
HOUSE BILL 1668

State of Washington

67th Legislature

2022 Regular Session

By Representatives Kloba, Wylie, and Young; by request of Liquor and Cannabis Board

Prefiled 12/20/21. Read first time 01/10/22. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to expanding regulatory authority over
2 cannabinoids that may be impairing and providing for enhanced product
3 safety and consumer information disclosure about marijuana products;
4 amending RCW 69.50.325, 69.50.326, 69.50.342, and 69.50.363;
5 reenacting and amending RCW 69.50.101; adding a new section to
6 chapter 69.50 RCW; creating a new section; and providing an effective
7 date.

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

9 NEW SECTION. **Sec. 1.** Due to the evolving nature of new
10 cannabinoids being identified in the plant *Cannabis* that may be
11 impairing, the legislature finds there is a need to provide consumers
12 legal access to products that have been tested and which meet the
13 same standards for quality and safety as delta-9
14 tetrahydrocannabinol. The legislature further finds there is a need
15 to require labeling, serving size, potency, and ingredient disclosure
16 standards for any impairing cannabinoid product. The legislature
17 further finds there is a need to distinguish cannabinoids derived
18 from natural plants that are prepared for human consumption and the
19 more unpredictable artificial cannabinoids created solely through
20 chemical reactions. The legislature further recognizes the need to
21 maintain clarity between plants defined as marijuana and plants

1 defined as hemp. The primary purpose of this act is to authorize the
2 liquor and cannabis board to regulate all cannabinoids that may be
3 impairing, regardless of origin, and to direct the board to adopt
4 rules related to cannabinoid products and *Cannabis* isolates, except
5 those authorized as a drug by the federal food and drug
6 administration.

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

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

11 (a) "Administer" means to apply a controlled substance, whether
12 by injection, inhalation, ingestion, or any other means, directly to
13 the 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
19 at the direction of a manufacturer, distributor, or dispenser. It
20 does not include a common or contract carrier, public
21 warehouseperson, or employee of the carrier or warehouseperson.

22 (c) "Artificial cannabinoid" means a solely chemically created
23 substance that does not originate from the plant *Cannabis* but is
24 structurally the same or substantially similar to the molecular
25 structure of any substance derived from the plant *Cannabis* that may
26 be a cannabinoid receptor agonist and includes, but is not limited
27 to, any material, compound, mixture, or preparation that is not
28 listed as a controlled substance in Schedules I through V of the
29 Washington state controlled substances act. Artificial cannabinoids
30 do not include:

31 (1) A naturally occurring chemical substance that is separated
32 from the plant *Cannabis* by a chemical or mechanical extraction
33 process;

34 (2) Cannabinoids that are produced by decarboxylation from a
35 naturally occurring cannabinoid acid without the use of a chemical
36 catalyst; or

37 (3) Any other chemical substance resembling in any manner a
38 compound found in the plant *Cannabis* that is identified by the board
39 in consultation with the department, by rule.

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

2 ~~((d))~~ (e) "Cannabinoid" means any of the chemical compounds
3 that are the active constituents of the plant Cannabis and their
4 acids including, but not limited to, tetrahydrocannabinol,
5 tetrahydrocannabinolic acid, cannabidiol, cannabidiolic acid,
6 cannabinol, cannabigerol, cannabichromene, cannabicyclol,
7 cannabivarin, tetrahydrocannabivarin, cannabidivarin,
8 cannabichromevarin, cannabigerovarin, cannabigerol monomethyl ether,
9 cannabielsoin, and cannabicitran. Cannabinoids do not include
10 artificial cannabinoids, as that term is defined in this section and
11 in Schedules I through V of the Washington state controlled
12 substances act.

13 (f) "Catalyst" means a substance that increases the rate of a
14 chemical reaction without itself undergoing any permanent chemical
15 change.

16 (g) "CBD concentration" has the meaning provided in RCW
17 69.51A.010.

18 ~~((e))~~ (h) "CBD product" means any product containing or
19 consisting of cannabidiol that does not exceed 0.3 percent THC on a
20 dry weight basis and that does not contain more than 0.5 milligrams
21 per serving or two milligrams total in the packaged product of a
22 cannabinoid that may be impairing.

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

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

29 ~~((h))~~ (k) (1) "Controlled substance analog" means a substance
30 the chemical structure of which is substantially similar to the
31 chemical 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 (~~(i)~~) (l) "Deliver" or "delivery" means the actual or
16 constructive transfer from one person to another of a substance,
17 whether or not there is an agency relationship.

18 (~~(j)~~) (m) "Department" means the department of health.

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

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

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

27 (~~(n)~~) (q) "Distillate" means an extract from the plant Cannabis
28 where a segment of one or more cannabinoids from an initial
29 extraction are selectively concentrated through a mechanical or
30 chemical process, or both, with all impurities removed.

31 (r) "Distribute" means to deliver other than by administering or
32 dispensing a controlled substance.

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

34 (~~(p)~~) (t) "Drug" means (1) a controlled substance recognized as
35 a drug in the official United States pharmacopoeia/national formulary
36 or the official homeopathic pharmacopoeia of the United States, or
37 any supplement to them; (2) controlled substances intended for use in
38 the diagnosis, cure, mitigation, treatment, or prevention of disease
39 in individuals or animals; (3) controlled substances (other than
40 food) intended to affect the structure or any function of the body of

1 individuals or animals; and (4) controlled substances intended for
2 use as a component of any article specified in (1), (2), or (3) of
3 this subsection. The term does not include devices or their
4 components, parts, or accessories.

5 ~~((g))~~ (u) "Drug enforcement administration" means the drug
6 enforcement administration in the United States Department of
7 Justice, or its successor agency.

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

14 ~~((s))~~ (w) "Extract" means a solid, viscid, or liquid substance
15 extracted from a plant, or the like, containing its essence in
16 concentrated or isolated form.

17 (x) "Extraction" means the process to separate or obtain a solid,
18 viscid, or liquid substance from a plant or parts of a plant, by
19 pressure, distillation, treatment with solvents, or the like.

20 (y) "Immature plant or clone" means a plant or clone that has no
21 flowers, is less than twelve inches in height, and is less than
22 twelve inches in diameter.

23 ~~((t))~~ (z) "Immediate precursor" means a substance:

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

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

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

31 ~~((u))~~ (aa) "Isolate" means extract from the plant Cannabis of
32 95 percent or more of a single cannabinoid compound.

33 (bb) "Isomer" means an optical isomer, but in subsection ~~((gg))~~
34 (nn) (5) of this section, RCW 69.50.204(a) (12) and (34), and
35 69.50.206(b) (4), the term includes any geometrical isomer; in RCW
36 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
37 positional isomer; and in RCW 69.50.204(a) (35), 69.50.204(c), and
38 69.50.208(a) the term includes any positional or geometric isomer.

39 ~~((v))~~ (cc) "Lot" means a definite quantity of marijuana,
40 marijuana concentrates, useable marijuana, or marijuana-infused

1 product identified by a lot number, every portion or package of which
2 is uniform within recognized tolerances for the factors that appear
3 in the labeling.

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

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

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

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

25 ~~((y))~~ (ff) "Marijuana" or "marihuana" means all parts of the
26 plant *Cannabis* ~~((, whether growing or not,))~~ with a ~~((THC))~~
27 tetrahydrocannabinol concentration ~~((greater))~~ of more than 0.3
28 percent on a dry weight basis, whether growing or not; the seeds
29 thereof; the resin extracted from any part of the plant, including
30 concentrated resins, cannabinoids, and the products thereof; and
31 every compound, manufacture, salt, derivative, mixture, or
32 preparation of the plant, its seeds or resin. The term does not
33 include:

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

1 (2) Hemp or industrial hemp as defined in RCW 15.140.020(~~(r)~~) or
2 seeds used for licensed hemp production under chapter 15.140 RCW,
3 unless the tetrahydrocannabinol concentration is greater than 0.3
4 percent on a dry weight basis.

5 (~~(z)~~) (gg) "Marijuana concentrates" means products consisting
6 wholly or in part of the resin extracted from any part of the plant
7 *Cannabis* (~~(and having a THC concentration)~~) containing greater than
8 ten percent total THC such as, but not limited to, kief, live resin,
9 rosin, hash, or bubble hash.

10 (~~(aa)~~) (hh) "Marijuana processor" means a person licensed by
11 the board to process marijuana of natural origin, grown by a licensed
12 producer, either directly or indirectly or by extraction from the
13 plant *Cannabis* as defined in subsection (ss) of this section, unless
14 sourced and used as an additive in accordance with RCW 69.50.326,
15 into marijuana concentrates, useable marijuana, and marijuana-infused
16 products, package and label marijuana concentrates, useable
17 marijuana, and marijuana-infused products for sale in retail outlets,
18 (~~and~~) sell marijuana concentrates, useable marijuana, and
19 marijuana-infused products for sale in retail outlets, and sell
20 marijuana concentrates, useable marijuana, and marijuana-infused
21 products at wholesale to marijuana retailers.

22 (~~(bb)~~) (ii) "Marijuana producer" means a person licensed by the
23 board to produce, prepare, and propagate marijuana directly from a
24 natural origin and sell (~~(marijuana)~~) at wholesale to marijuana
25 processors and other marijuana producers.

26 (~~(ee)~~) (jj) "Marijuana products" means useable marijuana,
27 marijuana concentrates, and marijuana-infused products as defined in
28 this section and also includes any product with 0.5 milligrams or
29 more per serving or two milligrams or more per package of a
30 cannabinoid that may be impairing or that is marketed as such.

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

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

38 (~~(ff)~~) (mm) "Marijuana-infused products" means products that
39 contain marijuana or marijuana extracts, isolates, or distillates,
40 that are intended for human use, are derived from marijuana as

1 defined in subsection ~~((y))~~ (ff) of this section, and ~~((have a THC~~
2 ~~concentration))~~ contain no greater than ten percent total THC. The
3 term "marijuana-infused products" does not include either useable
4 marijuana or marijuana concentrates.

5 ~~((g))~~ (nn) "Narcotic drug" means any of the following, whether
6 produced directly or indirectly by extraction from substances of
7 vegetable origin, or independently by means of chemical synthesis, or
8 by a combination of extraction and chemical synthesis:

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

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

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

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

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

24 (6) Cocaine base.

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

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

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

38 ~~((i))~~ (pp) "Opium poppy" means the plant of the species
39 *Papaver somniferum* L., except its seeds.

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

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

6 ~~((ll))~~ (ss) "Plant Cannabis" means all plants of the genus
7 Cannabis, including marijuana as defined in subsection (ff) of this
8 section, and hemp as defined in RCW 15.140.020.

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

11 ~~((mm))~~ (uu) "Practitioner" means:

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

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

32 (3) A physician licensed to practice medicine and surgery, a
33 physician licensed to practice osteopathic medicine and surgery, a
34 dentist licensed to practice dentistry, a podiatric physician and
35 surgeon licensed to practice podiatric medicine and surgery, a
36 licensed physician assistant or a licensed osteopathic physician
37 assistant specifically approved to prescribe controlled substances by
38 his or her state's medical commission or equivalent and his or her
39 supervising physician, an advanced registered nurse practitioner
40 licensed to prescribe controlled substances, or a veterinarian

1 licensed to practice veterinary medicine in any state of the United
2 States.

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

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

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

12 ~~((qq))~~ (yy) "Recognition card" has the meaning provided in RCW
13 69.51A.010.

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

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

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

23 ~~((uu))~~ (ccc) "Synthetically derived cannabinoid" means any
24 cannabinoid that is altered by a chemical reaction that changes the
25 molecular structure of any natural cannabinoid derived from the plant
26 Cannabis to another cannabinoid found naturally in the plant
27 Cannabis.

28 (ddd) (1) "Tetrahydrocannabinol" or "THC" includes all
29 tetrahydrocannabinols that are artificially, synthetically, or
30 naturally derived, including but not limited to delta-8
31 tetrahydrocannabinol, delta-9 tetrahydrocannabinol, delta-10
32 tetrahydrocannabinol, THCV tetrahydrocannabivarin, THCP
33 tetrahydrocannabiphorol, THC-O-Acetate, and the optical isomers of
34 THC cannabinoids.

35 (2) Notwithstanding (1) of this subsection, tetrahydrocannabinol
36 includes concentrated resins or cannabinoids, and the products
37 thereof, produced from the plant Cannabis, whether or not the
38 cannabinoids were derived from a marijuana plant containing a THC
39 concentration greater than 0.3 percent on a dry weight basis.

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

7 (~~(vv)~~) (fff) "Total THC" means the sum of the percentage, by
8 weight or volume measurement of tetrahydrocannabinolic acid
9 multiplied by 0.877, plus, the percentage by weight or volume
10 measurement of tetrahydrocannabinol.

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

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

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

24 NEW SECTION. Sec. 3. A new section is added to chapter 69.50
25 RCW to read as follows:

26 (a) Products containing or consisting of cannabinoids produced
27 and processed for any type of consumption into a human body, whether
28 marketed as such or not, exceeding 0.3 percent THC on a dry weight
29 basis, that contains more than 0.5 milligrams per serving or two
30 milligrams total in the packaged product of a cannabinoid that may be
31 impairing, may only be sold by a marijuana producer, marijuana
32 processor, or marijuana retailer licensed by the board unless
33 authorized as a drug by the federal food and drug administration.

34 (b) All products containing cannabinoids described in subsection
35 (a) of this section, or cannabinoid products marketed as having
36 impairing effects, are within the scope of regulatory authority of
37 the board under this chapter, except those authorized as a drug by
38 the federal food and drug administration.

1 (c) Sale of products identified in subsection (a) of this section
2 is prohibited unless conducted by a business holding a valid
3 marijuana producer, marijuana processor, or marijuana retailer
4 license issued by the board.

5 (d) Products meeting any of the criteria identified in this
6 subsection may only be sold if such a sale is in compliance with
7 rules adopted by the board after the board has consulted with the
8 department of health and the department of agriculture. Products
9 subject to this requirement are:

10 (1) Products containing cannabinoids that may be impairing;

11 (2) Products that contain greater than 0.3 percent THC on a dry
12 weight basis; and

13 (3) Products that contain 0.5 or more milligrams per serving or
14 two or more milligrams total in the packaged product of any
15 cannabinoid that may be impairing.

16 (e) Products identified in subsection (d) of this section may not
17 be sold to persons under 21 years of age, except for those in
18 compliance with provisions of chapter 69.51A RCW.

19 (f) The requirement provided in subsection (d) of this section
20 does not apply to delta-9 THC products approved by the board prior to
21 January 1, 2022.

22 (g) Cannabis health and beauty aids compliant with RCW 69.50.575
23 are not subject to the provisions of subsections (a) through (d) of
24 this section.

25 (h) Manufacturing and sales of artificial cannabinoids is
26 prohibited.

27 **Sec. 4.** RCW 69.50.325 and 2020 c 236 s 6 are each amended to
28 read as follows:

29 (1) There shall be a marijuana producer's license regulated by
30 the board and subject to annual renewal. The licensee is authorized
31 to produce, prepare, and propagate marijuana grown from seeds or
32 clones of natural origin: (a) Marijuana for sale at wholesale to
33 marijuana processors and other marijuana producers; (b) immature
34 plants or clones and seeds for sale to cooperatives as described
35 under RCW 69.51A.250; and (c) immature plants or clones and seeds for
36 sale to qualifying patients and designated providers as provided
37 under RCW 69.51A.310. The production, possession, delivery,
38 distribution, and sale of marijuana in accordance with the provisions
39 of this chapter and the rules adopted to implement and enforce it, by

1 a validly licensed marijuana producer, shall not be a criminal or
2 civil offense under Washington state law. Every marijuana producer's
3 license shall be issued in the name of the applicant, shall specify
4 the location at which the marijuana producer intends to operate,
5 which must be within the state of Washington, and the holder thereof
6 shall not allow any other person to use the license. The application
7 fee for a marijuana producer's license shall be two hundred fifty
8 dollars. The annual fee for issuance and renewal of a marijuana
9 producer's license shall be one thousand three hundred eighty-one
10 dollars. A separate license shall be required for each location at
11 which a marijuana producer intends to produce marijuana.

12 (2) There shall be a marijuana processor's license to process
13 marijuana, from the plant *Cannabis* of natural origin and grown by a
14 licensed producer, unless sourced and used as an additive in
15 accordance with RCW 69.50.326, and compound or convert marijuana
16 products from marijuana grown by a licensed marijuana producer as
17 specified by the board by rule, and prepare, package, and label
18 marijuana concentrates, useable marijuana, and marijuana-infused
19 products, which contain greater than 0.5 milligrams per serving of a
20 cannabinoid that may be impairing, for sale at wholesale to marijuana
21 processors and marijuana retailers, regulated by the board and
22 subject to annual renewal. The processing, packaging, possession,
23 delivery, distribution, and sale of marijuana, useable marijuana,
24 marijuana-infused products, and marijuana concentrates in accordance
25 with the provisions of this chapter and chapter 69.51A RCW and the
26 rules adopted to implement and enforce these chapters, by a validly
27 licensed marijuana processor, shall not be a criminal or civil
28 offense under Washington state law. Every marijuana processor's
29 license shall be issued in the name of the applicant, shall specify
30 the location at which the licensee intends to operate, which must be
31 within the state of Washington, and the holder thereof shall not
32 allow any other person to use the license. The application fee for a
33 marijuana processor's license shall be two hundred fifty dollars. The
34 annual fee for issuance and renewal of a marijuana processor's
35 license shall be one thousand three hundred eighty-one dollars. A
36 separate license shall be required for each location at which a
37 marijuana processor intends to process marijuana.

38 (3) (a) There shall be a marijuana retailer's license to sell
39 marijuana concentrates, useable marijuana, and marijuana-infused
40 products, and other products containing greater than 0.5 milligrams

1 per serving of a cannabinoid that may be impairing at retail in
2 retail outlets, regulated by the board and subject to annual renewal.
3 The possession, delivery, distribution, and sale of marijuana
4 concentrates, useable marijuana, and marijuana-infused products in
5 accordance with the provisions of this chapter and the rules adopted
6 to implement and enforce it, by a validly licensed marijuana
7 retailer, shall not be a criminal or civil offense under Washington
8 state law. Every marijuana retailer's license shall be issued in the
9 name of the applicant, shall specify the location of the retail
10 outlet the licensee intends to operate, which must be within the
11 state of Washington, and the holder thereof shall not allow any other
12 person to use the license. The application fee for a marijuana
13 retailer's license shall be two hundred fifty dollars. The annual fee
14 for issuance and renewal of a marijuana retailer's license shall be
15 one thousand three hundred eighty-one dollars. A separate license
16 shall be required for each location at which a marijuana retailer
17 intends to sell marijuana concentrates, useable marijuana, and
18 marijuana-infused products.

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

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

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

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

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

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

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

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

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

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

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

20 **Sec. 5.** RCW 69.50.326 and 2018 c 132 s 1 are each amended to
21 read as follows:

22 (1) Licensed marijuana producers and licensed marijuana
23 processors may use ((a)) CBD ~~((product))~~, other nonimpairing
24 cannabinoids, or nonimpairing plant Cannabis isolates as ~~((an))~~
25 additives for the purpose of enhancing the ~~((cannabinoid))~~
26 nonimpairing cannabinoid concentration of any product authorized for
27 production, processing, and sale under this chapter. Except as
28 otherwise provided in subsection (2) of this section, such ~~((CBD~~
29 ~~product additives))~~ cannabinoid products or isolates must be lawfully
30 produced by a licensed marijuana producer, or purchased from ~~((r))~~ a
31 producer or processor licensed under this chapter.

32 (2) Subject to the requirements set forth in (a) ~~((and (b)))~~
33 through (d) of this subsection, and for the sole purpose of enhancing
34 the ~~((cannabinoid))~~ nonimpairing cannabinoid concentration of any
35 product authorized for production, processing, or sale under this
36 chapter, licensed marijuana producers and licensed marijuana
37 processors may use a CBD or other nonimpairing cannabinoid product
38 obtained from a source not licensed under this chapter, provided the
39 CBD or other nonimpairing cannabinoid product:

1 (a) Has a THC level of 0.3 percent or less on a dry weight basis
2 and does not contain greater than 0.5 milligrams per serving of any
3 cannabinoid that may be impairing; ((and))

4 (b) Has ~~((been tested for))~~ passed pesticide, heavy metals,
5 contaminants, and toxins testing by a testing laboratory accredited
6 under this chapter and in accordance with testing standards
7 established under this chapter and the applicable administrative
8 rules;

9 (c) Is accompanied by a disclosure statement describing
10 production methods including, but not limited to, solvent use,
11 catalyst use, and synthesis methods; and

12 (d) Is only added to a product authorized for production,
13 processing, or sale under this chapter, and is not further processed
14 or converted into a substance that may be impairing.

15 (3) Subject to the requirements of this subsection (3), the
16 ~~((liquor and cannabis))~~ board may enact rules necessary to implement
17 the requirements of this section. Such rule making ~~((is limited to))~~
18 includes regulations pertaining to laboratory testing and product
19 safety standards for ~~((those))~~ naturally and synthetically derived
20 cannabidiol or other nonimpairing cannabinoid products used by
21 licensed producers and processors in the manufacture of marijuana
22 products marketed by licensed retailers under this chapter ~~((69.50~~
23 ~~RCW))~~. Any synthetically derived cannabinoid used by licensed
24 producers and processors in the manufacture of marijuana products
25 marketed by licensed retailers under this chapter must be in
26 compliance with rules adopted by the board, prior to manufacturing
27 and sale to other licensees. Rule making by the board pertaining to
28 any synthetically derived cannabinoid must be in consultation with
29 the department of health and the department of agriculture. The
30 purpose of such rule making must be to ensure the safety and purity
31 of cannabidiol and other nonimpairing cannabinoid products used by
32 marijuana producers and processors licensed under this chapter
33 ~~((69.50—RCW))~~ and incorporated into products sold by licensed
34 recreational marijuana retailers. This rule-making authority does not
35 include the authority to enact rules regarding either the production
36 or processing practices of the industrial hemp industry or any
37 cannabidiol products that are sold or marketed outside of the
38 regulatory framework established under this chapter ~~((69.50—RCW))~~.

39 (4) Licensed marijuana producers and licensed marijuana
40 processors may not use any artificial cannabinoids, as defined in

1 this chapter, as an additive to any product authorized for
2 production, processing, and sale under this chapter.

3 (5) Licensed marijuana producers and licensed marijuana
4 processors must disclose on packaging and labeling all synthetically
5 derived cannabinoids contained in products, and may not make any
6 statements or claims on packaging, labeling, or advertising,
7 indicating those cannabinoids are a natural substance.

8 (6) The board must revise rules as appropriate to conform to the
9 terminology described in this act.

10 **Sec. 6.** RCW 69.50.342 and 2020 c 133 s 3 are each amended to
11 read as follows:

12 (1) For the purpose of carrying into effect the provisions of
13 chapter 3, Laws of 2013 according to their true intent or of
14 supplying any deficiency therein, the board may adopt rules not
15 inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed
16 necessary or advisable. Without limiting the generality of the
17 preceding sentence, the board is empowered to adopt rules regarding
18 the following:

19 (a) The equipment and management of retail outlets and premises
20 where marijuana is produced or processed, and inspection of the
21 retail outlets and premises where marijuana is produced or processed;

22 (b) The books and records to be created and maintained by
23 licensees, the reports to be made thereon to the board, and
24 inspection of the books and records;

25 (c) Methods of producing, processing, and packaging marijuana,
26 useable marijuana, marijuana concentrates, and marijuana-infused
27 products; conditions of sanitation; safe handling requirements;
28 approved pesticides and pesticide testing requirements; and standards
29 of ingredients, quality, and identity of marijuana, useable
30 marijuana, marijuana concentrates, and marijuana-infused products
31 produced, processed, packaged, or sold by licensees;

32 (d) Security requirements for retail outlets and premises where
33 marijuana is produced or processed, and safety protocols for
34 licensees and their employees;

35 (e) Screening, hiring, training, and supervising employees of
36 licensees;

37 (f) Retail outlet locations and hours of operation;

38 (g) Labeling requirements and restrictions on advertisement of
39 marijuana, useable marijuana, marijuana concentrates, cannabis health

1 and beauty aids, and marijuana-infused products for sale in retail
2 outlets;

3 (h) Forms to be used for purposes of this chapter and chapter
4 69.51A RCW or the rules adopted to implement and enforce these
5 chapters, the terms and conditions to be contained in licenses issued
6 under this chapter and chapter 69.51A RCW, and the qualifications for
7 receiving a license issued under this chapter and chapter 69.51A RCW,
8 including a criminal history record information check. The board may
9 submit any criminal history record information check to the
10 Washington state patrol and to the identification division of the
11 federal bureau of investigation in order that these agencies may
12 search their records for prior arrests and convictions of the
13 individual or individuals who filled out the forms. The board must
14 require fingerprinting of any applicant whose criminal history record
15 information check is submitted to the federal bureau of
16 investigation;

17 (i) Application, reinstatement, and renewal fees for licenses
18 issued under this chapter and chapter 69.51A RCW, and fees for
19 anything done or permitted to be done under the rules adopted to
20 implement and enforce this chapter and chapter 69.51A RCW;

21 (j) The manner of giving and serving notices required by this
22 chapter and chapter 69.51A RCW or rules adopted to implement or
23 enforce these chapters;

24 (k) Times and periods when, and the manner, methods, and means by
25 which, licensees transport and deliver marijuana, marijuana
26 concentrates, useable marijuana, and marijuana-infused products
27 within the state;

28 (l) Identification, seizure, confiscation, destruction, or
29 donation to law enforcement for training purposes of all marijuana,
30 marijuana concentrates, useable marijuana, and marijuana-infused
31 products produced, processed, sold, or offered for sale within this
32 state which do not conform in all respects to the standards
33 prescribed by this chapter or chapter 69.51A RCW or the rules adopted
34 to implement and enforce these chapters;

35 (m) The prohibition of any type of device used in conjunction
36 with a marijuana vapor product and the prohibition of the use of any
37 type of additive, solvent, ingredient, or compound in the production
38 and processing of marijuana products, including marijuana vapor
39 products, when the board determines, following consultation with the
40 department of health or any other authority the board deems

1 appropriate, that the device, additive, solvent, ingredient, or
2 compound may pose a risk to public health or youth access; ((and))

3 (n) Requirements for processors to submit under oath to the
4 department of health a complete list of all constituent substances
5 and the amount and sources thereof in each marijuana vapor product,
6 including all additives, thickening agents, preservatives, compounds,
7 and any other substance used in the production and processing of each
8 marijuana vapor product; and

9 (o) The production, processing, transportation, delivery, sale,
10 and purchase of naturally derived cannabinoids or synthetically
11 derived cannabinoids, with the exception of hemp as defined in RCW
12 15.140.020, and products authorized as a drug by the federal food and
13 drug administration.

14 (2) Rules adopted on retail outlets holding medical marijuana
15 endorsements must be adopted in coordination and consultation with
16 the department.

17 (3) The board must adopt rules to perfect and expand existing
18 programs for compliance education for licensed marijuana businesses
19 and their employees. The rules must include a voluntary compliance
20 program created in consultation with licensed marijuana businesses
21 and their employees. The voluntary compliance program must include
22 recommendations on abating violations of this chapter and rules
23 adopted under this chapter.

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

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

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

34 (2) Compound or convert marijuana products from marijuana grown
35 by a licensed marijuana producer, as specified by the board by rule.
36 This section does not authorize compounding or converting hemp into
37 cannabinoids that may be impairing for creation of marijuana products
38 from hemp, except as authorized under RCW 69.50.326;

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

5 (~~(3)~~) (4) Delivery, distribution, and sale of useable marijuana
6 or marijuana-infused products to a marijuana retailer validly
7 licensed under chapter 3, Laws of 2013; and

8 (~~(4)~~) (5) Delivery, distribution, and sale of useable
9 marijuana, marijuana concentrates, or marijuana-infused products to a
10 federally recognized Indian tribe as permitted under an agreement
11 between the state and the tribe entered into under RCW 43.06.490.

12 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2022.

--- END ---