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SUBSTITUTE HOUSE BILL 1212

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State of Washington

65th Legislature

2017 Regular Session

By House Commerce & Gaming (originally sponsored by Representative Blake)

READ FIRST TIME 01/30/17.

1 AN ACT Relating to the possession and transfer of marijuana,  
2 marijuana plants, useable marijuana, marijuana-infused products, and  
3 marijuana concentrates; amending RCW 69.50.4013; reenacting and  
4 amending RCW 69.50.101; and prescribing penalties.

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

6 **Sec. 1.** RCW 69.50.4013 and 2015 2nd sp.s. c 4 s 503 are each  
7 amended to read as follows:

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

13 (2) Except as provided in RCW 69.50.4014, any person who violates  
14 this section is guilty of a class C felony punishable under chapter  
15 9A.20 RCW.

16 (3) ~~((a) The possession, by a person twenty-one years of age or~~  
17 ~~elder, of useable marijuana, marijuana concentrates, or marijuana-~~  
18 ~~infused products in amounts that do not exceed those set forth in RCW~~  
19 ~~69.50.360(3) is not a)) None of the following acts in (a) through (d)~~

20 of this subsection are a violation of this section, this chapter, or  
21 any other provision of Washington state law((-)):

1        ~~((b))~~ (a) Except as provided in (c) of this subsection, the  
2 possession, by a person twenty-one years of age or older, of any  
3 combination of the following amounts of useable marijuana, marijuana-  
4 infused products, or marijuana concentrates:

5        (i) One ounce of useable marijuana;

6        (ii) Sixteen ounces of marijuana-infused product in solid form;

7        (iii) Seventy-two ounces of marijuana-infused product in liquid  
8 form; or

9        (iv) Seven grams of marijuana concentrates;

10       (b) The noncommercial delivery or transfer between persons of at  
11 least twenty-one years of age, during a single twenty-four hour  
12 period, and not conditioned upon or done in connection with any  
13 financial consideration, of:

14       (i) One ounce or less of useable marijuana;

15       (ii) Sixteen ounces or less of marijuana-infused product in solid  
16 form;

17       (iii) Seventy-two ounces or less of marijuana-infused product in  
18 liquid form; or

19       (iv) Seven grams or less of marijuana concentrates;

20       (c) Except as otherwise provided in chapter 69.51A RCW, the  
21 possession by a person twenty-one years of age or older of no more  
22 than six marijuana plants and up to twenty-four ounces of useable  
23 marijuana harvested from plants lawfully grown on the premises of the  
24 housing unit occupied by the person in possession of the marijuana  
25 plants and useable marijuana. No more than six plants may be grown or  
26 possessed on the premises of a single housing unit, regardless of the  
27 number of residents living on the premises. This subsection (3)(c)  
28 does not apply to marijuana plants or useable marijuana possessed or  
29 seized at a location other than the premises of the housing unit in  
30 which the marijuana plants were grown; and

31       (d) The possession of marijuana, useable marijuana, marijuana  
32 concentrates, and marijuana-infused products being physically  
33 transported or delivered within the state, in amounts not exceeding  
34 those that may be established under RCW 69.50.385(3), by a licensed  
35 employee of a common carrier when performing the duties authorized in  
36 accordance with RCW 69.50.382 and 69.50.385(~~, is not a violation of~~  
37 this section, this chapter, or any other provision of Washington  
38 state law)).

39       (4) No person under twenty-one years of age may possess,  
40 manufacture, sell, or distribute marijuana, marijuana-infused

1 products, or marijuana concentrates, regardless of THC concentration.  
2 This does not include qualifying patients with a valid authorization.

3 (5) The possession by a qualifying patient or designated provider  
4 of marijuana concentrates, useable marijuana, marijuana-infused  
5 products, or plants in accordance with chapter 69.51A RCW is not a  
6 violation of this section, this chapter, or any other provision of  
7 Washington state law.

8 (6) All qualified patients under chapter 69.51A RCW and adults  
9 age twenty-one and older may contract with licensed testing  
10 facilities for the personal product testing of useable marijuana,  
11 marijuana-infused products, and marijuana concentrates.

12 (7) Nothing in this section may be construed to prevent or  
13 restrict a property owner from prohibiting the cultivation of  
14 marijuana plants by a renter or lessee upon or within the property  
15 pursuant to the terms of a rental agreement, lease, or other  
16 contract.

17 (8) For the purposes of this section, "marijuana plant" means a  
18 living marijuana plant having at least three distinguishable and  
19 distinct leaves, each leaf being at least three centimeters in  
20 diameter, and a readily observable root formation consisting of at  
21 least two separate and distinct roots, each being at least two  
22 centimeters in length. Multiple stalks emanating from the same root  
23 ball or root system is considered part of the same single plant.

24 **Sec. 2.** RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each  
25 reenacted and amended to read as follows:

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

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

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

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

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

1 (c) "CBD concentration" has the meaning provided in RCW  
2 69.51A.010.

3 (d) "Commission" means the pharmacy quality assurance commission.

4 (e) "Controlled substance" means a drug, substance, or immediate  
5 precursor included in Schedules I through V as set forth in federal  
6 or state laws, or federal or commission rules.

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

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

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

20 (2) The term does not include:

21 (i) a controlled substance;

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

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

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

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

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

36 (i) "Designated provider" has the meaning provided in RCW  
37 69.51A.010.

38 (j) "Dispense" means the interpretation of a prescription or  
39 order for a controlled substance and, pursuant to that prescription  
40 or order, the proper selection, measuring, compounding, labeling, or

1 packaging necessary to prepare that prescription or order for  
2 delivery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (x) "Marijuana processor" means a person licensed by the state  
2 liquor and cannabis board to process marijuana into marijuana  
3 concentrates, useable marijuana, and marijuana-infused products,  
4 package and label marijuana concentrates, useable marijuana, and  
5 marijuana-infused products for sale in retail outlets, and sell  
6 marijuana concentrates, useable marijuana, and marijuana-infused  
7 products at wholesale to marijuana retailers.

8 (y) "Marijuana producer" means a person licensed by the state  
9 liquor and cannabis board to produce and sell marijuana at wholesale  
10 to marijuana processors and other marijuana producers.

11 (z) "Marijuana products" means useable marijuana, marijuana  
12 concentrates, and marijuana-infused products as defined in this  
13 section.

14 (aa) "Marijuana researcher" means a person licensed by the state  
15 liquor and cannabis board to produce, process, and possess marijuana  
16 for the purposes of conducting research on marijuana and marijuana-  
17 derived drug products.

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

21 (cc) "Marijuana-infused products" means products that contain  
22 marijuana or marijuana extracts, are intended for human use, are  
23 derived from marijuana as defined in subsection (v) of this section,  
24 and have a THC concentration no greater than ten percent. The term  
25 "marijuana-infused products" does not include either useable  
26 marijuana or marijuana concentrates.

27 (dd) "Narcotic drug" means any of the following, whether produced  
28 directly or indirectly by extraction from substances of vegetable  
29 origin, or independently by means of chemical synthesis, or by a  
30 combination of extraction and chemical synthesis:

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

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

- 1 (3) Poppy straw and concentrate of poppy straw.
- 2 (4) Coca leaves, except coca leaves and extracts of coca leaves  
3 from which cocaine, ecgonine, and derivatives or ecgonine or their  
4 salts have been removed.
- 5 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.
- 6 (6) Cocaine base.
- 7 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
8 thereof.
- 9 (8) Any compound, mixture, or preparation containing any quantity  
10 of any substance referred to in subparagraphs (1) through (7).
- 11 (ee) "Opiate" means any substance having an addiction-forming or  
12 addiction-sustaining liability similar to morphine or being capable  
13 of conversion into a drug having addiction-forming or addiction-  
14 sustaining liability. The term includes opium, substances derived  
15 from opium (opium derivatives), and synthetic opiates. The term does  
16 not include, unless specifically designated as controlled under RCW  
17 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan  
18 and its salts (dextromethorphan). The term includes the racemic and  
19 levorotatory forms of dextromethorphan.
- 20 (ff) "Opium poppy" means the plant of the species *Papaver*  
21 *somniferum* L., except its seeds.
- 22 (gg) "Person" means individual, corporation, business trust,  
23 estate, trust, partnership, association, joint venture, government,  
24 governmental subdivision or agency, or any other legal or commercial  
25 entity.
- 26 (hh) "Plant" has the meaning provided in RCW 69.51A.010.
- 27 (ii) "Poppy straw" means all parts, except the seeds, of the  
28 opium poppy, after mowing.
- 29 (jj) "Practitioner" means:
- 30 (1) A physician under chapter 18.71 RCW; a physician assistant  
31 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
32 chapter 18.57 RCW; an osteopathic physician assistant under chapter  
33 18.57A RCW who is licensed under RCW 18.57A.020 subject to any  
34 limitations in RCW 18.57A.040; an optometrist licensed under chapter  
35 18.53 RCW who is certified by the optometry board under RCW 18.53.010  
36 subject to any limitations in RCW 18.53.010; a dentist under chapter  
37 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;  
38 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
39 registered nurse practitioner, or licensed practical nurse under  
40 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW



1 who is licensed under RCW 18.36A.030 subject to any limitations in  
2 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific  
3 investigator under this chapter, licensed, registered or otherwise  
4 permitted insofar as is consistent with those licensing laws to  
5 distribute, dispense, conduct research with respect to or administer  
6 a controlled substance in the course of their professional practice  
7 or research in this state.

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

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

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

27 (ll) "Production" includes the manufacturing, planting,  
28 cultivating, growing, or harvesting of a controlled substance.

29 (mm) "Qualifying patient" has the meaning provided in RCW  
30 69.51A.010.

31 (nn) "Recognition card" has the meaning provided in RCW  
32 69.51A.010.

33 (oo) "Retail outlet" means a location licensed by the state  
34 liquor and cannabis board for the retail sale of marijuana  
35 concentrates, useable marijuana, and marijuana-infused products.

36 (pp) "Secretary" means the secretary of health or the secretary's  
37 designee.

38 (qq) "State," unless the context otherwise requires, means a  
39 state of the United States, the District of Columbia, the

1 Commonwealth of Puerto Rico, or a territory or insular possession  
2 subject to the jurisdiction of the United States.

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

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

14 (tt) "Useable marijuana" means dried marijuana flowers. The term  
15 "useable marijuana" does not include either marijuana-infused  
16 products or marijuana concentrates.

17 (uu) "Financial consideration" means value that is given or  
18 received directly or indirectly through a sale, barter, trade, fee,  
19 charge, due, contribution, or donation.

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