H-2361.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1668**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** House Commerce & Gaming (originally sponsored by Representatives Kloba, Wylie, and Young; by request of Liquor and Cannabis Board)

AN ACT Relating to expanding regulatory authority over cannabinoids that may be impairing and providing for enhanced product safety and consumer information disclosure about marijuana products; amending RCW 69.50.325, 69.50.326, 69.50.342, 69.50.363, 69.50.455, 69.50.375, 82.08.9998, and 82.12.9998; reenacting and amending RCW 69.50.101; adding a new section to chapter 69.50 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  Due to the evolving nature of new cannabinoids being identified in the plant *Cannabis* that may be impairing, the legislature finds there is a need to provide consumers legal access to products that have been tested and which meet the same standards for quality and safety as delta-9 tetrahydrocannabinol. The legislature further finds there is a need to require labeling, serving size, potency, and ingredient disclosure standards for any impairing cannabinoid product. The legislature further finds there is a need to distinguish cannabinoids derived from natural plants that are prepared for human consumption and the more unpredictable artificial cannabinoids created solely through chemical reactions. The legislature further recognizes the need to maintain clarity between plants defined as marijuana and plants defined as hemp. The primary purpose of this act is to authorize the liquor and cannabis board to regulate all cannabinoids that may be impairing, regardless of origin, and to direct the board to adopt rules related to cannabinoid products and *Cannabis* isolates, except those authorized as a drug by the federal food and drug administration.

**Sec.**  RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are each reenacted and amended to read as follows:

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

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

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

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

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

(c) "Artificial cannabinoid" means a solely chemically created substance that does not originate from the plant *Cannabis* but is structurally the same or substantially similar to the molecular structure of any substance derived from the plant *Cannabis* that may be a cannabinoid receptor agonist and includes, but is not limited to, any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedules I through V of the Washington state controlled substances act. Artificial cannabinoids do not include:

(1) A naturally occurring chemical substance that is separated from the plant *Cannabis* by a chemical or mechanical extraction process;

(2) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst; or

(3) Any other chemical substance resembling in any manner a compound found in the plant *Cannabis* that is identified by the board in consultation with the department, by rule.

(d) "Board" means the Washington state liquor and cannabis board.

((~~(d)~~)) (e) "Cannabinoid" means any of the chemical compounds that are the active constituents of the plant *Cannabis* and their acids including, but not limited to, tetrahydrocannabinol, tetrahydrocanabinolic acid, cannabidiol, cannabidiolic acid, cannabinol, cannabigeral, cannabichromence, cannabicyclol, cannabivarin, tetrahydrocannabivarin, cannabidivarin, cannabichromevarin, cannabigerovarin, cannabigerol monomethyl ether, cannabielsoin, and cannabicitran. Cannabinoids do not include artificial cannabinoids.

(f) "Catalyst" means a substance that increases the rate of a chemical reaction without itself undergoing any permanent chemical change.

(g) "CBD concentration" has the meaning provided in RCW 69.51A.010.

((~~(e)~~)) (h) "CBD product" means any product containing or consisting of cannabidiol that does not exceed 0.3 percent THC on a dry weight basis and that does not contain more than 0.5 milligrams per serving or two milligrams total in the packaged product of a cannabinoid that may be impairing.

((~~(f)~~)) (i) "Commission" means the pharmacy quality assurance commission.

((~~(g)~~)) (j) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

((~~(h)~~)) (k)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

((~~(j)~~)) (m) "Department" means the department of health.

((~~(k)~~)) (n) "Designated provider" has the meaning provided in RCW 69.51A.010.

((~~(l)~~)) (o) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

((~~(m)~~)) (p) "Dispenser" means a practitioner who dispenses.

((~~(n)~~)) (q) "Distillate" means an extract from the plant *Cannabis* where a segment of one or more cannabinoids from an initial extraction are selectively concentrated through a mechanical or chemical process, or both, with all impurities removed.

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

((~~(o)~~)) (s) "Distributor" means a person who distributes.

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

((~~(q)~~)) (u) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

((~~(r)~~)) (v) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

((~~(s)~~)) (w) "Extract" means a solid, viscid, or liquid substance extracted from a plant, or the like, containing its essence in concentrated or isolated form.

(x) "Extraction" means the process to separate or obtain a solid, viscid, or liquid substance from a plant or parts of a plant, by pressure, distillation, treatment with solvents, or the like.

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

((~~(t)~~)) (z) "Immediate precursor" means a substance:

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

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

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

((~~(u)~~)) (aa) "Isolate" means extract from the plant *Cannabis* of 95 percent or more of a single cannabinoid compound.

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

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

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

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

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

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

((~~(y)~~)) (ff) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*((~~, whether growing or not,~~)) with a ((~~THC~~)) tetrahydrocannabinol concentration ((~~greater~~)) of more than 0.3 percent on a dry weight basis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including concentrated resins, cannabinoids, and the products thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

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

(2) Hemp or industrial hemp as defined in RCW 15.140.020((~~,~~)) or seeds used for licensed hemp production under chapter 15.140 RCW, unless the tetrahydrocannabinol concentration is greater than 0.3 percent on a dry weight basis.

((~~(z)~~)) (gg) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* ((~~and having a THC concentration~~)) containing greater than ten percent total THC such as, but not limited to, kief, live resin, rosin, hash, or bubble hash.

((~~(aa)~~)) (hh) "Marijuana processor" means a person licensed by the board to process marijuana of natural origin, grown by a licensed producer, either directly or indirectly or by extraction from the plant *Cannabis* as defined in subsection (ss) of this section, unless sourced and used as an additive in accordance with RCW 69.50.326, into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, ((~~and~~)) sell marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

((~~(bb)~~)) (ii) "Marijuana producer" means a person licensed by the board to produce, prepare, and propagate marijuana directly from a natural origin and sell ((~~marijuana~~)) at wholesale to marijuana processors and other marijuana producers.

((~~(cc)~~)) (jj) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section and also includes any product with 0.5 milligrams or more per serving or two milligrams or more per package of a cannabinoid that may be impairing or that is marketed as such.

((~~(dd)~~)) (kk) "Marijuana researcher" means a person licensed by the board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

((~~(ee)~~)) (ll) "Marijuana retailer" means a person licensed by the board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

((~~(ff)~~)) (mm) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, isolates, or distillates, that are intended for human use, are derived from marijuana as defined in subsection ((~~(y)~~)) (ff) of this section, and ((~~have a THC concentration~~)) contain no greater than ten percent total THC. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

((~~(gg)~~)) (nn) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

((~~(ii)~~)) (pp) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

((~~(jj)~~)) (qq) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((~~(kk)~~)) (rr) "Plant" has the meaning provided in RCW 69.51A.010.

((~~(ll)~~)) (ss) "Plant *Cannabis*" means all plants of the genus *Cannabis*, including marijuana as defined in subsection (ff) of this section, and hemp as defined in RCW 15.140.020.

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

((~~(mm)~~)) (uu) "Practitioner" means:

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

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

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

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

((~~(oo)~~)) (ww) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

((~~(pp)~~)) (xx) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

((~~(qq)~~)) (yy) "Recognition card" has the meaning provided in RCW 69.51A.010.

((~~(rr)~~)) (zz) "Retail outlet" means a location licensed by the board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

((~~(ss)~~)) (aaa) "Secretary" means the secretary of health or the secretary's designee.

((~~(tt)~~)) (bbb) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

((~~(uu)~~)) (ccc) "Synthetically derived cannabinoid" means any cannabinoid that is altered by a chemical reaction that changes the molecular structure of any natural cannabinoid derived from the plant *Cannabis* to another cannabinoid found naturally in the plant *Cannabis*.

(ddd)(1) "Tetrahydrocannabinol" or "THC" includes all tetrahydrocannabinols that are artificially, synthetically, or naturally derived, including but not limited to delta-8 tetrahydrocannabinol, delta-9 tetrahydrocannabinol, delta-10 tetrahydrocannabinol, THCv tetrahydrocannabivarin, THCP tetrahydrocannabiphorol, THC-O-Acetate, and the optical isomers of THC cannabinoids.

(2) Notwithstanding (1) of this subsection, tetrahydrocannabinol includes concentrated resins or cannabinoids, and the products thereof, produced from the plant *Cannabis*, whether or not the cannabinoids were derived from a marijuana plant containing a THC concentration greater than 0.3 percent on a dry weight basis.

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

((~~(vv)~~)) (fff) "Total THC" means the sum of the percentage, by weight or volume measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus, the percentage by weight or volume measurement of tetrahydrocannabinol.

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

((~~(ww)~~)) (hhh) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

((~~(xx)~~)) (iii) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

NEW SECTION. **Sec.**  A new section is added to chapter 69.50 RCW to read as follows:

(a) Products containing or consisting of cannabinoids produced and processed for any type of consumption into a human body, whether marketed as such or not, exceeding 0.3 percent THC on a dry weight basis, that contains more than 0.5 milligrams per serving or two milligrams total in the packaged product of a cannabinoid that may be impairing, may only be sold by a marijuana producer, marijuana processor, or marijuana retailer licensed by the board unless authorized as a drug by the federal food and drug administration.

(b) All products containing cannabinoids described in subsection (a) of this section, or cannabinoid products marketed as having impairing effects, are within the scope of regulatory authority of the board under this chapter, except those authorized as a drug by the federal food and drug administration.

(c) Sale of products identified in subsection (a) of this section is prohibited unless conducted by a business holding a valid marijuana producer, marijuana processor, or marijuana retailer license issued by the board.

(d) Products meeting any of the criteria identified in this subsection may only be sold if such a sale is in compliance with rules adopted by the board after the board has consulted with the department of health and the department of agriculture. Products subject to this requirement are:

(1) Products containing cannabinoids that may be impairing;

(2) Products that contain greater than 0.3 percent THC on a dry weight basis; and

(3) Products that contain 0.5 or more milligrams per serving or two or more milligrams total in the packaged product of any cannabinoid that may be impairing.

(e) Products identified in subsection (d) of this section may not be sold to persons under 21 years of age, except for those in compliance with provisions of chapter 69.51A RCW.

(f) The requirement provided in subsection (d) of this section does not apply to delta-9 THC products approved by the board prior to January 1, 2022.

(g) Cannabis health and beauty aids compliant with RCW 69.50.575 are not subject to the provisions of subsections (a) through (d) of this section.

(h) Manufacturing and sales of artificial cannabinoids is prohibited.

**Sec.**  RCW 69.50.325 and 2020 c 236 s 6 are each amended to read as follows:

(1) There shall be a marijuana producer's license regulated by the board and subject to annual renewal. The licensee is authorized to produce, prepare, and propagate marijuana grown from seeds or clones of natural origin: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process marijuana, from the plant *Cannabis* of natural origin and grown by a licensed producer, unless sourced and used as an additive in accordance with RCW 69.50.326, and compound or convert marijuana products from marijuana grown by a licensed marijuana producer as specified by the board by rule, and prepare, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products, which contain greater than 0.5 milligrams per serving of a cannabinoid that may be impairing, for sale at wholesale to marijuana processors and marijuana retailers, regulated by the board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products, and other products containing greater than 0.5 milligrams per serving of a cannabinoid that may be impairing at retail in retail outlets, regulated by the board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the board pursuant to this section.

(ii) The board shall adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after July 23, 2017. However, no license of a marijuana retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first nine calendar months of July 23, 2017.

(v) The board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail marijuana business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits the opening of a retail marijuana business; or

(B) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed marijuana retailer from becoming operational.

(d) The board may issue marijuana retailer licenses pursuant to this chapter and RCW 69.50.335.

**Sec.**  RCW 69.50.326 and 2018 c 132 s 1 are each amended to read as follows:

(1) Licensed marijuana producers and licensed marijuana processors may use ((~~a~~)) CBD ((~~product~~)), other nonimpairing cannabinoids, or nonimpairing plant *Cannabis* isolates as ((~~an~~)) additives for the purpose of enhancing the ((~~cannabidiol~~)) nonimpairing cannabinoid concentration of any product authorized for production, processing, and sale under this chapter. Except as otherwise provided in subsection (2) of this section, such ((~~CBD product additives~~)) cannabinoid products or isolates must be lawfully produced by a licensed marijuana producer, or purchased from((~~,~~)) a producer or processor licensed under this chapter.

(2) Subject to the requirements set forth in (a) ((~~and (b)~~)) through (d) of this subsection, and for the sole purpose of enhancing the ((~~cannabidiol~~)) nonimpairing cannabinoid concentration of any product authorized for production, processing, or sale under this chapter, licensed marijuana producers and licensed marijuana processors may use a CBD or other nonimpairing cannabinoid product obtained from a source not licensed under this chapter, provided the CBD or other nonimpairing cannabinoid product:

(a) Has a THC level of 0.3 percent or less on a dry weight basis and does not contain greater than 0.5 milligrams per serving of any cannabinoid that may be impairing; ((~~and~~))

(b) Has ((~~been tested for~~)) passed pesticide, heavy metals, contaminants, and toxins testing by a testing laboratory accredited under this chapter and in accordance with testing standards established under this chapter and the applicable administrative rules;

(c) Is accompanied by a disclosure statement describing production methods including, but not limited to, solvent use, catalyst use, and synthesis methods; and

(d) Is only added to a product authorized for production, processing, or sale under this chapter, and is not further processed or converted into a substance that may be impairing.

(3) Subject to the requirements of this subsection (3), the ((~~liquor and cannabis~~)) board may enact rules necessary to implement the requirements of this section. Such rule making ((~~is limited to~~)) includes regulations pertaining to laboratory testing and product safety standards for ((~~those~~)) naturally and synthetically derived cannabidiol or other nonimpairing cannabinoid products used by licensed producers and processors in the manufacture of marijuana products marketed by licensed retailers under this chapter ((~~69.50 RCW~~)). Any synthetically derived cannabinoid used by licensed producers and processors in the manufacture of marijuana products marketed by licensed retailers under this chapter must be in compliance with rules adopted by the board, prior to manufacturing and sale to other licensees. Rule making by the board pertaining to any synthetically derived cannabinoid must be in consultation with the department of health and the department of agriculture. The purpose of such rule making must be to ensure the safety and purity of cannabidiol and other nonimpairing cannabinoid products used by marijuana producers and processors licensed under this chapter ((~~69.50 RCW~~)) and incorporated into products sold by licensed recreational marijuana retailers. This rule-making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under this chapter ((~~69.50 RCW~~)).

(4) Licensed marijuana producers and licensed marijuana processors may not use any artificial cannabinoids, as defined in this chapter, as an additive to any product authorized for production, processing, and sale under this chapter.

(5) Licensed marijuana producers and licensed marijuana processors must disclose on packaging and labeling all synthetically derived cannabinoids contained in products, and may not make any statements or claims on packaging, labeling, or advertising, indicating those cannabinoids are a natural substance.

(6) The board must revise rules as appropriate to conform to the terminology described in this act.

**Sec.**  RCW 69.50.342 and 2020 c 133 s 3 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters;

(m) The prohibition of any type of device used in conjunction with a marijuana vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of marijuana products, including marijuana vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; ((~~and~~))

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each marijuana vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each marijuana vapor product; and

(o) The production, processing, transportation, delivery, sale, and purchase of naturally derived cannabinoids or synthetically derived cannabinoids. This rule-making authority does not include authority to adopt rules on activities identified in this subsection (1)(o) related to:

(i) Hemp or products derived from hemp as defined in RCW 15.140.020, except products intended for use by a licensee as provided in this chapter; or

(ii) Products authorized as a drug by the federal food and drug administration.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed marijuana businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed marijuana businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

**Sec.**  RCW 69.50.363 and 2015 c 207 s 7 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the ((~~state liquor control~~)) board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under chapter 3, Laws of 2013;

(2) Compound or convert marijuana products from marijuana grown by a licensed marijuana producer, as specified by the board by rule. This section does not authorize compounding or converting hemp into cannabinoids that may be impairing for creation of marijuana products from hemp, except as authorized under RCW 69.50.326;

(3) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the ((~~state liquor control~~)) board under RCW 69.50.345(4);

((~~(3)~~)) (4) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under chapter 3, Laws of 2013; and

((~~(4)~~)) (5) Delivery, distribution, and sale of useable marijuana, marijuana concentrates, or marijuana-infused products to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

**Sec.**  RCW 69.50.455 and 2015 2nd sp.s. c 4 s 1201 are each amended to read as follows:

(1) ((~~It~~)) Except as authorized under section 3 of this act and RCW 69.50.326, it is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any synthetic cannabinoid. The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business.

(2) ((~~"Synthetic~~)) For the purposes of this section, "synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204(c)(30) or by the pharmacy quality assurance commission under RCW 69.50.201.

**Sec.**  RCW 69.50.375 and 2015 c 70 s 10 are each amended to read as follows:

(1) A medical marijuana endorsement to a marijuana retail license is hereby established to permit a marijuana retailer to sell marijuana for medical use to qualifying patients and designated providers. This endorsement also permits such retailers to provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.

(2) An applicant may apply for a medical marijuana endorsement concurrently with an application for a marijuana retail license.

(3) To be issued an endorsement, a marijuana retailer must:

(a) Not authorize the medical use of marijuana for qualifying patients at the retail outlet or permit health care professionals to authorize the medical use of marijuana for qualifying patients at the retail outlet;

(b) Carry marijuana concentrates and marijuana-infused products identified by the department under subsection (4) of this section;

(c) Not use labels or market marijuana concentrates, useable marijuana, or marijuana-infused products in a way that make them intentionally attractive to minors;

(d) Demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana authorization database established in RCW 69.51A.230 and issue recognition cards and agree to enter qualifying patients and designated providers into the database and issue recognition cards in compliance with department standards;

(e) Keep copies of the qualifying patient's or designated provider's recognition card, or keep equivalent records as required by rule of the state liquor and cannabis board or the department of revenue to document the validity of tax exempt sales; and

(f) Meet other requirements as adopted by rule of the department or the state liquor and cannabis board.

(4) ((~~The~~)) Subject to subsection (5) of this section, the department, in conjunction with the state liquor and cannabis board, must adopt rules on requirements for marijuana concentrates, useable marijuana, and marijuana-infused products that may be sold, or provided at no charge, to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement. These rules must include:

(a) THC concentration, CBD concentration, or low THC, high CBD ratios appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients or designated providers;

(b) Labeling requirements including that the labels attached to marijuana concentrates, useable marijuana, or marijuana-infused products contain THC concentration, CBD concentration, and THC to CBD ratios;

(c) Other product requirements, including any additional mold, fungus, or pesticide testing requirements, or limitations to the types of solvents that may be used in marijuana processing that the department deems necessary to address the medical needs of qualifying patients;

(d) Safe handling requirements for marijuana concentrates, useable marijuana, or marijuana-infused products; and

(e) Training requirements for employees.

(5) Artificial cannabinoids and synthetically derived cannabinoids are prohibited in the marijuana concentrates, useable marijuana, and marijuana-infused products that may be approved, labeled, or represented as complying with requirements adopted by the department under subsection (4) of this section.

(6) A marijuana retailer holding an endorsement to sell marijuana to qualifying patients or designated providers must train its employees on:

(a) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization database;

(b) Recognition of valid recognition cards; and

(c) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, useable marijuana, and marijuana-infused products, available for sale when assisting qualifying patients and designated providers at the retail outlet.

**Sec.**  RCW 82.08.9998 and 2019 c 393 s 4 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, that do not contain any artificial cannabinoids as defined in RCW 69.50.101 or synthetically derived cannabinoids as defined in RCW 69.50.101 and that are identified by the department of health in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by marijuana retailers with medical marijuana endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been issued recognition cards by marijuana retailers with medical marijuana endorsements;

(c) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.280;

(e)(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an individual member of the cooperative in which the individual is a member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.08.020 on any purchase of property or services contributed to the cooperative.

(2) Each seller making exempt sales under subsection (1) of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

(3) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.250.

(b) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer permitted under RCW 69.50.375 to sell marijuana for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," "marijuana," "marijuana concentrates," "useable marijuana," "marijuana retailer," and "marijuana-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010.

**Sec.**  RCW 82.12.9998 and 2019 c 393 s 5 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, that do not contain any artificial cannabinoids as defined in RCW 69.50.101 or synthetically derived cannabinoids as defined in RCW 69.50.101 and that are identified by the department of health in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(b) The use of products containing THC with a THC concentration of 0.3 percent or less by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(c)(i) Marijuana retailers with a medical marijuana endorsement with respect to:

(A) Marijuana concentrates, useable marijuana, or marijuana-infused products; or

(B) Products containing THC with a THC concentration of 0.3 percent or less;

(ii) The exemption in this subsection (1)(c) applies only if such products are provided at no charge to a qualifying patient or designated provider who has been issued a recognition card. Each such retailer providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(d) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, purchased from marijuana retailers with a medical marijuana endorsement.

(e) Health care professionals with respect to the use of products containing THC with a THC concentration of 0.3 percent or less provided at no charge by the health care professionals under RCW 69.51A.280. Each health care professional providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(f) The use of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by qualifying patients when purchased from or provided at no charge by a health care professional under RCW 69.51A.280.

(g) The use of:

(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a cooperative and its members, when produced by the cooperative; and

(ii) Any nonmonetary resources and labor by a cooperative when contributed by its members. However, nothing in this subsection (1)(g) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.12.020 on the use of any property or services purchased by the member and contributed to the cooperative.

(2) The definitions in RCW 82.08.9998 apply to this section.

NEW SECTION. **Sec.**  This act takes effect July 1, 2022.

**--- END ---**