

# FINAL BILL REPORT

## HB 1792

---

C 379 L 19  
Synopsis as Enacted

**Brief Description:** Concerning criminal penalties applicable to employees of marijuana retail outlets.

**Sponsors:** Representatives Pettigrew and Appleton.

**House Committee on Commerce & Gaming**  
**Senate Committee on Labor & Commerce**  
**Senate Committee on Law & Justice**

### **Background:**

Except as expressly authorized in the state Controlled Substances Act (CSA), it is unlawful for any person to sell or distribute a controlled substance. "Marijuana" is a controlled substance, although specific conduct with respect to marijuana is expressly authorized to allow for the legal marijuana program in Washington. Conduct relating to possessing, transferring, selling, processing, or producing marijuana that is not expressly authorized in law falls outside of the legal protections, and the default felony provisions under the CSA apply.

The CSA expressly authorizes licensed marijuana retailers and their employees to engage in certain conduct including delivering, distributing, and selling, on the premises of the retail outlet, any combination of the following marijuana products to a person age 21 or older:

- 1 ounce of useable marijuana;
- 16 ounces of marijuana-infused product in solid form;
- 72 ounces of marijuana-infused product in liquid form; or
- 7 grams of marijuana concentrates.

Licensed marijuana retailers may not employ a person under age 21 or, generally, allow a person under age 21 to enter or remain on the premises of a retail outlet. However, qualifying patients between the ages of 18 and 21 years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under age 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Under the CSA, it is generally a class C felony to sell or distribute a controlled substance to another person in a manner not expressly authorized in the CSA. Additionally, selling or distributing a controlled substance to another person is punishable as a class B felony when a person who is age 18 or older sells or distributes a controlled substance to another person who is under age 18 and at least three years younger than the seller. Without limiting the applicability of these crimes, the LCB's rules include monetary fines, license suspension, and up to license cancellation for a marijuana licensee furnishing marijuana to a minor.

State criminal laws provide that felonies are punishable by a term in prison not less than one year, plus possible fines. Class C felonies are punishable by confinement in a state correctional institution for a term of up to five years, or by a fine in an amount fixed by the court of \$10,000, or by both such confinement and a fine. Class B felonies are punishable by confinement in a state correctional institution for a term of up to 10 years, or by a fine in an amount fixed by the court of \$20,000, or by both confinement and a fine.

State criminal laws provide that any misdemeanor is punishable by imprisonment in the county jail for a maximum term fixed by the court of not more than 90 days, by a fine in an amount fixed by the court of not more than \$1,000, or by both imprisonment and a fine. In contrast, a gross misdemeanor is punishable by imprisonment in the county jail for a maximum term fixed by the court of up to 364 days, or by a fine in an amount fixed by the court of not more than \$5,000, or by both imprisonment and a fine.

In the context of liquor laws, it is a gross misdemeanor to sell, give, or otherwise supply liquor to any person under age 21.

**Summary:**

A new gross misdemeanor crime is created applicable when an employee of a retail outlet sells marijuana products to an unauthorized person under the age of 21 in the course of his or her employment.

However, a retail outlet employee may still be prosecuted under existing felony provisions of the Controlled Substances Act, or any other applicable state law, if the employee sells marijuana products to a person the employee knows is under the age of 21 and not otherwise authorized to purchase marijuana products, or if the employee sells or otherwise provides marijuana products to a person under age 21 outside of the course of his or her employment.

**Votes on Final Passage:**

House	89	8	
Senate	28	17	(Senate amended)
House	66	30	(House concurred)

**Effective:** July 28, 2019