

SSB 5298 - S AMD TO S AMD (S-2163.1/19) 135  
By Senator Walsh

NOT ADOPTED 03/11/2019

1 On page 9, after line 21, insert the following:

2 "Sec. 6. RCW 69.50.4013 and 2017 c 317 s 15 are each amended to  
3 read as follows:

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

9 (2) Except as provided in RCW 69.50.4014, any person who violates  
10 this section is guilty of a class C felony punishable under chapter  
11 9A.20 RCW.

12 (3)(a) The possession, by a person twenty-one years of age or  
13 older, of useable marijuana, marijuana concentrates, or marijuana-  
14 infused products in amounts that do not exceed those set forth in RCW  
15 69.50.360(3) is not a violation of this section, this chapter, or any  
16 other provision of Washington state law.

17 (b) The possession of marijuana, useable marijuana, marijuana  
18 concentrates, and marijuana-infused products being physically  
19 transported or delivered within the state, in amounts not exceeding  
20 those that may be established under RCW 69.50.385(3), by a licensed  
21 employee of a common carrier when performing the duties authorized in  
22 accordance with RCW 69.50.382 and 69.50.385, is not a violation of  
23 this section, this chapter, or any other provision of Washington  
24 state law.

25 (4)(a) The delivery by a person twenty-one years of age or older  
26 to one or more persons twenty-one years of age or older, during a  
27 single twenty-four hour period, for noncommercial purposes and not  
28 conditioned upon or done in connection with the provision or receipt  
29 of financial consideration, of any of the following marijuana  
30 products, is not a violation of this section, this chapter, or any  
31 other provisions of Washington state law:

32 (i) One-half ounce of useable marijuana;

- 1 (ii) Eight ounces of marijuana-infused product in solid form;  
2 (iii) Thirty-six ounces of marijuana-infused product in liquid  
3 form; or  
4 (iv) Three and one-half grams of marijuana concentrates.

5 (b) The act of delivering marijuana or a marijuana product as  
6 authorized under this subsection (4) must meet one of the following  
7 requirements:

8 (i) The delivery must be done in a location outside of the view  
9 of general public and in a nonpublic place; or

10 (ii) The marijuana or marijuana product must be in the original  
11 packaging as purchased from the marijuana retailer.

12 (5) No person under twenty-one years of age may possess,  
13 manufacture, sell, or distribute marijuana, marijuana-infused  
14 products, or marijuana concentrates, regardless of THC concentration.  
15 This does not include qualifying patients with a valid authorization.

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

21 (7)(a) It is not a violation of this section, this chapter, or  
22 any other provision of Washington state law for a person twenty-one  
23 years of age or older to produce or possess no more than six plants  
24 on the premises of the housing unit occupied by the person, provided  
25 the person complies with the requirements of this subsection.

26 (b) It is not a violation of this section, this chapter, or any  
27 other provision of Washington state law for a person twenty-one years  
28 of age or older to produce or possess marijuana, including all stalks  
29 and roots, produced from no more than six plants grown by the person  
30 on the premises of the housing unit occupied by the person, subject  
31 to the limitations provided in (c) of this subsection, if the person  
32 complies with the requirements of this subsection.

33 (c) The quantity of marijuana and marijuana products a person may  
34 produce or possess under this subsection is subject to the following  
35 limits:

36 (i) A person may possess useable marijuana in an amount not to  
37 exceed what is produced by the person's plants in addition to useable  
38 marijuana obtained in the manner and according to the limits  
39 specified in RCW 69.50.360(3). However, a person may not possess  
40 marijuana capable of being processed into useable marijuana,

1 marijuana-infused products, or marijuana concentrates, unless the  
2 person possesses fewer than sixteen ounces of useable marijuana,  
3 irrespective of source;

4 (ii) A person may not produce or possess a total of more than  
5 sixteen ounces of marijuana-infused products in solid form,  
6 irrespective of source;

7 (iii) A person may not produce or possess a total of more than  
8 seventy-two ounces of marijuana-infused products in liquid form,  
9 irrespective of source; and

10 (iv) A person may not produce or possess a total of more than  
11 seven grams of marijuana concentrates, irrespective of source.

12 (d) No more than fifteen plants may be grown at any one time on  
13 the premises of a single housing unit, regardless of the number of  
14 residents living on the premises of the housing unit.

15 (e) All plants grown under this subsection must be clearly marked  
16 with the name, residential address, and date of birth of the person  
17 growing the plants, and the date on which the plants were planted.

18 (f) All marijuana capable of being processed into useable  
19 marijuana, marijuana-infused products, or marijuana concentrate must  
20 be clearly marked with the name, date of birth, and residential  
21 address of the person who grew the plants from which the marijuana is  
22 derived, the date on which the plants were planted, and the date on  
23 which the plants were harvested.

24 (g) All containers containing more than one ounce of useable  
25 marijuana must be clearly marked with the name, date of birth,  
26 residential address of the person who grew the plants from which the  
27 useable marijuana is derived, the date on which the plants were  
28 planted, and the date on which the plants were harvested. Any  
29 containers containing one ounce or less of useable marijuana are not  
30 required to be labeled.

31 (h) Any extraction or separation of resin from marijuana and any  
32 production or processing of any form of marijuana concentrates or  
33 marijuana-infused products must be performed in accordance with rules  
34 adopted under RCW 69.51A.270.

35 (i) This subsection (7) does not apply to plants or useable  
36 marijuana possessed or delivered other than on the premises of the  
37 housing unit at which the plants were grown.

38 (j) Nothing in this subsection (7) prevents or restricts a  
39 property owner from prohibiting the cultivation of plants by a renter

1 or lessee upon or within the property under the terms of a rental  
2 agreement, lease, or other contract.

3 (k) The production, possession, delivery, and acquisition of  
4 plants or marijuana capable of being processed into useable  
5 marijuana, marijuana-infused products, or marijuana concentrate, and  
6 useable marijuana under this subsection (7) may not form the basis of  
7 a seizure or forfeiture action pursuant to RCW 69.50.505.

8 (l) A person twenty-one years of age or older who possesses  
9 marijuana in compliance with this subsection (7) is considered an  
10 ultimate user who may not sell marijuana, useable marijuana,  
11 marijuana concentrate, or marijuana-infused products produced from  
12 the person's plants, and is not required to obtain a registration  
13 under RCW 69.50.302 or a license under RCW 69.50.325.

14 (m) For purposes of this subsection (7), "housing unit" has the  
15 meaning provided in RCW 69.51A.010.

16 **Sec. 7.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read  
17 as follows:

18 (1) The following are subject to seizure and forfeiture and no  
19 property right exists in them:

20 (a) All controlled substances which have been manufactured,  
21 distributed, dispensed, acquired, or possessed in violation of this  
22 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,  
23 as defined in RCW 64.44.010, used or intended to be used in the  
24 manufacture of controlled substances;

25 (b) All raw materials, products, and equipment of any kind which  
26 are used, or intended for use, in manufacturing, compounding,  
27 processing, delivering, importing, or exporting any controlled  
28 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

29 (c) All property which is used, or intended for use, as a  
30 container for property described in (a) or (b) of this subsection;

31 (d) All conveyances, including aircraft, vehicles, or vessels,  
32 which are used, or intended for use, in any manner to facilitate the  
33 sale, delivery, or receipt of property described in (a) or (b) of  
34 this subsection, except that:

35 (i) No conveyance used by any person as a common carrier in the  
36 transaction of business as a common carrier is subject to forfeiture  
37 under this section unless it appears that the owner or other person  
38 in charge of the conveyance is a consenting party or privy to a  
39 violation of this chapter or chapter 69.41 or 69.52 RCW;

1 (ii) No conveyance is subject to forfeiture under this section by  
2 reason of any act or omission established by the owner thereof to  
3 have been committed or omitted without the owner's knowledge or  
4 consent;

5 (iii) No conveyance is subject to forfeiture under this section  
6 if used in the receipt of only an amount of marijuana for which  
7 possession constitutes a misdemeanor under RCW 69.50.4014;

8 (iv) A forfeiture of a conveyance encumbered by a bona fide  
9 security interest is subject to the interest of the secured party if  
10 the secured party neither had knowledge of nor consented to the act  
11 or omission; and

12 (v) When the owner of a conveyance has been arrested under this  
13 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the  
14 person is arrested may not be subject to forfeiture unless it is  
15 seized or process is issued for its seizure within ten days of the  
16 owner's arrest;

17 (e) All books, records, and research products and materials,  
18 including formulas, microfilm, tapes, and data which are used, or  
19 intended for use, in violation of this chapter or chapter 69.41 or  
20 69.52 RCW;

21 (f) All drug paraphernalia(~~21~~) other than paraphernalia  
22 possessed, sold, or used solely to facilitate marijuana-related  
23 activities that are not violations of this chapter;

24 (g) All moneys, negotiable instruments, securities, or other  
25 tangible or intangible property of value furnished or intended to be  
26 furnished by any person in exchange for a controlled substance in  
27 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
28 or intangible personal property, proceeds, or assets acquired in  
29 whole or in part with proceeds traceable to an exchange or series of  
30 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
31 and all moneys, negotiable instruments, and securities used or  
32 intended to be used to facilitate any violation of this chapter or  
33 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable  
34 instruments, securities, or other tangible or intangible property  
35 encumbered by a bona fide security interest is subject to the  
36 interest of the secured party if, at the time the security interest  
37 was created, the secured party neither had knowledge of nor consented  
38 to the act or omission. No personal property may be forfeited under  
39 this subsection (1)(g), to the extent of the interest of an owner, by

1 reason of any act or omission which that owner establishes was  
2 committed or omitted without the owner's knowledge or consent; and

3 (h) All real property, including any right, title, and interest  
4 in the whole of any lot or tract of land, and any appurtenances or  
5 improvements which are being used with the knowledge of the owner for  
6 the manufacturing, compounding, processing, delivery, importing, or  
7 exporting of any controlled substance, or which have been acquired in  
8 whole or in part with proceeds traceable to an exchange or series of  
9 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
10 if such activity is not less than a class C felony and a substantial  
11 nexus exists between the commercial production or sale of the  
12 controlled substance and the real property. However:

13 (i) No property may be forfeited pursuant to this subsection  
14 (1)(h), to the extent of the interest of an owner, by reason of any  
15 act or omission committed or omitted without the owner's knowledge or  
16 consent;

17 (ii) The bona fide gift of a controlled substance, legend drug,  
18 or imitation controlled substance shall not result in the forfeiture  
19 of real property;

20 (iii) The acquisition, delivery, production, or possession of  
21 marijuana, useable marijuana, marijuana concentrates, or marijuana-  
22 infused products, including in the manner and in the amount provided  
23 in RCW 69.50.4013(7), shall not result in the forfeiture of real  
24 property unless the marijuana is possessed for commercial purposes  
25 that are unlawful under Washington state law, the amount possessed is  
26 five or more plants or one pound or more of marijuana except as  
27 provided in RCW 69.50.4013, and a substantial nexus exists between  
28 the possession of marijuana and the real property. In such a case,  
29 the intent of the offender shall be determined by the preponderance  
30 of the evidence, including the offender's prior criminal history, the  
31 amount of marijuana possessed by the offender, the sophistication of  
32 the activity or equipment used by the offender, whether the offender  
33 was licensed to produce, process, or sell marijuana, or was an  
34 employee of a licensed producer, processor, or retailer, and other  
35 evidence which demonstrates the offender's intent to engage in  
36 unlawful commercial activity;

37 (iv) The unlawful sale of marijuana or a legend drug shall not  
38 result in the forfeiture of real property unless the sale was forty  
39 grams or more in the case of marijuana or one hundred dollars or more

1 in the case of a legend drug, and a substantial nexus exists between  
2 the unlawful sale and the real property; and

3 (v) A forfeiture of real property encumbered by a bona fide  
4 security interest is subject to the interest of the secured party if  
5 the secured party, at the time the security interest was created,  
6 neither had knowledge of nor consented to the act or omission.

7 (2) Real or personal property subject to forfeiture under this  
8 chapter may be seized by any (~~board~~) commission inspector or law  
9 enforcement officer of this state upon process issued by any superior  
10 court having jurisdiction over the property. Seizure of real property  
11 shall include the filing of a lis pendens by the seizing agency. Real  
12 property seized under this section shall not be transferred or  
13 otherwise conveyed until ninety days after seizure or until a  
14 judgment of forfeiture is entered, whichever is later(~~(:—PROVIDED,~~  
15 ~~That)~~). However, real property seized under this section may be  
16 transferred or conveyed to any person or entity who acquires title by  
17 foreclosure or deed in lieu of foreclosure of a security interest.  
18 Seizure of personal property without process may be made if:

19 (a) The seizure is incident to an arrest or a search under a  
20 search warrant or an inspection under an administrative inspection  
21 warrant;

22 (b) The property subject to seizure has been the subject of a  
23 prior judgment in favor of the state in a criminal injunction or  
24 forfeiture proceeding based upon this chapter;

25 (c) A (~~board~~) commission inspector or law enforcement officer  
26 has probable cause to believe that the property is directly or  
27 indirectly dangerous to health or safety; or

28 (d) The (~~board~~) commission inspector or law enforcement officer  
29 has probable cause to believe that the property was used or is  
30 intended to be used in violation of this chapter.

31 (3) In the event of seizure pursuant to subsection (2) of this  
32 section, proceedings for forfeiture shall be deemed commenced by the  
33 seizure. The law enforcement agency under whose authority the seizure  
34 was made shall cause notice to be served within fifteen days  
35 following the seizure on the owner of the property seized and the  
36 person in charge thereof and any person having any known right or  
37 interest therein, including any community property interest, of the  
38 seizure and intended forfeiture of the seized property. Service of  
39 notice of seizure of real property shall be made according to the  
40 rules of civil procedure. However, the state may not obtain a default

1 judgment with respect to real property against a party who is served  
2 by substituted service absent an affidavit stating that a good faith  
3 effort has been made to ascertain if the defaulted party is  
4 incarcerated within the state, and that there is no present basis to  
5 believe that the party is incarcerated within the state. Notice of  
6 seizure in the case of property subject to a security interest that  
7 has been perfected by filing a financing statement in accordance with  
8 chapter 62A.9A RCW, or a certificate of title, shall be made by  
9 service upon the secured party or the secured party's assignee at the  
10 address shown on the financing statement or the certificate of title.  
11 The notice of seizure in other cases may be served by any method  
12 authorized by law or court rule including but not limited to service  
13 by certified mail with return receipt requested. Service by mail  
14 shall be deemed complete upon mailing within the fifteen day period  
15 following the seizure.

16 (4) If no person notifies the seizing law enforcement agency in  
17 writing of the person's claim of ownership or right to possession of  
18 items specified in subsection (1)(d), (g), or (h) of this section  
19 within forty-five days of the service of notice from the seizing  
20 agency in the case of personal property and ninety days in the case  
21 of real property, the item seized shall be deemed forfeited. The  
22 community property interest in real property of a person whose spouse  
23 or domestic partner committed a violation giving rise to seizure of  
24 the real property may not be forfeited if the person did not  
25 participate in the violation.

26 (5) If any person notifies the seizing law enforcement agency in  
27 writing of the person's claim of ownership or right to possession of  
28 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)  
29 of this section within forty-five days of the service of notice from  
30 the seizing agency in the case of personal property and ninety days  
31 in the case of real property, the person or persons shall be afforded  
32 a reasonable opportunity to be heard as to the claim or right. The  
33 notice of claim may be served by any method authorized by law or  
34 court rule including, but not limited to, service by first-class  
35 mail. Service by mail shall be deemed complete upon mailing within  
36 the forty-five day period following service of the notice of seizure  
37 in the case of personal property and within the ninety-day period  
38 following service of the notice of seizure in the case of real  
39 property. The hearing shall be before the chief law enforcement  
40 officer of the seizing agency or the chief law enforcement officer's



1 designee, except where the seizing agency is a state agency as  
2 defined in RCW 34.12.020(4), the hearing shall be before the chief  
3 law enforcement officer of the seizing agency or an administrative  
4 law judge appointed under chapter 34.12 RCW, except that any person  
5 asserting a claim or right may remove the matter to a court of  
6 competent jurisdiction. Removal of any matter involving personal  
7 property may only be accomplished according to the rules of civil  
8 procedure. The person seeking removal of the matter must serve  
9 process against the state, county, political subdivision, or  
10 municipality that operates the seizing agency, and any other party of  
11 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-  
12 five days after the person seeking removal has notified the seizing  
13 law enforcement agency of the person's claim of ownership or right to  
14 possession. The court to which the matter is to be removed shall be  
15 the district court when the aggregate value of personal property is  
16 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
17 before the seizing agency and any appeal therefrom shall be under  
18 Title 34 RCW. In all cases, the burden of proof is upon the law  
19 enforcement agency to establish, by a preponderance of the evidence,  
20 that the property is subject to forfeiture.

21 The seizing law enforcement agency shall promptly return the  
22 article or articles to the claimant upon a determination by the  
23 administrative law judge or court that the claimant is the present  
24 lawful owner or is lawfully entitled to possession thereof of items  
25 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of  
26 this section.

27 (6) In any proceeding to forfeit property under this title, where  
28 the claimant substantially prevails, the claimant is entitled to  
29 reasonable attorneys' fees reasonably incurred by the claimant. In  
30 addition, in a court hearing between two or more claimants to the  
31 article or articles involved, the prevailing party is entitled to a  
32 judgment for costs and reasonable attorneys' fees.

33 (7) When property is forfeited under this chapter the (~~board~~)  
34 commission or seizing law enforcement agency may:

35 (a) Retain it for official use or upon application by any law  
36 enforcement agency of this state release such property to such agency  
37 for the exclusive use of enforcing the provisions of this chapter;

38 (b) Sell that which is not required to be destroyed by law and  
39 which is not harmful to the public;

1 (c) Request the appropriate sheriff or director of public safety  
2 to take custody of the property and remove it for disposition in  
3 accordance with law; or

4 (d) Forward it to the drug enforcement administration for  
5 disposition.

6 (8)(a) When property is forfeited, the seizing agency shall keep  
7 a record indicating the identity of the prior owner, if known, a  
8 description of the property, the disposition of the property, the  
9 value of the property at the time of seizure, and the amount of  
10 proceeds realized from disposition of the property.

11 (b) Each seizing agency shall retain records of forfeited  
12 property for at least seven years.

13 (c) Each seizing agency shall file a report including a copy of  
14 the records of forfeited property with the state treasurer each  
15 calendar quarter.

16 (d) The quarterly report need not include a record of forfeited  
17 property that is still being held for use as evidence during the  
18 investigation or prosecution of a case or during the appeal from a  
19 conviction.

20 (9)(a) By January 31st of each year, each seizing agency shall  
21 remit to the state treasurer an amount equal to ten percent of the  
22 net proceeds of any property forfeited during the preceding calendar  
23 year. Money remitted shall be deposited in the state general fund.

24 (b) The net proceeds of forfeited property is the value of the  
25 forfeitable interest in the property after deducting the cost of  
26 satisfying any bona fide security interest to which the property is  
27 subject at the time of seizure; and in the case of sold property,  
28 after deducting the cost of sale, including reasonable fees or  
29 commissions paid to independent selling agents, and the cost of any  
30 valid landlord's claim for damages under subsection (15) of this  
31 section.

32 (c) The value of sold forfeited property is the sale price. The  
33 value of retained forfeited property is the fair market value of the  
34 property at the time of seizure, determined when possible by  
35 reference to an applicable commonly used index, such as the index  
36 used by the department of licensing for valuation of motor vehicles.  
37 A seizing agency may use, but need not use, an independent qualified  
38 appraiser to determine the value of retained property. If an  
39 appraiser is used, the value of the property appraised is net of the

1 cost of the appraisal. The value of destroyed property and retained  
2 firearms or illegal property is zero.

3 (10) Forfeited property and net proceeds not required to be paid  
4 to the state treasurer shall be retained by the seizing law  
5 enforcement agency exclusively for the expansion and improvement of  
6 controlled substances related law enforcement activity. Money  
7 retained under this section may not be used to supplant preexisting  
8 funding sources.

9 (11) Controlled substances listed in Schedule I, II, III, IV, and  
10 V that are possessed, transferred, sold, or offered for sale in  
11 violation of this chapter are contraband and shall be seized and  
12 summarily forfeited to the state. Controlled substances listed in  
13 Schedule I, II, III, IV, and V, which are seized or come into the  
14 possession of the ((board)) commission, the owners of which are  
15 unknown, are contraband and shall be summarily forfeited to the  
16 ((board)) commission.

17 (12) Species of plants from which controlled substances in  
18 Schedules I and II may be derived which have been planted or  
19 cultivated in violation of this chapter, or of which the owners or  
20 cultivators are unknown, or which are wild growths, may be seized and  
21 summarily forfeited to the ((board)) commission.

22 (13) The failure, upon demand by a ((board)) commission inspector  
23 or law enforcement officer, of the person in occupancy or in control  
24 of land or premises upon which the species of plants are growing or  
25 being stored to produce an appropriate registration or proof that he  
26 or she is the holder thereof constitutes authority for the seizure  
27 and forfeiture of the plants.

28 (14) Upon the entry of an order of forfeiture of real property,  
29 the court shall forward a copy of the order to the assessor of the  
30 county in which the property is located. Orders for the forfeiture of  
31 real property shall be entered by the superior court, subject to  
32 court rules. Such an order shall be filed by the seizing agency in  
33 the county auditor's records in the county in which the real property  
34 is located.

35 (15)(a) A landlord may assert a claim against proceeds from the  
36 sale of assets seized and forfeited under subsection (7)(b) of this  
37 section, only if:

38 (i) A law enforcement officer, while acting in his or her  
39 official capacity, directly caused damage to the complaining

1 landlord's property while executing a search of a tenant's residence;  
2 and

3 (ii) The landlord has applied any funds remaining in the tenant's  
4 deposit, to which the landlord has a right under chapter 59.18 RCW,  
5 to cover the damage directly caused by a law enforcement officer  
6 prior to asserting a claim under the provisions of this section;

7 (A) Only if the funds applied under (a)(ii) of this subsection  
8 are insufficient to satisfy the damage directly caused by a law  
9 enforcement officer, may the landlord seek compensation for the  
10 damage by filing a claim against the governmental entity under whose  
11 authority the law enforcement agency operates within thirty days  
12 after the search;

13 (B) Only if the governmental entity denies or fails to respond to  
14 the landlord's claim within sixty days of the date of filing, may the  
15 landlord collect damages under this subsection by filing within  
16 thirty days of denial or the expiration of the sixty-day period,  
17 whichever occurs first, a claim with the seizing law enforcement  
18 agency. The seizing law enforcement agency must notify the landlord  
19 of the status of the claim by the end of the thirty-day period.  
20 Nothing in this section requires the claim to be paid by the end of  
21 the sixty-day or thirty-day period.

22 (b) For any claim filed under (a)(ii) of this subsection, the law  
23 enforcement agency shall pay the claim unless the agency provides  
24 substantial proof that the landlord either:

25 (i) Knew or consented to actions of the tenant in violation of  
26 this chapter or chapter 69.41 or 69.52 RCW; or

27 (ii) Failed to respond to a notification of the illegal activity,  
28 provided by a law enforcement agency under RCW 59.18.075, within  
29 seven days of receipt of notification of the illegal activity.

30 (16) The landlord's claim for damages under subsection (15) of  
31 this section may not include a claim for loss of business and is  
32 limited to:

33 (a) Damage to tangible property and clean-up costs;

34 (b) The lesser of the cost of repair or fair market value of the  
35 damage directly caused by a law enforcement officer;

36 (c) The proceeds from the sale of the specific tenant's property  
37 seized and forfeited under subsection (7)(b) of this section; and

38 (d) The proceeds available after the seizing law enforcement  
39 agency satisfies any bona fide security interest in the tenant's

1 property and costs related to sale of the tenant's property as  
2 provided by subsection (9)(b) of this section.

3 (17) Subsections (15) and (16) of this section do not limit any  
4 other rights a landlord may have against a tenant to collect for  
5 damages. However, if a law enforcement agency satisfies a landlord's  
6 claim under subsection (15) of this section, the rights the landlord  
7 has against the tenant for damages directly caused by a law  
8 enforcement officer under the terms of the landlord and tenant's  
9 contract are subrogated to the law enforcement agency.

10 **Sec. 8.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and  
11 amended to read as follows:

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

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

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

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

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

25 (c) "CBD concentration" has the meaning provided in RCW  
26 69.51A.010.

27 (d) "CBD product" means any product containing or consisting of  
28 cannabidiol.

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

30 (f) "Controlled substance" means a drug, substance, or immediate  
31 precursor included in Schedules I through V as set forth in federal  
32 or state laws, or federal or commission rules, but does not include  
33 industrial hemp as defined in RCW 15.120.010.

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

37 (i) that has a stimulant, depressant, or hallucinogenic effect on  
38 the central nervous system substantially similar to the stimulant,

1 depressant, or hallucinogenic effect on the central nervous system of  
2 a controlled substance included in Schedule I or II; or

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

9 (2) The term does not include:

10 (i) a controlled substance;

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

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

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

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

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

25 (j) "Designated provider" has the meaning provided in RCW  
26 69.51A.010.

27 (k) "Dispense" means the interpretation of a prescription or  
28 order for a controlled substance and, pursuant to that prescription  
29 or order, the proper selection, measuring, compounding, labeling, or  
30 packaging necessary to prepare that prescription or order for  
31 delivery.

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

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

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

36 (o) "Drug" means (1) a controlled substance recognized as a drug  
37 in the official United States pharmacopoeia/national formulary or the  
38 official homeopathic pharmacopoeia of the United States, or any  
39 supplement to them; (2) controlled substances intended for use in the  
40 diagnosis, cure, mitigation, treatment, or prevention of disease in

1 individuals or animals; (3) controlled substances (other than food)  
2 intended to affect the structure or any function of the body of  
3 individuals or animals; and (4) controlled substances intended for  
4 use as a component of any article specified in (1), (2), or (3) of  
5 this subsection. The term does not include devices or their  
6 components, parts, or accessories.

7 (p) "Drug enforcement administration" means the drug enforcement  
8 administration in the United States Department of Justice, or its  
9 successor agency.

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

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

18 (s) "Immediate precursor" means a substance:

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

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

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

26 (t) "Isomer" means an optical isomer, but in subsection (ff)(5)  
27 of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4),  
28 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and  
29 (42), and 69.50.210(c) the term includes any positional isomer; and  
30 in RCW 69.50.204(a) (35), 69.50.204(c), and 69.50.208(a) the term  
31 includes any positional or geometric isomer.

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

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

1 (w) "Manufacture" means the production, preparation, propagation,  
2 compounding, conversion, or processing of a controlled substance,  
3 either directly or indirectly or by extraction from substances of  
4 natural origin, or independently by means of chemical synthesis, or  
5 by a combination of extraction and chemical synthesis, and includes  
6 any packaging or repackaging of the substance or labeling or  
7 relabeling of its container. The term does not include the  
8 preparation, compounding, packaging, repackaging, labeling, or  
9 relabeling of a controlled substance:

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

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

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

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

29 (2) Industrial hemp as defined in RCW 15.120.010.

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

33 (z) "Marijuana processor" means a person licensed by the state  
34 liquor and cannabis board to process marijuana into marijuana  
35 concentrates, useable marijuana, and marijuana-infused products,  
36 package and label marijuana concentrates, useable marijuana, and  
37 marijuana-infused products for sale in retail outlets, and sell  
38 marijuana concentrates, useable marijuana, and marijuana-infused  
39 products at wholesale to marijuana retailers.



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

4 (bb) "Marijuana products" means useable marijuana, marijuana  
5 concentrates, and marijuana-infused products as defined in this  
6 section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (ll) "Practitioner" means:

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

1 a controlled substance in the course of their professional practice  
2 or research in this state.

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

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

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

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

24 (oo) "Qualifying patient" has the meaning provided in RCW  
25 69.51A.010.

26 (pp) "Recognition card" has the meaning provided in RCW  
27 69.51A.010.

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

31 (rr) "Secretary" means the secretary of health or the secretary's  
32 designee.

33 (ss) "State," unless the context otherwise requires, means a  
34 state of the United States, the District of Columbia, the  
35 Commonwealth of Puerto Rico, or a territory or insular possession  
36 subject to the jurisdiction of the United States.

37 (tt) "THC concentration" means percent of delta-9  
38 tetrahydrocannabinol content per dry weight of any part of the plant  
39 *Cannabis*, or per volume or weight of marijuana product, or the  
40 combined percent of delta-9 tetrahydrocannabinol and

1 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
2 regardless of moisture content.

3 (uu) "Ultimate user" means an individual who lawfully possesses a  
4 controlled substance for the individual's own use or for the use of a  
5 member of the individual's household or for administering to an  
6 animal owned by the individual or by a member of the individual's  
7 household.

8 (vv) "Useable marijuana" means dried marijuana flowers. The term  
9 "useable marijuana" does not include either marijuana-infused  
10 products or marijuana concentrates.

11 (ww) "Commercial activity" means an activity related to or  
12 connected with buying, selling, or bartering.

13 NEW SECTION. **Sec. 9.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected."

17 Renumber the remaining section consecutively and correct any  
18 internal references accordingly.

**SSB 5298** - S AMD TO S AMD (S-2163.1/19) **135**  
By Senator Walsh

**NOT ADOPTED 03/11/2019**

19 On page 9, line 25, after "82.08.9998," strike "and 82.12.9998"  
20 and insert "82.12.9998, 69.50.4013, and 69.50.505; reenacting and  
21 amending RCW 69.50.101"

EFFECT: Authorizes a person to grow up to 6 marijuana plants on  
the premises of their housing unit. A single housing unit may not  
have more than 15 plants. Sets new limits for the possession of  
useable marijuana. Requires that all plants and products must be  
labeled and identify the owner. Allows a property owner to prohibit  
cultivating plants by a renter or lessee. Protects marijuana and  
marijuana products, and the property on which they were produced or  
possessed under the new authorization, from seizure and forfeiture.

--- END ---