

E2SHB 1401 - S COMM AMD

By Committee on Agriculture, Water, Natural Resources & Parks

ADOPTED 04/15/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to:

4 (1) Authorize and establish a new licensing and regulatory
5 program for hemp production in this state in accordance with the
6 agriculture improvement act of 2018;

7 (2) Replace the industrial hemp research program in chapter
8 15.120 RCW, with the new licensing and regulatory program established
9 in this chapter, and enable hemp growers licensed under the
10 industrial hemp research program on the effective date of rules
11 implementing this chapter and regulating hemp production, to transfer
12 into the program created in this chapter; and

13 (3) Authorize the growing of hemp as a legal, agricultural
14 activity in this state. Hemp is an agricultural product that may be
15 legally grown, produced, processed, possessed, transferred,
16 commercially sold, and traded. Hemp and processed hemp produced in
17 accordance with this chapter or produced lawfully under the laws of
18 another state, tribe, or country may be transferred and sold within
19 the state, outside of this state, and internationally. Nothing in
20 this chapter is intended to prevent or restrain commerce in this
21 state involving hemp or hemp products produced lawfully under the
22 laws of another state, tribe, or country.

23 NEW SECTION. **Sec. 2.** The definitions in this section apply
24 throughout this chapter unless the context clearly requires
25 otherwise.

26 (1) "Agriculture improvement act of 2018" means sections 7605,
27 10113, 10114, and 12619 of the agriculture improvement act of 2018,
28 P.L. 115-334.

29 (2) "Crop" means hemp grown as an agricultural commodity.

30 (3) "Cultivar" means a variation of the plant *Cannabis sativa L.*
31 that has been developed through cultivation by selective breeding.

1 (4) "Department" means the Washington state department of
2 agriculture.

3 (5) "Hemp" means the plant *Cannabis sativa L.* and any part of
4 that plant, including the seeds thereof and all derivatives,
5 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
6 whether growing or not, with a delta-9 tetrahydrocannabinol
7 concentration of not more than 0.3 percent on a dry weight basis.

8 (6)(a) "Industrial hemp" means all parts and varieties of the
9 genera *Cannabis*, cultivated or possessed by a grower, whether growing
10 or not, that contain a tetrahydrocannabinol concentration of 0.3
11 percent or less by dry weight that was grown under the industrial
12 hemp research program as it existed on December 31, 2019.

13 (b) "Industrial hemp" does not include plants of the genera
14 *Cannabis* that meet the definition of "marijuana" as defined in RCW
15 69.50.101.

16 (7) "Postharvest test" means a test of delta-9
17 tetrahydrocannabinol concentration levels of hemp after being
18 harvested based on:

19 (a) Ground whole plant samples without heat applied; or

20 (b) Other approved testing methods.

21 (8) "Process" means the processing, compounding, or conversion of
22 hemp into hemp commodities or products.

23 (9) "Produce" or "production" means the planting, cultivation,
24 growing, or harvesting of hemp including hemp seed.

25 NEW SECTION. **Sec. 3.** (1) The department must develop an
26 agricultural commodity program to replace the industrial hemp
27 research pilot program in chapter 15.120 RCW, in accordance with the
28 agriculture improvement act of 2018.

29 (2) The department has sole regulatory authority over the
30 production of hemp and may adopt rules to implement this chapter. All
31 rules relating to hemp, including any testing of hemp, are outside of
32 the control and authority of the liquor and cannabis board.

33 (3) If the department adopts rules implementing this chapter that
34 are effective by June 1, 2019, persons licensed to grow hemp under
35 chapter 15.120 RCW may transfer into the regulatory program
36 established in this chapter, and continue hemp production under this
37 chapter. If the department adopts rules implementing this chapter
38 that are effective after June 1, 2019, people licensed to grow hemp

1 under chapter 15.120 RCW may continue hemp production under this
2 chapter as of the effective date of the rules.

3 (4) Immediately upon the effective date of this section, and
4 before the adoption of rules implementing this chapter, persons
5 licensed to grow hemp under chapter 15.120 RCW may produce hemp in a
6 manner otherwise consistent with the provisions of this chapter and
7 the agriculture improvement act of 2018.

8 NEW SECTION. **Sec. 4.** (1) The department must develop the
9 state's hemp plan to conform to the agriculture improvement act of
10 2018, to include consultation with the governor and the attorney
11 general and the plan elements required in the agriculture improvement
12 act of 2018.

13 (2) Consistent with subsection (1) of this section, the state's
14 hemp plan must include the following elements:

15 (a) A practice for hemp producers to maintain relevant
16 information regarding land on which hemp is produced, including a
17 legal description of the land, for a period of not less than three
18 calendar years;

19 (b) A procedure for testing, using postdecarboxylation or other
20 similarly reliable methods, delta-9 tetrahydrocannabinol
21 concentration levels of hemp, without the application of heat;

22 (c) A procedure for the effective disposal of plants, whether
23 growing or not, that are produced in violation of this chapter, and
24 products derived from such plants;

25 (d) A procedure for enforcement of violations of the plan and for
26 corrective action plans for licensees as required under the
27 agriculture improvement act of 2018;

28 (e) A procedure for conducting annual inspections of, at a
29 minimum, a random sample of hemp producers to verify hemp is not
30 produced in violation of this chapter; and

31 (f) A certification that the state has the resources and
32 personnel to carry out the practices and procedures described in this
33 section.

34 (3) The proposal for the state's plan may include any other
35 practice or procedure established to the extent the practice or
36 procedure is consistent with the agriculture improvement act of 2018.

37 (4) Hemp and processed hemp produced in accordance with this
38 chapter or produced lawfully under the laws of another state, tribe,

1 or country may be transferred and sold within this state, outside of
2 this state, and internationally.

3 (5) The whole hemp plant may be used as food. The department
4 shall regulate the processing of hemp for food products, that are
5 allowable under federal law, in the same manner as other food
6 processing under chapters 15.130 and 69.07 RCW and may adopt rules as
7 necessary to properly regulate the processing of hemp for food
8 products including, but not limited to, establishing standards for
9 creating hemp extracts used for food.

10 NEW SECTION. **Sec. 5.** The department must develop a postharvest
11 test protocol for testing hemp under this chapter that includes
12 testing of whole plant samples or other testing protocol identified
13 in regulations established by the United States department of
14 agriculture, including the testing procedures for delta-9
15 tetrahydrocannabinol concentration levels of hemp produced by
16 producers under the state plan.

17 NEW SECTION. **Sec. 6.** (1) The department must issue hemp
18 producer licenses to applicants qualified under this chapter and the
19 agriculture improvement act of 2018. The department may adopt rules
20 pursuant to this chapter and chapter 34.05 RCW as necessary to
21 license persons to grow hemp under a commercial hemp program.

22 (2) The plan must identify qualifications for license applicants,
23 to include adults and corporate persons and to exclude persons with
24 felony convictions as required under the agriculture improvement act
25 of 2018.

26 (3) The department must establish license fees in an amount that
27 will fund the implementation of this chapter and sustain the hemp
28 program. The department may adopt rules establishing fees for
29 tetrahydrocannabinol testing, inspections, and additional services
30 required by the United States department of agriculture. License fees
31 and any money received by the department under this chapter must be
32 deposited in the hemp regulatory account created in section 8 of this
33 act.

34 NEW SECTION. **Sec. 7.** A person producing hemp pursuant to this
35 chapter must notify the department of the source of the hemp seed or
36 clones solely for the purpose of maintaining a record of the sources

1 of seeds and clones being used or having been used for hemp
2 production in this state. Hemp seed is an agricultural seed.

3 NEW SECTION. **Sec. 8.** The hemp regulatory account is created in
4 the custody of the state treasurer. All receipts from fees
5 established under this chapter must be deposited into the account.
6 Expenditures from the account may be used only for implementing this
7 chapter. Only the director of the state department of agriculture or
8 the director's designee may authorize expenditures from the account.
9 The account is subject to allotment procedures under chapter 43.88
10 RCW, but an appropriation is not required for expenditures.

11 NEW SECTION. **Sec. 9.** Washington State University may, within
12 existing resources, develop and make accessible an internet-based
13 application designed to assist hemp producers by providing regional
14 communications concerning recommended planting times for hemp crops
15 in this state.

16 NEW SECTION. **Sec. 10.** (1) There is no distance requirement,
17 limitation, or buffer zone between any licensed hemp producer or hemp
18 processing facility licensed or authorized under this chapter and any
19 marijuana producer or marijuana processor licensed under chapter
20 69.50 RCW. No rule may establish such a distance requirement,
21 limitation, or buffer zone without the evaluation of sufficient data
22 showing impacts to either crop as a result of cross-pollination.

23 (2) Notwithstanding subsection (1) of this section, in an effort
24 to prevent cross-pollination between hemp plants produced under this
25 chapter and marijuana plants produced under chapter 69.50 RCW, the
26 department, in consultation with the liquor and cannabis board, must
27 review the state's policy regarding cross-pollination and pollen
28 capture to ensure an appropriate policy is in place, and must modify
29 policies or establish new policies as appropriate. Under any such
30 policy, when a documented conflict involving cross-pollination exists
31 between two farms or production facilities growing or producing hemp
32 or marijuana, the farm or production facility operating first in time
33 shall have the right to continue operating and the farm or production
34 facility operating second in time must cease growing or producing
35 hemp or marijuana, as applicable.

1 NEW SECTION. **Sec. 11.** (1) The department must use expedited
2 rule making to adopt the state hemp plan submitted to the United
3 States department of agriculture. As allowed under this section, rule
4 making by the department to adopt the approved hemp plan qualifies as
5 expedited rule making under RCW 34.05.353. Upon the submittal of the
6 plan to the United States department of agriculture, the department
7 may conduct initial expedited rule making under RCW 34.05.353 to
8 establish rules to allow hemp licenses to be issued without delay.

9 (2) On the effective date of rules adopted by the department
10 regulating hemp production under chapter 15.--- RCW (the new chapter
11 created in section 17 of this act), a licensed hemp producer under
12 this chapter may immediately produce hemp pursuant to chapter 15.---
13 RCW (the new chapter created in section 17 of this act) with all the
14 privileges of a hemp producer licensed under chapter 15.--- RCW (the
15 new chapter created in section 17 of this act).

16 **Sec. 12.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and
17 amended to read as follows:

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

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

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

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

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

31 (c) "CBD concentration" has the meaning provided in RCW
32 69.51A.010.

33 (d) "CBD product" means any product containing or consisting of
34 cannabidiol.

35 (e) "Commission" means the pharmacy quality assurance commission.

36 (f) "Controlled substance" means a drug, substance, or immediate
37 precursor included in Schedules I through V as set forth in federal
38 or state laws, or federal or commission rules, but does not include

1 hemp or industrial hemp as defined in ((RCW 15.120.010)) section 2 of
2 this act.

3 (g) (1) "Controlled substance analog" means a substance the
4 chemical structure of which is substantially similar to the chemical
5 structure of a controlled substance in Schedule I or II and:

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

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

16 (2) The term does not include:

17 (i) a controlled substance;

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

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

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

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

31 (i) "Department" means the department of health.

32 (j) "Designated provider" has the meaning provided in RCW
33 69.51A.010.

34 (k) "Dispense" means the interpretation of a prescription or
35 order for a controlled substance and, pursuant to that prescription
36 or order, the proper selection, measuring, compounding, labeling, or
37 packaging necessary to prepare that prescription or order for
38 delivery.

39 (l) "Dispenser" means a practitioner who dispenses.

1 (m) "Distribute" means to deliver other than by administering or
2 dispensing a controlled substance.

3 (n) "Distributor" means a person who distributes.

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

15 (p) "Drug enforcement administration" means the drug enforcement
16 administration in the United States Department of Justice, or its
17 successor agency.

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

23 (r) "Immature plant or clone" means a plant or clone that has no
24 flowers, is less than twelve inches in height, and is less than
25 twelve inches in diameter.

26 (s) "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 (t) "Isomer" means an optical isomer, but in subsection (ff)(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 (u) "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 (v) "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 (w) "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 (x) "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:

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

38 (2) (~~Industrial hemp as defined in RCW 15.120.010~~) Hemp or
39 industrial hemp as defined in section 2 of this act, seeds used for

1 licensed hemp production under chapter 15.--- RCW (the new chapter
2 created in section 17 of this act).

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

6 (z) "Marijuana processor" means a person licensed by the state
7 liquor and cannabis board to process marijuana into marijuana
8 concentrates, useable marijuana, and marijuana-infused products,
9 package and label marijuana concentrates, useable marijuana, and
10 marijuana-infused products for sale in retail outlets, and sell
11 marijuana concentrates, useable marijuana, and marijuana-infused
12 products at wholesale to marijuana retailers.

13 (aa) "Marijuana producer" means a person licensed by the state
14 liquor and cannabis board to produce and sell marijuana at wholesale
15 to marijuana processors and other marijuana producers.

16 (bb) "Marijuana products" means useable marijuana, marijuana
17 concentrates, and marijuana-infused products as defined in this
18 section.

19 (cc) "Marijuana researcher" means a person licensed by the state
20 liquor and cannabis board to produce, process, and possess marijuana
21 for the purposes of conducting research on marijuana and marijuana-
22 derived drug products.

23 (dd) "Marijuana retailer" means a person licensed by the state
24 liquor and cannabis board to sell marijuana concentrates, useable
25 marijuana, and marijuana-infused products in a retail outlet.

26 (ee) "Marijuana-infused products" means products that contain
27 marijuana or marijuana extracts, are intended for human use, are
28 derived from marijuana as defined in subsection (x) of this section,
29 and have a THC concentration no greater than ten percent. The term
30 "marijuana-infused products" does not include either useable
31 marijuana or marijuana concentrates.

32 (ff) "Narcotic drug" means any of the following, whether produced
33 directly or indirectly by extraction from substances of vegetable
34 origin, or independently by means of chemical synthesis, or by a
35 combination of extraction and chemical synthesis:

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

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

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

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

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

11 (6) Cocaine base.

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

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

16 (gg) "Opiate" means any substance having an addiction-forming or
17 addiction-sustaining liability similar to morphine or being capable
18 of conversion into a drug having addiction-forming or addiction-
19 sustaining liability. The term includes opium, substances derived
20 from opium (opium derivatives), and synthetic opiates. The term does
21 not include, unless specifically designated as controlled under RCW
22 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
23 and its salts (dextromethorphan). The term includes the racemic and
24 levorotatory forms of dextromethorphan.

25 (hh) "Opium poppy" means the plant of the species *Papaver*
26 *somniferum* L., except its seeds.

27 (ii) "Person" means individual, corporation, business trust,
28 estate, trust, partnership, association, joint venture, government,
29 governmental subdivision or agency, or any other legal or commercial
30 entity.

31 (jj) "Plant" has the meaning provided in RCW 69.51A.010.

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

34 (ll) "Practitioner" means:

35 (1) A physician under chapter 18.71 RCW; a physician assistant
36 under chapter 18.71A RCW; an osteopathic physician and surgeon under
37 chapter 18.57 RCW; an osteopathic physician assistant under chapter
38 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
39 limitations in RCW 18.57A.040; an optometrist licensed under chapter
40 18.53 RCW who is certified by the optometry board under RCW 18.53.010

1 subject to any limitations in RCW 18.53.010; a dentist under chapter
2 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
3 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
4 registered nurse practitioner, or licensed practical nurse under
5 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
6 who is licensed under RCW 18.36A.030 subject to any limitations in
7 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
8 investigator under this chapter, licensed, registered or otherwise
9 permitted insofar as is consistent with those licensing laws to
10 distribute, dispense, conduct research with respect to or administer
11 a controlled substance in the course of their professional practice
12 or research in this state.

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

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

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

32 (nn) "Production" includes the manufacturing, planting,
33 cultivating, growing, or harvesting of a controlled substance.

34 (oo) "Qualifying patient" has the meaning provided in RCW
35 69.51A.010.

36 (pp) "Recognition card" has the meaning provided in RCW
37 69.51A.010.

38 (qq) "Retail outlet" means a location licensed by the state
39 liquor and cannabis board for the retail sale of marijuana
40 concentrates, useable marijuana, and marijuana-infused products.

1 (rr) "Secretary" means the secretary of health or the secretary's
2 designee.

3 (ss) "State," unless the context otherwise requires, means a
4 state of the United States, the District of Columbia, the
5 Commonwealth of Puerto Rico, or a territory or insular possession
6 subject to the jurisdiction of the United States.

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

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

18 (vv) "Useable marijuana" means dried marijuana flowers. The term
19 "useable marijuana" does not include either marijuana-infused
20 products or marijuana concentrates.

21 **Sec. 13.** RCW 69.50.204 and 2015 2nd sp.s. c 4 s 1203 are each
22 amended to read as follows:

23 Unless specifically excepted by state or federal law or
24 regulation or more specifically included in another schedule, the
25 following controlled substances are listed in Schedule I:

26 (a) Any of the following opiates, including their isomers,
27 esters, ethers, salts, and salts of isomers, esters, and ethers
28 whenever the existence of these isomers, esters, ethers, and salts is
29 possible within the specific chemical designation:

30 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-
31 piperidinyl]-N-phenylacetamide);

32 (2) Acetylmethadol;

33 (3) Allylprodine;

34 (4) Alphacetylmethadol, except levo-alphacetylmethadol, also
35 known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

36 (5) Alphameprodine;

37 (6) Alphamethadol;

- 1 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
- 2 ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-
- 3 propanilido) piperidine);
- 4 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
- 5 piperidinyl]-N-phenylpropanamide);
- 6 (9) Benzethidine;
- 7 (10) Betacetylmethadol;
- 8 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
- 9 piperidinyl]-N-phenylpropanamide);
- 10 (12) Beta-hydroxy-3-methylfentanyl, some trade or other names:
- 11 N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-
- 12 phenylpropanamide;
- 13 (13) Betameprodine;
- 14 (14) Betamethadol;
- 15 (15) Betaprodine;
- 16 (16) Clonitazene;
- 17 (17) Dextromoramide;
- 18 (18) Diampromide;
- 19 (19) Diethylthiambutene;
- 20 (20) Difenoquin;
- 21 (21) Dimenoxadol;
- 22 (22) Dimepheptanol;
- 23 (23) Dimethylthiambutene;
- 24 (24) Dioxaphetyl butyrate;
- 25 (25) Dipipanone;
- 26 (26) Ethylmethylthiambutene;
- 27 (27) Etonitazene;
- 28 (28) Etoxadine;
- 29 (29) Furethidine;
- 30 (30) Hydroxypethidine;
- 31 (31) Ketobemidone;
- 32 (32) Levomoramide;
- 33 (33) Levophenacetylmorphan;
- 34 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 35 piperidyl]-N-phenylprop anamide);
- 36 (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-
- 37 piperidinyl]-N-phenylpropanamide);
- 38 (36) Morpheridine;
- 39 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 40 (38) Noracymethadol;

- 1 (39) Norlevorphanol;
- 2 (40) Normethadone;
- 3 (41) Norpipanone;
- 4 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
- 5 phenethyl)-4-piperidinyl] propanamide);
- 6 (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 7 (44) Phenadoxone;
- 8 (45) Phenampromide;
- 9 (46) Phenomorphan;
- 10 (47) Phenoperidine;
- 11 (48) Piritramide;
- 12 (49) Proheptazine;
- 13 (50) Properidine;
- 14 (51) Propiram;
- 15 (52) Racemoramide;
- 16 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
- 17 (~~propanamide~~) propanamide);
- 18 (54) Tilidine;
- 19 (55) Trimeperidine.

20 (b) Opium derivatives. Unless specifically excepted or unless
21 listed in another schedule, any of the following opium derivatives,
22 including their salts, isomers, and salts of isomers whenever the
23 existence of those salts, isomers, and salts of isomers is possible
24 within the specific chemical designation:

- 25 (1) Acetorphine;
- 26 (2) Acetyldihydrocodeine;
- 27 (3) Benzylmorphine;
- 28 (4) Codeine methylbromide;
- 29 (5) Codeine-N-Oxide;
- 30 (6) Cyprenorphine;
- 31 (7) Desomorphine;
- 32 (8) Dihydromorphine;
- 33 (9) Drotebanol;
- 34 (10) Etorphine, except hydrochloride salt;
- 35 (11) Heroin;
- 36 (12) Hydromorphanol;
- 37 (13) Methyldesorphine;
- 38 (14) Methyldihydromorphine;
- 39 (15) Morphine methylbromide;
- 40 (16) Morphine methylsulfonate;

- 1 (17) Morphine-N-Oxide;
- 2 (18) Myrophine;
- 3 (19) Nicocodeine;
- 4 (20) Nicomorphine;
- 5 (21) Normorphine;
- 6 (22) Pholcodine;
- 7 (23) Thebacon.

8 (c) Hallucinogenic substances. Unless specifically excepted or
9 unless listed in another schedule, any material, compound, mixture,
10 or preparation which contains any quantity of the following
11 hallucinogenic substances, including their salts, isomers, and salts
12 of isomers whenever the existence of those salts, isomers, and salts
13 of isomers is possible within the specific chemical designation. For
14 the purposes of this subsection only, the term "isomer" includes the
15 optical, position, and geometric isomers:

16 (1) Alpha-ethyltryptamine: Some trade or other names:
17 Etryptamine; monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
18 indole; α -ET; and AET;

19 (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names:
20 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

21 (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other
22 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl
23 DOB; 2C-B, nexus;

24 (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-
25 dimethoxy- α -methylphenethylamine; 2,5-DMA;

26 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

27 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name:
28 2C-T-7;

29 (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy- α -
30 methylphenethylamine; paramethoxyamphetamine, PMA;

31 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

32 (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other
33 names: 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and
34 "STP";

35 (10) 3,4-methylenedioxy amphetamine;

36 (11) 3,4-methylenedioxymethamphetamine (MDMA);

37 (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-
38 ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,
39 MDE, MDEA;

- 1 (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as
2 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy
3 MDA;
- 4 (14) 3,4,5-trimethoxy amphetamine;
- 5 (15) Alpha-methyltryptamine: Other name: AMT;
- 6 (16) Bufotenine: Some trade or other names: 3-(beta-
7 Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-
8 indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine;
9 mappine;
- 10 (17) Diethyltryptamine: Some trade or other names: N,N-
11 Diethyltryptamine; DET;
- 12 (18) Dimethyltryptamine: Some trade or other names: DMT;
- 13 (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- 14 (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6
15 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2'
16 1,2) azepino (5,4-b) indole; Tabernanthe iboga;
- 17 (21) Lysergic acid diethylamide;
- 18 (22) Marihuana or marijuana;
- 19 (23) Mescaline;
- 20 (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-
21 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-
22 dibenzo[b,d]pyran; synhexyl;
- 23 (25) Peyote, meaning all parts of the plant presently classified
24 botanically as *Lophophora Williamsii* Lemaire, whether growing or not,
25 the seeds thereof, any extract from any part of such plant, and every
26 compound, manufacture, salts, derivative, mixture, or preparation of
27 such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812
28 (c), Schedule I (c) (12));
- 29 (26) N-ethyl-3-piperidyl benzilate;
- 30 (27) N-methyl-3-piperidyl benzilate;
- 31 (28) Psilocybin;
- 32 (29) Psilocyn;
- 33 (30) (i) Tetrahydrocannabinols, meaning tetrahydrocannabinols
34 naturally contained in a plant of the (~~genus~~) genera *Cannabis*
35 (~~(cannabis plant)~~), as well as synthetic equivalents of the
36 substances contained in the plant, or in the resinous extractives of
37 the genera *Cannabis*, (~~(species)~~) and/or synthetic substances,
38 derivatives, and their isomers with similar chemical structure and
39 pharmacological activity such as the following:

1 ~~((i))~~ (A) 1 - cis - or trans tetrahydrocannabinol, and their
2 optical isomers, excluding tetrahydrocannabinol in sesame oil and
3 encapsulated in a soft gelatin capsule in a drug product approved by
4 the United States Food and Drug Administration;

5 ~~((ii))~~ (B) 6 - cis - or trans tetrahydrocannabinol, and their
6 optical isomers;

7 ~~((iii))~~ (C) 3,4 - cis - or trans tetrahydrocannabinol, and its
8 optical isomers; or

9 ~~((iv))~~ (D) That is chemically synthesized and either:

10 ~~((a))~~ (I) Has been demonstrated to have binding activity at one
11 or more cannabinoid receptors; or

12 ~~((b))~~ (II) Is a chemical analog or isomer of a compound that
13 has been demonstrated to have binding activity at one or more
14 cannabinoid receptors;

15 (Since nomenclature of these substances is not internationally
16 standardized, compounds of these structures, regardless of numerical
17 designation of atomic positions covered.)

18 (ii) Hemp and industrial hemp, as defined in section 2 of this
19 act, are excepted from the categories of controlled substances
20 identified under this section;

21 (31) Ethylamine analog of phencyclidine: Some trade or other
22 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)
23 ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

24 (32) Pyrrolidine analog of phencyclidine: Some trade or other
25 names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

26 (33) Thiophene analog of phencyclidine: Some trade or other
27 names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienyl analog of
28 phencyclidine; TPCP; TCP;

29 (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other
30 name is TCPy.

31 (d) Depressants. Unless specifically excepted or unless listed in
32 another schedule, any material, compound, mixture, or preparation
33 which contains any quantity of the following substances having a
34 depressant effect on the central nervous system, including its salts,
35 isomers, and salts of isomers whenever the existence of such salts,
36 isomers, and salts of isomers is possible within the specific
37 chemical designation.

38 (1) Gamma-hydroxybutyric acid: Some other names include GHB;
39 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;
40 sodium oxybate; sodium oxybutyrate;

- 1 (2) Mecloqualone;
- 2 (3) Methaqualone.
- 3 (e) Stimulants. Unless specifically excepted or unless listed in
4 another schedule, any material, compound, mixture, or preparation
5 which contains any quantity of the following substances having a
6 stimulant effect on the central nervous system, including its salts,
7 isomers, and salts of isomers:
- 8 (1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-
9 oxazoline; or 4, 5-dihydro-5-phenly-2-oxazolamine;
- 10 (2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;
- 11 (3) Cathinone, also known as 2-amino-1-phenyl-1-propanone,
12 alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;
- 13 (4) Fenethylamine;
- 14 (5) Methcathinone: Some other names: 2-(methylamino)-
15 propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-
16 phenylpropan-1-one; alpha-N-methylaminopropiophenone;
17 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone;
18 AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and
19 salts of optical isomers;
- 20 (6) (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-
21 phenyl-2-oxazolamine);
- 22 (7) N-ethylamphetamine;
- 23 (8) N,N-dimethylamphetamine: Some trade or other names: N,N-
24 alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.
- 25 The controlled substances in this section may be added,
26 rescheduled, or deleted as provided for in RCW 69.50.201.

27 **Sec. 14.** RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended
28 to read as follows:

29 Except as otherwise provided in this chapter, industrial hemp is
30 an agricultural product that may be grown, produced, possessed,
31 processed, and exchanged in the state solely and exclusively as part
32 of an industrial hemp research program supervised by the department.
33 (~~Processing any part of industrial hemp, except seed, as food,
34 extract, oil, cake, concentrate, resin, or other preparation for
35 topical use, oral consumption, or inhalation by humans is
36 prohibited.~~)

1 NEW SECTION. **Sec. 15.** The following acts or parts of acts, as
2 now existing or hereafter amended, are each repealed, effective
3 January 1, 2020:

4 (1) RCW 15.120.005 (Intent) and 2016 sp.s. c 11 s 1;

5 (2) RCW 15.120.010 (Definitions) and 2016 sp.s. c 11 s 2;

6 (3) RCW 15.120.020 (Industrial hemp—Agricultural product—
7 Exclusively as part of industrial hemp research program) and 2019
8 c ... s 14 (section 14 of this act) & 2016 sp.s. c 11 s 3;

9 (4) RCW 15.120.030 (Rule-making authority) and 2016 sp.s. c 11 s
10 4;

11 (5) RCW 15.120.035 (Rule-making authority—Monetary penalties,
12 license suspension or forfeiture, other sanctions—Rules to be
13 consistent with section 7606 of federal agricultural act of 2014) and
14 2017 c 317 s 10;

15 (6) RCW 15.120.040 (Industrial hemp research program—Established
16 —Licensure—Seed certification program—Permission/waiver from
17 appropriate federal entity) and 2016 sp.s. c 11 s 5;

18 (7) RCW 15.120.050 (Application form—Fee—Licensure—Renewal—
19 Record of license forwarded to county sheriff—Public disclosure
20 exemption) and 2016 sp.s. c 11 s 6; and

21 (8) RCW 15.120.060 (Sales and transfers of industrial hemp
22 produced for processing—Department and state liquor and cannabis
23 board to study feasibility and practicality of implementing
24 legislatively authorized regulatory framework) and 2017 c 317 s 9.

25 NEW SECTION. **Sec. 16.** Beginning on the effective date of this
26 section:

27 (1) No law or rule related to certified or interstate hemp seeds
28 applies to or may be enforced against a person with a license to
29 produce or process hemp issued under this chapter or chapter 15.120
30 RCW; and

31 (2) No department or other state agency rule may establish or
32 enforce a buffer zone or distance requirement between a person with a
33 license or authorization to produce or process hemp under this
34 chapter or chapter 15.120 RCW and a person with a license to produce
35 or process marijuana issued under chapter 69.50 RCW. The department
36 may not adopt rules without the evaluation of sufficient data showing
37 impacts to either crop as a result of cross-pollination.

1 NEW SECTION. **Sec. 17.** Sections 1 through 11 and 16 of this act
2 constitute a new chapter in Title 15 RCW.

3 NEW SECTION. **Sec. 18.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 19.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of
9 the state government and its existing public institutions, and takes
10 effect immediately."

E2SHB 1401 - S COMM AMD

By Committee on Agriculture, Water, Natural Resources & Parks

ADOPTED 04/15/2019

11 On page 1, line 1 of the title, after "production;" strike the
12 remainder of the title and insert "amending RCW 69.50.204 and
13 15.120.020; reenacting and amending RCW 69.50.101; adding a new
14 chapter to Title 15 RCW; repealing RCW 15.120.005, 15.120.010,
15 15.120.020, 15.120.030, 15.120.035, 15.120.040, 15.120.050, and
16 15.120.060; providing an effective date; and declaring an emergency."

EFFECT: Changes the term "grower" to "producer" in certain
circumstances. Provides that Washington State University may, within
existing resources, develop and make accessible an internet-based
application to assist hemp producers with planting times. Requires
the Department of Agriculture to regulate the processing of hemp for
food products, that are allowable under federal law, in the same
manner as other food processing. Clarifies the definition of
"postharvest test". Removes the null and void clause.

Provides that all receipts from fees are deposited in the Hemp
Regulatory Account. Eliminates the requirement that the United States
Department of Agriculture must approve Washington's hemp plan before
expedited rule making to adopt the state hemp plan may begin. Removes
the prohibition in the Industrial Hemp Research Program on processing
industrial hemp, except seed, as food, extract, oil, or other
preparation for topical use, oral consumption, or inhalation by
humans.

--- END ---