsection, the board may adopt rules necessary to implement this section. Rule making is limited to rules pertaining to laboratory testing, product safety standards, and labeling for those hemp and hemp derivatives used by licensed processors in the manufacture of marijuana products marketed by marijuana retailers under this chapter. Rule making must ensure the safety and purity of hemp, hemp derivatives, and impairing cannabinoids used by marijuana processors licensed under this chapter and incorporated into products sold by marijuana retailers. This rule making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products sold or marketed outside of the regulatory framework established under this chapter.

**Sec.**  RCW 69.50.363 and 2015 c 207 s 7 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the ((~~state liquor control~~)) board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under chapter 3, Laws of 2013;

(2) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the ((~~state liquor control~~)) board under RCW 69.50.345(4);

(3) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under chapter 3, Laws of 2013; ((~~and~~))

(4) Delivery, distribution, and sale of useable marijuana, marijuana concentrates, or marijuana-infused products to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490; and

(5) Use, possession, processing, packaging, labeling, delivery, distribution, and sale of hemp and hemp derivatives in accordance with RCW 69.50.326.

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

(1) All marijuana producers, processors, certified labs, and certified lab employees must comply with the testing requirements described in this section.

(2) The following fields of testing are only required for samples of marijuana flower that have not been previously tested, or that have failed previous quality control testing:

(a) Potency analysis.

(i) Certified labs must test and report the following cannabinoids to the board when testing for potency:

(A) THCA;

(B) THC;

(C) Total THC, which must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA: M total delta-9 THC = M delta-9 THC + (0.877 multiplied by M delta-9 THCA);

(D) CBDA;

(E) CBD; and

(F) Total CBD, which must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: M total CBD = M CBD + (0.877 multiplied by M CBDA).

(ii) Any impairing cannabinoids intentionally added to the formula of a product must be tested for potency including, but not limited to, delta-8 tetrahydrocannabinol.

(iii) Regardless of analytical equipment or methodology, certified labs must accurately measure and report the acidic, THCA and CBDA, and neutral, THC and CBD, forms of the cannabinoids.

(b) Potency analysis for flower lots.

(i) Certified labs must test and report the results of the required flower lot samples for the following cannabinoids including, but not limited to:

(A) THCA;

(B) THC;

(C) Total THC, which must be calculated as follows, where M is the mass or mass fraction of delta-9 tetrahydrocannabinol or delta-9 tetrahydrocannabinolic acid: M total delta-9 tetrahydrocannabinol = M delta-9 tetrahydrocannabinol + (0.877 multiplied by M delta-9 tetrahydrocannabinolic acid);

(D) CBDA;

(E) CBD; and

(F) Total CBD, which must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: M total CBD = M CBD + (0.877 multiplied by M CBDA).

(ii) Certified labs must test each flower lot identified in rule by the board for the following:

(A) Moisture analysis. The sample and related lot or batch fails quality control testing for moisture analysis if the results exceed the following limits:

(I) Water activity rate greater than 0.65; or

(II) Moisture content greater than 15 percent.

(B) Foreign matter screening. The sample and related lot or batch fail quality control testing for foreign matter screening if the results exceed the following limits:

(I) Five percent of stems three millimeters or more in diameter;

(II) Two percent of seeds or other foreign matter; or

(III) One insect fragment, one hair, or one mammalian excreta per sample.

(C) Microbiological screening. The sample and related lot or batch fail quality control testing for microbiological screening if the results for unprocessed plant material or extracted or processed botanical products exceed the following limits:

(I) For enterobacteria, bile-tolerant gram-negative bacteria, 10 grams; and

(II) For *E.Coli*, pathogenic strains, and *Salmonella spp.*, not detective in one gram.

(D) Mycotoxin screening. For the purposes of mycotoxin screening, a sample passes quality control testing if it contains less than 20 micrograms of medication per kilogram of body weight for the following:

(I) A total of aflatoxin B1, aflatoxin B2, aflatoxin G1, and aflatoxin G2; or

(II) Ochratoxin A.

(c) Residual solvent screening. Except as otherwise provided in this subsection (2)(c), a sample and related lot or batch fail quality control testing for residual solvents if the results exceed the limits provided in this subsection (2)(c). Residual solvent results greater than 5,000 parts per million for class three solvents, 50 parts per million for class two solvents, and two parts per million for class one solvents as defined in *United States Pharmacopeia, USP 30 Chemical Tests / <467&gt; - Residual Solvents* and not listed in (c)(i) through (viii) of this subsection fail quality control testing. When residual solvent screening is required, certified labs must test, at minimum, for the following solvents and fail those solvents that exceed the following limits:

(i) Acetone, butanes, ethyl acetate, heptanes, isopropanol, pentanes, and propane, 5,000 parts per million;

(ii) Cyclohexane, 3,880 parts per million;

(iii) Methanol, 3,000 parts per million;

(iv) Xylene, 2,170 parts per million;

(v) Toulene, 890 parts per million;

(vi) Dichloromethane, 600 parts per million;

(vii) Benzene and Chloroform, two parts per million; and

(viii) Hexanes, zero parts per million.

(d) Heavy metal screening. A sample and related lot or batch fail quality control testing for heavy metals if the results exceed the following limits:

(i) Lead, 0.5 parts per million;

(ii) Arsenic and cadmium, 0.2 parts per million; and

(iii) Mercury, 0.1 parts per million.

(e) Pesticide screening. For the purposes of pesticide screening, a sample passes quality control testing if it meets the standards described in rule by the board regarding pesticide action levels and any rules adopted by the department of agriculture under chapter 17.21 RCW.

(3) The following quality control tests are required for each of the marijuana products described below. Licensees and certified labs may opt to perform additional quality control tests on the same lot.

(a) Marijuana flower lots. Marijuana flower lots or other material that will not be extracted require the following quality control tests:

(i) Moisture analysis;

(ii) Potency analysis;

(iii) Foreign matter screening;

(iv) Microbiological screening;

(v) Mycotoxin screening;

(vi) Pesticide screening; and

(vii) Heavy metals screening.

(b)(i) Intermediate products. Intermediate products must meet the following requirements related to quality control testing or be tested as end products:

(A) All intermediate products must be homogenized before quality control testing;

(B) A batch of marijuana mix may not exceed 10 pounds, must be chopped or ground, and no particles may be greater than three millimeters; and

(C) All batches of intermediate products require the following quality control tests:

(I) For marijuana mix: Moisture analysis, potency analysis, foreign matter screening, microbiological screening, mycotoxin screening, pesticide screening, and heavy metals screening;

(II) For concentrate or extract, except as provided in (b)(i)(C)(III) of this subsection: Potency analysis, mycotoxin screening if using marijuana flower lots that have not passed quality assurance testing, residual solvent test, pesticide screening, and heavy metals screening; and

(III) For concentrate or extract nonsolvent including kief, hash, rosin, or bubble hash: Potency analysis, microbiological screening, mycotoxin screening, pesticide screening, and heavy metals screening.

(ii) For the purposes of this subsection (3)(b), batch means a single extraction or infusion process.

(c) End products. All marijuana, marijuana-infused products, and marijuana concentrates sold from a marijuana processor to a marijuana retailer require potency analysis for the following:

(i) Infused solid edible;

(ii) Infused liquid;

(iii) Packaged marijuana mix, loose or rolled;

(iv) Infused marijuana mix, loose or rolled;

(v) Concentrate or marijuana-infused product for inhalation; and

(vi) Other products provided in rule adopted by the board.

(d) End products consisting of only one intermediate product that has not been changed in any way are not subject to potency analysis.

(e) End products consisting of intermediate products that have not been tested for residual solvents, heavy metals, pesticides, and microbials must be tested for these items.

(4) Usable marijuana, marijuana concentrates, and marijuana-infused products may not be sold or transported until the required quality control testing is completed and passed, except:

(a) Business entities with multiple locations licensed under the same unified business identifier number may transfer marijuana products between the licensed locations; and

(b) Licensees may sell at wholesale and transfer:

(i) Marijuana flower lots or other material that will be extracted and marijuana mix and nonsolvent extracts for the purpose of further extraction before completing and passing the required quality control testing; and

(ii) Failed marijuana lots or batches to be extracted under this section, unless the marijuana lots or batches failed tests that require immediate destruction.

(5) The board must adopt rules regarding statistical sampling procedures consistent with 7 C.F.R. Sec. 52.38 and the United States department of agriculture sampling manual, as it existed in January 2019. The board must adopt rules providing a remediation process for licensees when their marijuana products fail one or more of the required quality control tests contained in this section.

(6) For the purposes of this section:

(a) "CBD" means cannabidiol;

(b) "CBDA" means cannabidiolic acid;

(c) "THC" means tetrahydrocannabinol; and

(d) "THCA" means tetrahydrocannabinolic acid.

NEW SECTION. **Sec.**  Sections 1, 2, and 4 through 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec.**  Section 2 of this act expires July 1, 2022.

NEW SECTION. **Sec.**  Section 3 of this act takes effect July 1, 2022.

**--- END ---**