
HOUSE BILL 1765

State of Washington

64th Legislature

2015 Regular Session

By Representative Klippert

Read first time 01/28/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to marijuana; amending RCW 69.50.101, 46.20.308,
2 and 69.50.4013; repealing RCW 46.04.586, 69.50.325, 69.50.328,
3 69.50.331, 69.50.334, 69.50.339, 69.50.342, 69.50.345, 69.50.348,
4 69.50.351, 69.50.354, 69.50.357, 69.50.360, 69.50.363, 69.50.366,
5 69.50.369, 69.50.445, 69.50.530, 69.50.535, 69.50.540, 69.50.545,
6 69.50.550, 69.51A.005, 69.51A.010, 69.51A.020, 69.51A.025,
7 69.51A.030, 69.51A.040, 69.51A.043, 69.51A.045, 69.51A.047,
8 69.51A.050, 69.51A.055, 69.51A.060, 69.51A.070, 69.51A.085,
9 69.51A.090, 69.51A.100, 69.51A.110, 69.51A.120, 69.51A.130,
10 69.51A.140, 69.51A.200, 69.51A.900, 69.51A.901, 69.51A.902, and
11 69.51A.903; repealing 2013 c 3 ss 19, 22, 23, 24, 25, 32, 33, 34, 35,
12 36, and 37; and repealing 2013 c 3 ss 1 and 41 (uncodified).

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

14 **Sec. 1.** RCW 69.50.101 and 2014 c 192 s 1 are each amended to
15 read as follows:

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

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

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

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

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

9 (c) "Commission" means the pharmacy quality assurance commission.

10 (d) "Controlled substance" means a drug, substance, or immediate
11 precursor included in Schedules I through V as set forth in federal
12 or state laws, or federal or commission rules.

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

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

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

26 (2) The term does not include:

27 (i) a controlled substance;

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

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

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

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

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

2 (h) "Dispense" means the interpretation of a prescription or
3 order for a controlled substance and, pursuant to that prescription
4 or order, the proper selection, measuring, compounding, labeling, or
5 packaging necessary to prepare that prescription or order for
6 delivery.

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

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

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

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

22 (m) "Drug enforcement administration" means the drug enforcement
23 administration in the United States Department of Justice, or its
24 successor agency.

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

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

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

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

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

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

1 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
2 positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and
3 69.50.208(a) the term includes any positional or geometric isomer.

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

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

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

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

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

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

1 ~~((u) "Marijuana concentrates" means products consisting wholly~~
2 ~~or in part of the resin extracted from any part of the plant Cannabis~~
3 ~~and having a THC concentration greater than sixty percent.~~

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

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

13 ~~(x) "Marijuana-infused products" means products that contain~~
14 ~~marijuana or marijuana extracts, are intended for human use, and have~~
15 ~~a THC concentration greater than 0.3 percent and no greater than~~
16 ~~sixty percent. The term "marijuana-infused products" does not include~~
17 ~~either useable marijuana or marijuana concentrates.~~

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

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

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

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

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

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

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

40 (6) Cocaine base.

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

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

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

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

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

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

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

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

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

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

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

21 ~~((gg))~~ (z) "Production" includes the manufacturing, planting,
22 cultivating, growing, or harvesting of a controlled substance.

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

26 ~~((ii))~~ (aa) "Secretary" means the secretary of health or the
27 secretary's designee.

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

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

38 ~~((ll))~~ (cc) "Ultimate user" means an individual who lawfully
39 possesses a controlled substance for the individual's own use or for
40 the use of a member of the individual's household or for

1 administering to an animal owned by the individual or by a member of
2 the individual's household.

3 ~~((mm) "Useable marijuana" means dried marijuana flowers. The
4 term "useable marijuana" does not include either marijuana infused
5 products or marijuana concentrates.))~~

6 **Sec. 2.** RCW 46.20.308 and 2013 2nd sp.s. c 35 s 36 are each
7 amended to read as follows:

8 (1) Any person who operates a motor vehicle within this state is
9 deemed to have given consent, subject to the provisions of RCW
10 46.61.506, to a test or tests of his or her breath for the purpose of
11 determining the alcohol concentration(~~(, THC concentration,)~~) or
12 presence of any drug in his or her breath if arrested for any offense
13 where, at the time of the arrest, the arresting officer has
14 reasonable grounds to believe the person had been driving or was in
15 actual physical control of a motor vehicle while under the influence
16 of intoxicating liquor or any drug or was in violation of RCW
17 46.61.503. Neither consent nor this section precludes a police
18 officer from obtaining a search warrant for a person's breath or
19 blood.

20 (2) The test or tests of breath shall be administered at the
21 direction of a law enforcement officer having reasonable grounds to
22 believe the person to have been driving or in actual physical control
23 of a motor vehicle within this state while under the influence of
24 intoxicating liquor or any drug or the person to have been driving or
25 in actual physical control of a motor vehicle while having alcohol
26 (~~(or THC)~~) in a concentration in violation of RCW 46.61.503 in his or
27 her system and being under the age of twenty-one. The officer shall
28 inform the person of his or her right to refuse the breath test, and
29 of his or her right to have additional tests administered by any
30 qualified person of his or her choosing as provided in RCW 46.61.506.
31 The officer shall warn the driver, in substantially the following
32 language, that:

33 (a) If the driver refuses to take the test, the driver's license,
34 permit, or privilege to drive will be revoked or denied for at least
35 one year; and

36 (b) If the driver refuses to take the test, the driver's refusal
37 to take the test may be used in a criminal trial; and

1 (c) If the driver submits to the test and the test is
2 administered, the driver's license, permit, or privilege to drive
3 will be suspended, revoked, or denied for at least ninety days if(~~(+~~
4 ~~(i))~~) the driver is age twenty-one or over and the test indicates
5 (~~(either that))~~) the alcohol concentration of the driver's breath is
6 0.08 or more (~~(or that the THC concentration of the driver's blood is~~
7 ~~5.00 or more;))~~), or if

8 (~~((ii))~~) the driver is under age twenty-one and the test
9 indicates (~~(either that))~~) the alcohol concentration of the driver's
10 breath is 0.02 (~~(or more or that the THC concentration of the~~
11 ~~driver's blood is above 0.00;))~~), or if

12 (~~((iii))~~) the driver is under age twenty-one and the driver is in
13 violation of RCW 46.61.502 or 46.61.504; and

14 (d) If the driver's license, permit, or privilege to drive is
15 suspended, revoked, or denied the driver may be eligible to
16 immediately apply for an ignition interlock driver's license.

17 (3) Except as provided in this section, the test administered
18 shall be of the breath only. If an individual is unconscious or is
19 under arrest for the crime of felony driving under the influence of
20 intoxicating liquor or drugs under RCW 46.61.502(6), felony physical
21 control of a motor vehicle while under the influence of intoxicating
22 liquor or any drug under RCW 46.61.504(6), vehicular homicide as
23 provided in RCW 46.61.520, or vehicular assault as provided in RCW
24 46.61.522, or if an individual is under arrest for the crime of
25 driving while under the influence of intoxicating liquor or drugs as
26 provided in RCW 46.61.502, which arrest results from an accident in
27 which there has been serious bodily injury to another person, a
28 breath or blood test may be administered without the consent of the
29 individual so arrested pursuant to a search warrant, a valid waiver
30 of the warrant requirement, or when exigent circumstances exist.

31 (4) If, following his or her arrest and receipt of warnings under
32 subsection (2) of this section, the person arrested refuses upon the
33 request of a law enforcement officer to submit to a test or tests of
34 his or her breath, no test shall be given except as authorized by a
35 search warrant.

36 (5) If, after arrest and after the other applicable conditions
37 and requirements of this section have been satisfied, a test or tests
38 of the person's blood or breath is administered and the test results
39 indicate that the alcohol concentration of the person's breath or
40 blood is 0.08 or more, (~~(or the THC concentration of the person's~~

1 ~~blood is 5.00 or more,~~) if the person is age twenty-one or over, or
2 that the alcohol concentration of the person's breath or blood is
3 0.02 or more, (~~or the THC concentration of the person's blood is~~
4 ~~above 0.00,~~) if the person is under the age of twenty-one, or the
5 person refuses to submit to a test, the arresting officer or other
6 law enforcement officer at whose direction any test has been given,
7 or the department, where applicable, if the arrest results in a test
8 of the person's blood, shall:

9 (a) Serve notice in writing on the person on behalf of the
10 department of its intention to suspend, revoke, or deny the person's
11 license, permit, or privilege to drive as required by subsection (6)
12 of this section;

13 (b) Serve notice in writing on the person on behalf of the
14 department of his or her right to a hearing, specifying the steps he
15 or she must take to obtain a hearing as provided by subsection (7) of
16 this section and that the person waives the right to a hearing if he
17 or she receives an ignition interlock driver's license;

18 (c) Serve notice in writing that the license or permit, if any,
19 is a temporary license that is valid for sixty days from the date of
20 arrest or from the date notice has been given in the event notice is
21 given by the department following a blood test, or until the
22 suspension, revocation, or denial of the person's license, permit, or
23 privilege to drive is sustained at a hearing pursuant to subsection
24 (7) of this section, whichever occurs first. No temporary license is
25 valid to any greater degree than the license or permit that it
26 replaces; and

27 (d) Immediately notify the department of the arrest and transmit
28 to the department within seventy-two hours, except as delayed as the
29 result of a blood test, a sworn report or report under a declaration
30 authorized by RCW 9A.72.085 that states:

31 (i) That the officer had reasonable grounds to believe the
32 arrested person had been driving or was in actual physical control of
33 a motor vehicle within this state while under the influence of
34 intoxicating liquor or drugs, or both, or was under the age of
35 twenty-one years and had been driving or was in actual physical
36 control of a motor vehicle while having an alcohol (~~or THC~~)
37 concentration in violation of RCW 46.61.503;

38 (ii) That after receipt of the warnings required by subsection
39 (2) of this section the person refused to submit to a test of his or
40 her breath, or a test was administered and the results indicated that

1 the alcohol concentration of the person's breath or blood was 0.08 or
2 more, (~~or the THC concentration of the person's blood was 5.00 or~~
3 ~~more,~~) if the person is age twenty-one or over, or that the alcohol
4 concentration of the person's breath or blood was 0.02 or more, (~~or~~
5 ~~the THC concentration of the person's blood was above 0.00,~~) if the
6 person is under the age of twenty-one; and

7 (iii) Any other information that the director may require by
8 rule.

9 (6) The department of licensing, upon the receipt of a sworn
10 report or report under a declaration authorized by RCW 9A.72.085
11 under subsection (5)(d) of this section, shall suspend, revoke, or
12 deny the person's license, permit, or privilege to drive or any
13 nonresident operating privilege, as provided in RCW 46.20.3101, such
14 suspension, revocation, or denial to be effective beginning sixty
15 days from the date of arrest or from the date notice has been given
16 in the event notice is given by the department following a blood
17 test, or when sustained at a hearing pursuant to subsection (7) of
18 this section, whichever occurs first.

19 (7) A person receiving notification under subsection (5)(b) of
20 this section may, within twenty days after the notice has been given,
21 request in writing a formal hearing before the department. The person
22 shall pay a fee of three hundred seventy-five dollars as part of the
23 request. If the request is mailed, it must be postmarked within
24 twenty days after receipt of the notification. Upon timely receipt of
25 such a request for a formal hearing, including receipt of the
26 required three hundred seventy-five dollar fee, the department shall
27 afford the person an opportunity for a hearing. The department may
28 waive the required three hundred seventy-five dollar fee if the
29 person is an indigent as defined in RCW 10.101.010. Except as
30 otherwise provided in this section, the hearing is subject to and
31 shall be scheduled and conducted in accordance with RCW 46.20.329 and
32 46.20.332. The hearing shall be conducted in the county of the
33 arrest, except that all or part of the hearing may, at the discretion
34 of the department, be conducted by telephone or other electronic
35 means. The hearing shall be held within sixty days following the
36 arrest or following the date notice has been given in the event
37 notice is given by the department following a blood test, unless
38 otherwise agreed to by the department and the person, in which case
39 the action by the department shall be stayed, and any valid temporary
40 license marked under subsection (5) of this section extended, if the

1 person is otherwise eligible for licensing. For the purposes of this
2 section, the scope of the hearing shall cover the issues of whether a
3 law enforcement officer had reasonable grounds to believe the person
4 had been driving or was in actual physical control of a motor vehicle
5 within this state while under the influence of intoxicating liquor or
6 any drug or had been driving or was in actual physical control of a
7 motor vehicle within this state while having alcohol in his or her
8 system in a concentration of 0.02 or more, (~~or THC in his or her~~
9 ~~system in a concentration above 0.00,~~) if the person was under the
10 age of twenty-one, whether the person was placed under arrest, and
11 (a) whether the person refused to submit to the test or tests upon
12 request of the officer after having been informed that such refusal
13 would result in the revocation of the person's license, permit, or
14 privilege to drive, or (b) if a test or tests were administered,
15 whether the applicable requirements of this section were satisfied
16 before the administration of the test or tests, whether the person
17 submitted to the test or tests, or whether a test was administered
18 without express consent as permitted under this section, and whether
19 the test or tests indicated that the alcohol concentration of the
20 person's breath or blood was 0.08 or more, (~~or the THC concentration~~
21 ~~of the person's blood was 5.00 or more,~~) if the person was age
22 twenty-one or over at the time of the arrest, or that the alcohol
23 concentration of the person's breath or blood was 0.02 or more, (~~or~~
24 ~~the THC concentration of the person's blood was above 0.00,~~) if the
25 person was under the age of twenty-one at the time of the arrest. The
26 sworn report or report under a declaration authorized by RCW
27 9A.72.085 submitted by a law enforcement officer is prima facie
28 evidence that the officer had reasonable grounds to believe the
29 person had been driving or was in actual physical control of a motor
30 vehicle within this state while under the influence of intoxicating
31 liquor or drugs, or both, or the person had been driving or was in
32 actual physical control of a motor vehicle within this state while
33 having alcohol in his or her system in a concentration of 0.02 or
34 more(~~, or THC in his or her system in a concentration above 0.00,~~)
35 and was under the age of twenty-one and that the officer complied
36 with the requirements of this section.

37 A hearing officer shall conduct the hearing, may issue subpoenas
38 for the attendance of witnesses and the production of documents, and
39 shall administer oaths to witnesses. The hearing officer shall not
40 issue a subpoena for the attendance of a witness at the request of

1 the person unless the request is accompanied by the fee required by
2 RCW 5.56.010 for a witness in district court. The sworn report or
3 report under a declaration authorized by RCW 9A.72.085 of the law
4 enforcement officer and any other evidence accompanying the report
5 shall be admissible without further evidentiary foundation and the
6 certifications authorized by the criminal rules for courts of limited
7 jurisdiction shall be admissible without further evidentiary
8 foundation. The person may be represented by counsel, may question
9 witnesses, may present evidence, and may testify. The department
10 shall order that the suspension, revocation, or denial either be
11 rescinded or sustained.

12 (8) If the suspension, revocation, or denial is sustained after
13 such a hearing, the person whose license, privilege, or permit is
14 suspended, revoked, or denied has the right to file a petition in the
15 superior court of the county of arrest to review the final order of
16 revocation by the department in the same manner as an appeal from a
17 decision of a court of limited jurisdiction. Notice of appeal must be
18 filed within thirty days after the date the final order is served or
19 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ
20 1.1, or other statutes or rules referencing de novo review, the
21 appeal shall be limited to a review of the record of the
22 administrative hearing. The appellant must pay the costs associated
23 with obtaining the record of the hearing before the hearing officer.
24 The filing of the appeal does not stay the effective date of the
25 suspension, revocation, or denial. A petition filed under this
26 subsection must include the petitioner's grounds for requesting
27 review. Upon granting petitioner's request for review, the court
28 shall review the department's final order of suspension, revocation,
29 or denial as expeditiously as possible. The review must be limited to
30 a determination of whether the department has committed any errors of
31 law. The superior court shall accept those factual determinations
32 supported by substantial evidence in the record: (a) That were
33 expressly made by the department; or (b) that may reasonably be
34 inferred from the final order of the department. The superior court
35 may reverse, affirm, or modify the decision of the department or
36 remand the case back to the department for further proceedings. The
37 decision of the superior court must be in writing and filed in the
38 clerk's office with the other papers in the case. The court shall
39 state the reasons for the decision. If judicial relief is sought for
40 a stay or other temporary remedy from the department's action, the

1 court shall not grant such relief unless the court finds that the
2 appellant is likely to prevail in the appeal and that without a stay
3 the appellant will suffer irreparable injury. If the court stays the
4 suspension, revocation, or denial it may impose conditions on such
5 stay.

6 (9)(a) If a person whose driver's license, permit, or privilege
7 to drive has been or will be suspended, revoked, or denied under
8 subsection (6) of this section, other than as a result of a breath
9 test refusal, and who has not committed an offense for which he or
10 she was granted a deferred prosecution under chapter 10.05 RCW,
11 petitions a court for a deferred prosecution on criminal charges
12 arising out of the arrest for which action has been or will be taken
13 under subsection (6) of this section, or notifies the department of
14 licensing of the intent to seek such a deferred prosecution, then the
15 license suspension or revocation shall be stayed pending entry of the
16 deferred prosecution. The stay shall not be longer than one hundred
17 fifty days after the date charges are filed, or two years after the
18 date of the arrest, whichever time period is shorter. If the court
19 stays the suspension, revocation, or denial, it may impose conditions
20 on such stay. If the person is otherwise eligible for licensing, the
21 department shall issue a temporary license, or extend any valid
22 temporary license under subsection (5) of this section, for the
23 period of the stay. If a deferred prosecution treatment plan is not
24 recommended in the report made under RCW 10.05.050, or if treatment
25 is rejected by the court, or if the person declines to accept an
26 offered treatment plan, or if the person violates any condition
27 imposed by the court, then the court shall immediately direct the
28 department to cancel the stay and any temporary marked license or
29 extension of a temporary license issued under this subsection.

30 (b) A suspension, revocation, or denial imposed under this
31 section, other than as a result of a breath test refusal, shall be
32 stayed if the person is accepted for deferred prosecution as provided
33 in chapter 10.05 RCW for the incident upon which the suspension,
34 revocation, or denial is based. If the deferred prosecution is
35 terminated, the stay shall be lifted and the suspension, revocation,
36 or denial reinstated. If the deferred prosecution is completed, the
37 stay shall be lifted and the suspension, revocation, or denial
38 canceled.

39 (c) The provisions of (b) of this subsection relating to a stay
40 of a suspension, revocation, or denial and the cancellation of any

1 suspension, revocation, or denial do not apply to the suspension,
2 revocation, denial, or disqualification of a person's commercial
3 driver's license or privilege to operate a commercial motor vehicle.

4 (10) When it has been finally determined under the procedures of
5 this section that a nonresident's privilege to operate a motor
6 vehicle in this state has been suspended, revoked, or denied, the
7 department shall give information in writing of the action taken to
8 the motor vehicle administrator of the state of the person's
9 residence and of any state in which he or she has a license.

10 **Sec. 3.** RCW 69.50.4013 and 2013 c 3 s 20 are each amended to
11 read as follows:

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

17 (2) Except as provided in RCW 69.50.4014, any person who violates
18 this section is guilty of a class C felony punishable under chapter
19 9A.20 RCW.

20 (3) The possession(~~(, by a person)~~) of marijuana in pill form is
21 not a violation of this section, this chapter, or any other provision
22 of Washington state law if the person in possession:

23 (a) Is twenty-one years of age or older(~~(, of useable marijuana~~
24 ~~or marijuana-infused products in amounts that do not exceed those set~~
25 ~~forth in RCW 69.50.360(3) is not a violation of this section, this~~
26 ~~chapter, or any other provision of Washington state law))~~;

27 (b) Has been advised by a physician about the risks and benefits
28 of medical use of marijuana and that the person may benefit from the
29 medical use of marijuana; and

30 (c) Has been provided by the physician with certification of that
31 advice, along with a valid prescription.

32 NEW SECTION. **Sec. 4.** The following acts or parts of acts are
33 each repealed:

34 (1) RCW 46.04.586 (THC concentration) and 2013 c 3 s 3;

35 (2) RCW 69.50.325 (Marijuana producer's license) and 2014 c 192 s
36 2 & 2013 c 3 s 4;

1 (3) RCW 69.50.328 (Marijuana producers, processors—No direct or
2 indirect financial interest in licensed marijuana retailers) and 2013
3 c 3 s 5;
4 (4) RCW 69.50.331 (Application for license) and 2013 c 3 s 6;
5 (5) RCW 69.50.334 (Denial of application—Opportunity for hearing)
6 and 2013 c 3 s 7;
7 (6) RCW 69.50.339 (Transfer of license to produce, process, or
8 sell marijuana—Reporting of proposed sales of outstanding or issued
9 stock of a corporation) and 2013 c 3 s 8;
10 (7) RCW 69.50.342 (State liquor control board may adopt rules)
11 and 2013 c 3 s 9;
12 (8) RCW 69.50.345 (State liquor control board—Rules—Procedures
13 and criteria) and 2013 c 3 s 10;
14 (9) RCW 69.50.348 (Representative samples of marijuana, useable
15 marijuana, or marijuana-infused products) and 2013 c 3 s 11;
16 (10) RCW 69.50.351 (Interest—Members and employees of state
17 liquor control board) and 2013 c 3 s 12;
18 (11) RCW 69.50.354 (Retail outlet licenses) and 2014 c 192 s 3 &
19 2013 c 3 s 13;
20 (12) RCW 69.50.357 (Retail outlets—Rules) and 2014 c 192 s 4 &
21 2013 c 3 s 14;
22 (13) RCW 69.50.360 (Marijuana retailers, employees of retail
23 outlets—Certain acts not criminal or civil offenses) and 2014 c 192 s
24 5 & 2013 c 3 s 15;
25 (14) RCW 69.50.363 (Marijuana processors, employees—Certain acts
26 not criminal or civil offenses) and 2013 c 3 s 16;
27 (15) RCW 69.50.366 (Marijuana producers, employees—Certain acts
28 not criminal or civil offenses) and 2013 c 3 s 17;
29 (16) RCW 69.50.369 (Marijuana producers, processors, retailers—
30 Advertisements—Penalty) and 2013 c 3 s 18;
31 (17) RCW 69.50.445 (Opening package of or consuming marijuana,
32 useable marijuana, or marijuana-infused product in view of general
33 public—Penalty) and 2013 c 3 s 21;
34 (18) RCW 69.50.530 (Dedicated marijuana fund) and 2013 c 3 s 26;
35 (19) RCW 69.50.535 (Marijuana excise taxes—State liquor control
36 board to review tax levels) and 2014 c 192 s 7 & 2013 c 3 s 27;
37 (20) RCW 69.50.540 (Marijuana excise taxes—Disbursements) and
38 2013 c 3 s 28;

1 (21) RCW 69.50.545 (Departments of social and health services,
2 health—Adoption of rules for disbursement of marijuana excise taxes)
3 and 2013 c 3 s 29;
4 (22) RCW 69.50.550 (Cost-benefit evaluations) and 2013 c 3 s 30;
5 (23) RCW 69.51A.005 (Purpose and intent) and 2011 c 181 s 102,
6 2010 c 284 s 1, 2007 c 371 s 2, & 1999 c 2 s 2;
7 (24) RCW 69.51A.010 (Definitions) and 2010 c 284 s 2, 2007 c 371
8 s 3, & 1999 c 2 s 6;
9 (25) RCW 69.51A.020 (Construction of chapter) and 2011 c 181 s
10 103 & 1999 c 2 s 3;
11 (26) RCW 69.51A.025 (Construction of chapter—Compliance with RCW
12 69.51A.040) and 2011 c 181 s 413;
13 (27) RCW 69.51A.030 (Acts not constituting crimes or
14 unprofessional conduct—Health care professionals not subject to
15 penalties or liabilities) and 2011 c 181 s 301, 2010 c 284 s 3, 2007
16 c 371 s 4, & 1999 c 2 s 4;
17 (28) RCW 69.51A.040 (Compliance with chapter—Qualifying patients
18 and designated providers not subject to penalties—Law enforcement not
19 subject to liability) and 2011 c 181 s 401, 2007 c 371 s 5, & 1999 c
20 2 s 5;
21 (29) RCW 69.51A.043 (Failure to register—Affirmative defense) and
22 2011 c 181 s 402;
23 (30) RCW 69.51A.045 (Possession of cannabis exceeding lawful
24 amount—Affirmative defense) and 2011 c 181 s 405;
25 (31) RCW 69.51A.047 (Failure to register or present valid
26 documentation—Affirmative defense) and 2011 c 181 s 406;
27 (32) RCW 69.51A.050 (Medical marijuana, lawful possession—State
28 not liable) and 1999 c 2 s 7;
29 (33) RCW 69.51A.055 (Limitations of chapter—Persons under
30 supervision) and 2011 c 181 s 1105;
31 (34) RCW 69.51A.060 (Crimes—Limitations of chapter) and 2011 c
32 181 s 501, 2010 c 284 s 4, 2007 c 371 s 6, & 1999 c 2 s 8;
33 (35) RCW 69.51A.070 (Addition of medical conditions) and 2007 c
34 371 s 7 & 1999 c 2 s 9;
35 (36) RCW 69.51A.085 (Collective gardens) and 2011 c 181 s 403;
36 (37) RCW 69.51A.090 (Applicability of valid documentation
37 definition) and 2010 c 284 s 5;

1 (38) RCW 69.51A.100 (Qualifying patient's designation of provider
2 —Provider's service as designated provider—Termination) and 2011 c
3 181 s 404;
4 (39) RCW 69.51A.110 (Suitability for organ transplant) and 2011 c
5 181 s 408;
6 (40) RCW 69.51A.120 (Parental rights or residential time—Not to
7 be restricted) and 2011 c 181 s 409;
8 (41) RCW 69.51A.130 (State and municipalities—Not subject to
9 liability) and 2011 c 181 s 1101;
10 (42) RCW 69.51A.140 (Counties, cities, towns—Authority to adopt
11 and enforce requirements) and 2011 c 181 s 1102;
12 (43) RCW 69.51A.200 (Evaluation) and 2011 c 181 s 1001;
13 (44) RCW 69.51A.900 (Short title—1999 c 2) and 2011 c 181 s 1106
14 & 1999 c 2 s 1;
15 (45) RCW 69.51A.901 (Severability—1999 c 2) and 1999 c 2 s 10;
16 (46) RCW 69.51A.902 (Captions not law—1999 c 2) and 1999 c 2 s
17 11;
18 (47) RCW 69.51A.903 (Severability—2011 c 181) and 2011 c 181 s
19 1103;
20 (48) 2013 c 3 s 1 (uncodified);
21 (49) 2013 c 3 s 19;
22 (50) 2013 c 3 s 22;
23 (51) 2013 c 3 s 23;
24 (52) 2013 c 3 s 24;
25 (53) 2013 c 3 s 25;
26 (54) 2013 c 3 s 32;
27 (55) 2013 c 3 s 33;
28 (56) 2013 c 3 s 34;
29 (57) 2013 c 3 s 35;
30 (58) 2013 c 3 s 36;
31 (59) 2013 c 3 s 37; and
32 (60) 2013 c 3 s 41 (uncodified).

--- END ---