
SENATE BILL 5365

State of Washington

67th Legislature

2021 Regular Session

By Senators Stanford, Conway, Das, Keiser, and Nguyen

Read first time 01/27/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

1 AN ACT Relating to establishing a Washington state cannabis
2 commission; amending RCW 41.06.070 and 82.04.270; adding a new
3 section to chapter 82.04 RCW; and adding a new chapter to Title 69
4 RCW.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the board
7 exists to promote safe communities and public safety. However, there
8 is no agency to promote the growth and development of the cannabis
9 industry within the state. The legislature therefore declares:

10 (1) The Washington state cannabis commission is established to
11 benefit the people of the state of Washington and its economy;

12 (2) The production of cannabis in the state is a new and
13 important segment of Washington industry, that has potential for
14 greater contribution to the economy of the state if it undergoes safe
15 and healthy development;

16 (3) The general welfare of the people of the state will be served
17 by the development of the safe growing and processing activities of
18 cannabis. The industry is therefore affected with the public
19 interest;

20 (4) Creation of a Washington state cannabis commission for the
21 public purpose of administering the revenue of the commission for the

1 enhancement of the safe production of cannabis will materially
2 advance the industries of growing and processing cannabis and thereby
3 the interests of the citizens of the state; and

4 (5) The commerce of cannabis grown, produced, and processed in
5 the state will contribute substantial benefits to the economy of the
6 state, provide a large number of jobs, sizeable tax revenues, and
7 have an important stabilizing effect on prices received by cannabis
8 producers. The sale and distribution are therefore affected with the
9 public interest.

10 NEW SECTION. **Sec. 2.** To develop and promote cannabis and
11 cannabis products as part of an existing comprehensive scheme to
12 regulate those products, the legislature declares that:

13 (1) Cannabis producers operate within a regulatory environment
14 that imposes burdens on them for the benefit of society and the
15 citizens of the state, including restrictions on marketing autonomy;

16 (2) It is in the overriding public interest that support of the
17 legal cannabis industry be clearly expressed and that cannabis and
18 cannabis products be promoted individually, and as part of a
19 comprehensive industry to:

20 (a) Protect the public by educating the public in reference to
21 the quality, care, and methods used in the production of cannabis and
22 cannabis products;

23 (b) Increase the knowledge and qualities and value of
24 Washington's cannabis and cannabis products; and

25 (c) Support and engage in programs or activities that benefit the
26 safe production, handling, processing, marketing, and uses of
27 cannabis and cannabis products; and

28 (3) The production and marketing of cannabis is a highly
29 regulated industry and this chapter and the rules adopted under it
30 are only one aspect of the regulated industry. Other laws applicable
31 to the cannabis industry include:

32 (a) Chapter 15.130 RCW, the food safety and security act;

33 (b) Chapter 15.125 RCW, marijuana and marijuana products;

34 (c) Title 66 RCW, alcoholic beverage control;

35 (d) Title 69 RCW, food, drugs, cosmetics, and poisons; and

36 (e) Chapter 82.08 RCW, retail sales tax.

1 NEW SECTION. **Sec. 3.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Board" means the liquor and cannabis board.

5 (2) "Cannabis" has the meaning provided for the term "marijuana"
6 in RCW 69.50.101.

7 (3) "Commission" means the Washington state cannabis commission
8 established by this chapter.

9 (4) "Cooperative" means a group of more than one, but no more
10 than four qualified medical marijuana patients or designated
11 providers who share responsibility for growing and processing
12 marijuana only for the medical use of the members of the cooperative
13 as provided in RCW 69.51A.250.

14 (5) "Director" means the director of the board or the director's
15 designee.

16 (6) "District" means each of the geographical divisions of the
17 state of Washington established under section 6 of this act.

18 (7) "Fiscal year" means the twelve-month period beginning July
19 1st of any year and ending June 30th.

20 (8) "Interested parties" means governmental departments,
21 agencies, and bodies at the federal, state, or local levels, as well
22 as universities, national and international associations, and other
23 public and private sector organizations with an interest in cannabis-
24 related matters.

25 (9) "Processor" means any person or legal entity holding in its
26 name a marijuana processor license issued by the board.

27 (10) "Producer" means any person or legal entity holding in its
28 name a marijuana producer license issued by the board, regardless of
29 whether the same holder has been issued a processor license by the
30 board.

31 (11) "Retailer" means any person or legal entity holding a
32 marijuana retail license issued by the board.

33 (12) "Testing laboratory" means any laboratory accredited to
34 conduct cannabis-related analysis.

35 (13) "Tier" means any of the production licensing categories
36 established by rule of the board.

37 NEW SECTION. **Sec. 4.** The Washington state cannabis commission
38 is established to:

- 1 (1) Establish plans and conduct programs for cannabis-related
2 matters;
- 3 (2) Provide for conducting research as provided in commission
4 rules;
- 5 (3) Cooperate with and act in an advisory capacity to local,
6 state, and federal agencies or other interested parties with respect
7 to cannabis-related matters within the scope of the powers and
8 purposes of the commission and as described in commission rules;
- 9 (4) Cooperate with other interested parties toward standardizing
10 methods by which to identify and determine the genetics, strains,
11 cultivars, phenotypes, standards, and grades of cannabis and advise
12 on packaging and labeling requirements with respect to the same;
- 13 (5) Conduct reviews, surveys, and inquiries regarding market
14 metrics and analytics, including trends, revenues, profitability,
15 projections, production, business practices, and other economic
16 drivers of the industry;
- 17 (6) Inform and advise producers in all matters regarding cannabis
18 including, but not limited to, educational information on its
19 cultivation, usage, risks, and related technical and scientific
20 developments;
- 21 (7) Provide cannabis-related education and training to producers,
22 processors, researchers, and their employees, including health and
23 safety information;
- 24 (8) Provide information and services for meeting resource
25 conservation objectives of producers;
- 26 (9) Assist and cooperate with local, state, or federal government
27 agencies in the investigation and control of pests, diseases, and
28 other factors that could adversely affect the cultivation, quality,
29 or safety of Washington-produced cannabis;
- 30 (10) Advance knowledge and practice of the production of cannabis
31 in this state through the research and testing of methods to improve
32 pest management, worker protection and safety training, energy
33 efficiency, and environmental protection;
- 34 (11) Foster economic conditions favorable to investment in the
35 production of Washington cannabis consistent with state and federal
36 laws;
- 37 (12) Limit youth access and youth exposure to cannabis;
- 38 (13) Encourage favorable legislative and regulatory treatment of
39 Washington cannabis; and

1 (14) Enable cannabis producers of this state, with the aid of the
2 state to:

3 (a) Develop and engage in research including, but not limited to,
4 discovering better and more efficient production, irrigation, odor
5 mitigation, processing, transportation, handling, packaging, and
6 utilization of cannabis commodities;

7 (b) Provide for uniform grading and proper preparation of
8 cannabis commodities for market;

9 (c) Protect the interest of consumers and the state by advising
10 on the overall production of cannabis to assure a balanced,
11 sufficient, and wholesome supply of cannabis commodities of good
12 quality at all seasons and times;

13 (d) Discover and develop new and improved cultivars for the
14 reliable and economical production of cannabis in the state; and

15 (e) Advance knowledge and the practices of processing cannabis in
16 the state.

17 NEW SECTION. **Sec. 5.** The commission may:

18 (1) Elect a chair and other officers by a majority vote of the
19 commission or as contained in bylaws adopted by the commission;

20 (2) Adopt, rescind, and amend bylaws and other internal rules of
21 governance necessary for the administration and operation of the
22 commission and for carrying out its duties under this chapter;

23 (3) Administer, enforce, direct, and control the provisions of
24 this chapter;

25 (4) Employ and discharge at its discretion such administrators,
26 staff, professional consultants and service providers, and other
27 persons and firms that it may deem appropriate;

28 (5) Designate a public records officer, rules coordinator, and
29 other representatives required by the laws governing state agencies
30 and commissions;

31 (6) Comply with all other laws applicable to state agencies and
32 commissions;

33 (7) Acquire personal property and purchase or lease office space
34 and other necessary real property and transfer and convey the same;

35 (8) Institute and maintain in its own name any and all legal
36 actions, including actions by injunction, mandatory injunction, or
37 civil recovery, or proceedings before administrative tribunals or
38 other governmental authorities necessary to carry out this chapter;

1 (9) Keep accurate records of all its receipts and disbursements,
2 which records must be open to inspection and audit by the state
3 auditor or private auditor designated by the state auditor at least
4 every five years and at any time by a duly appointed internal auditor
5 upon a majority vote of the commission;

6 (10) Make necessary disbursements for routine operating expenses;

7 (11) Expend funds for all activities, projects, and undertakings
8 of the commission permitted under this chapter, including but not
9 limited to cannabis-related education and training programs for
10 producers, processors, researchers, or their employees;

11 (12) Cooperate with other interested parties for the purposes of
12 this chapter;

13 (13) Serve as liaison with the board and all other interested
14 parties on behalf of the commission and not for any individual
15 producer or processor;

16 (14) Enter into contracts or cooperative agreements for research
17 as provided in this chapter;

18 (15) Enter into contracts or interagency agreements with any
19 other interested parties to carry out this chapter in accordance with
20 applicable provisions of Title 39 RCW;

21 (16) Solicit, accept, and expend or retain any gifts, bequests,
22 contributions, or grants from private persons or public agencies to
23 carry out this chapter;

24 (17) Retain in emergent situations the services of private legal
25 counsel to conduct legal actions on behalf of the commission,
26 provided that the retention of a private attorney is subject to the
27 appointment or approval by the office of the state attorney general;

28 (18) Engage in appropriate activities and events for the purpose
29 of supporting activities of the commission authorized by this
30 chapter;

31 (19) Participate in international, federal, state, and local
32 hearings, meetings, and other proceedings in all matters relating to
33 cannabis, including without limitation the production, irrigation,
34 manufacture, regulation, transportation, distribution, sale, or use
35 of cannabis including activities authorized under RCW 42.17A.635, and
36 the reporting of those activities to the public disclosure
37 commission;

38 (20) Obtain from the board a list of the names and addresses of
39 producers, processors, and retailers, and such other available data
40 from the state as requested by the commission to be used to

1 disseminate information among and solicit the opinions of producers
2 with respect to the discharge of the duties of the commission,
3 directly, or by arrangement with trade associations or other
4 instrumentalities;

5 (21) Acquire, create, develop, and own intellectual property
6 rights, licenses, and patents and to collect royalties resulting from
7 the sale or licensing of commission-funded research, provided all
8 results and recommendations from research conducted or funded by the
9 commission must be available to all producers without charge, except
10 for reasonable out-of-pocket costs as the commission may determine;

11 (22) Speak on behalf of the Washington state government with
12 regard to cannabis producers, and processors, subject to oversight of
13 the director;

14 (23) Possess cannabis products for the limited purposes of
15 section 4 of this act;

16 (24) Adopt rules to implement this chapter;

17 (25) Exercise other powers and duties necessary to carry out this
18 chapter.

19 NEW SECTION. **Sec. 6.** (1) The commission shall consist of 13
20 voting members appointed by the director: Eight producer members from
21 the districts; one statewide at-large producer member; one statewide
22 tier one or equally small producer member; one statewide tier two or
23 equally medium producer member; one statewide tier three or equally
24 large producer member; and the director.

25 (2) A nonvoting advisory council is created to assist the
26 commission. The director must appoint the following to the advisory
27 council: One board representative, one processor only member, one
28 retailer member, and one testing laboratory member.

29 (3) Each member of the commission and the advisory council other
30 than the director and the board representative must:

31 (a) Be 21 years of age or older;

32 (b) Be a citizen and resident of this state;

33 (c) Directly hold or be a named owner in whole or in majority
34 part of an entity holding the relevant business license issued by the
35 board. This license must not be suspended at the time of nomination,
36 election, or appointment;

37 (d) Be engaged in the production of cannabis within the state of
38 Washington for a period of three years and have, during that period,
39 derived a substantial portion of their income therefrom. Any assignee

1 by a licensee must be and have been, either individually or as an
2 officer or employee of a corporation, firm, partnership, association,
3 or cooperative, actually engaged in producing cannabis within the
4 state of Washington for a period of three years and have, during that
5 period, derived a substantial portion of their income therefrom; and

6 (e) Continue to meet all membership qualifications throughout the
7 member's term.

8 (4) Producer members in voting positions must be producers with
9 production facilities in the district in which they are nominated and
10 elected. Producer members elected to at-large positions may be from
11 any district.

12 (a) District one, positions one and two, comprises the counties
13 of Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and
14 Whatcom.

15 (b) District two, positions three and four, comprises the
16 counties of Chelan, Douglas, Ferry, Grand, Kittitas, Okanogan, Pend
17 Oreille, and Stevens.

18 (c) District three, positions five and six, comprises the
19 counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield,
20 Lincoln, Spokane, Walla Walla, Whitman, and Yakima.

21 (d) District four, positions seven and eight, comprises the
22 counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis,
23 Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

24 (5) Commission members serve three-year terms. Of the initial
25 members, four must be appointed by the director for a one-year term,
26 four must be appointed by the director for a two-year term, and four
27 must be appointed by the director for a three-year term. Thereafter,
28 commission members other than the director must be elected by a vote
29 of active producers in each district for three-year terms. The
30 initial members must be considered from a pool of self-nominated
31 active producers from each district under this section.

32 (6) If a vacancy occurs on the board, the commission must provide
33 a nomination to the director who must immediately appoint a
34 replacement.

35 (7) When making initial appointments and replacement
36 appointments, the director must consider appointments based upon
37 maintaining a balanced and diverse distribution of members based on
38 race, ethnicity, geographic location, gender identity, sexual
39 orientation, and age, where practicable.

1 (8) Nine voting members of the commission constitute a quorum for
2 the transaction of any commission business.

3 (9) Each member or employee of the commission shall be reimbursed
4 for expenses incurred in the performance of their duties in
5 accordance with RCW 43.03.050 and 43.03.060.

6 (10) Within 90 days after the effective date of this section, the
7 director must appoint the initial members of the commission.

8 NEW SECTION. **Sec. 7.** (1) The commission, before the beginning
9 of its fiscal year, must prepare and submit to the director for
10 approval its research plan, its education and training plan, and its
11 budget for that fiscal year.

12 (2) The director must review and approve or disapprove all
13 submissions described in this section in a timely manner.

14 (3) The commission must develop and submit to the director for
15 approval any plans, programs, and projects concerning, but not
16 limited to, the following:

17 (a) The establishment, issuance, effectuation, and administration
18 of appropriate programs or projects for the education of the affected
19 commodities; and

20 (b) The establishment and effectuation of research projects,
21 market development projects, or both to the end that the affected
22 cannabis and cannabis product may be encouraged, expanded, improved,
23 or made more efficient consistent with state and federal laws.

24 (4) The director must review the commission's education program
25 to ensure that no false claims are being made concerning cannabis and
26 that they are in keeping with state and federal laws.

27 NEW SECTION. **Sec. 8.** The Washington state cannabis commission
28 account is created in the state treasury. All receipts received under
29 this chapter must be deposited into the account. Moneys in the
30 account may be spent only after appropriation from the board.
31 Expenditures from the account may be used only for carrying out the
32 purposes of this chapter.

33 NEW SECTION. **Sec. 9.** The surcharge levied under section 13 of
34 this act constitutes a personal debt of every person charged or who
35 otherwise owes the surcharge, and the surcharge is due and payable on
36 behalf of the commission.

1 NEW SECTION. **Sec. 10.** (1) Financial and commercial information
2 and records submitted to either the board or the commission for the
3 purpose of administering this chapter may be shared between the board
4 and the commission. They may also be used, if required, in any suit
5 or administrative hearing involving this chapter.

6 (2) This section does not prohibit:

7 (a) The issuance of general statements based upon the reports of
8 producers subject to this chapter if the statements do not identify a
9 specific producer or licensee; or

10 (b) The publication by the director or the commission of the name
11 of a producer violating this chapter and a statement of the manner of
12 the violation by that producer.

13 NEW SECTION. **Sec. 11.** Obligations incurred by the commission
14 and any other liabilities or claims against the commission must be
15 enforced only against the assets of the commission and, except to the
16 extent of such assets, no liability for the debts or actions of the
17 commission exists against either the state of Washington or any
18 subdivision or instrumentality thereof or against any member,
19 employee, or agent of the commission or the state of Washington in
20 the person's individual capacity. Except as otherwise provided in
21 this chapter, neither the commission members, nor its employees, may
22 be held individually responsible for errors in judgment, mistakes, or
23 other acts either of commission or omission, as principal, agent,
24 person, or employee, except for their own individual acts of
25 dishonesty or crime. No person or employee may be held individually
26 responsible for any act or omission of any other commission members.
27 The liability of the commission members shall be several and not
28 joint, and no member is liable for the default of any other member.
29 This section confirms that commission members have been, and continue
30 to be, state officers, employees, or volunteers for purposes of RCW
31 4.92.075 and are entitled to the defenses, indemnifications,
32 limitations of liability, and other protections and benefits of
33 chapter 4.92 RCW.

34 NEW SECTION. **Sec. 12.** All costs incurred by the board,
35 including the adoption of rules and other actions necessary to carry
36 out this chapter, must be reimbursed by the commission. The
37 commission must provide funds to the board according to the rules
38 adopted by the director.

1 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.04
2 RCW to read as follows:

3 (1) Beginning October 1, 2021, in addition to the tax imposed
4 under RCW 82.04.270, a surcharge is imposed on persons engaging
5 within this state in the business of making wholesale sales of
6 marijuana or marijuana products. The surcharge is:

7 (a) Equal to 0.29 percent of the gross proceeds of sales at
8 wholesale of marijuana including mature marijuana plants, immature
9 marijuana plants or clones, marijuana plant tissue culture, and
10 marijuana seeds; and

11 (b) Equal to 0.145 percent of the gross proceeds of sales at
12 wholesale of marijuana products ready for a consumer.

13 (2) All receipts from the surcharge under this section must be
14 deposited into the account created in section 8 of this act.

15 (3) For purposes of this section, the terms "marijuana" and
16 "marijuana products" have the meaning provided in RCW 69.50.101.

17 (4) Any penalties or interest collected on taxes due under this
18 section must be deposited in the account in section 8 of this act.

19 (5) The provisions of chapter 82.32 RCW apply to this section.

20 **Sec. 14.** RCW 41.06.070 and 2019 c 146 s 3 are each amended to
21 read as follows:

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

23 (a) The members of the legislature or to any employee of, or
24 position in, the legislative branch of the state government including
25 members, officers, and employees of the legislative council, joint
26 legislative audit and review committee, statute law committee, and
27 any interim committee of the legislature;

28 (b) The justices of the supreme court, judges of the court of
29 appeals, judges of the superior courts or of the inferior courts, or
30 to any employee of, or position in the judicial branch of state
31 government;

32 (c) Officers, academic personnel, and employees of technical
33 colleges;

34 (d) The officers of the Washington state patrol;

35 (e) Elective officers of the state;

36 (f) The chief executive officer of each agency;

37 (g) In the departments of employment security and social and
38 health services, the director and the director's confidential
39 secretary; in all other departments, the executive head of which is

1 an individual appointed by the governor, the director, his or her
2 confidential secretary, and his or her statutory assistant directors;

3 (h) In the case of a multimember board, commission, or committee,
4 whether the members thereof are elected, appointed by the governor or
5 other authority, serve ex officio, or are otherwise chosen:

6 (i) All members of such boards, commissions, or committees;

7 (ii) If the members of the board, commission, or committee serve
8 on a part-time basis and there is a statutory executive officer: The
9 secretary of the board, commission, or committee; the chief executive
10 officer of the board, commission, or committee; and the confidential
11 secretary of the chief executive officer of the board, commission, or
12 committee;

13 (iii) If the members of the board, commission, or committee serve
14 on a full-time basis: The chief executive officer or administrative
15 officer as designated by the board, commission, or committee; and a
16 confidential secretary to the chair of the board, commission, or
17 committee;

18 (iv) If all members of the board, commission, or committee serve
19 ex officio: The chief executive officer; and the confidential
20 secretary of such chief executive officer;

21 (i) The confidential secretaries and administrative assistants in
22 the immediate offices of the elective officers of the state;

23 (j) Assistant attorneys general;

24 (k) Commissioned and enlisted personnel in the military service
25 of the state;

26 (l) Inmate, student, and temporary employees, and part-time
27 professional consultants, as defined by the director;

28 (m) Officers and employees of the Washington state fruit
29 commission;

30 (n) Officers and employees of the Washington apple commission;

31 (o) Officers and employees of the Washington state dairy products
32 commission;

33 (p) Officers and employees of the Washington tree fruit research
34 commission;

35 (q) Officers and employees of the Washington state beef
36 commission;

37 (r) Officers and employees of the Washington grain commission;

38 (s) Officers and employees of any commission formed under chapter
39 15.66 RCW;

1 (t) Officers and employees of agricultural commissions formed
2 under chapter 15.65 RCW;

3 (u) Executive assistants for personnel administration and labor
4 relations in all state agencies employing such executive assistants
5 including but not limited to all departments, offices, commissions,
6 committees, boards, or other bodies subject to the provisions of this
7 chapter and this subsection shall prevail over any provision of law
8 inconsistent herewith unless specific exception is made in such law;

9 (v) In each agency with fifty or more employees: Deputy agency
10 heads, assistant directors or division directors, and not more than
11 three principal policy assistants who report directly to the agency
12 head or deputy agency heads;

13 (w) Staff employed by the department of commerce to administer
14 energy policy functions;

15 (x) The manager of the energy facility site evaluation council;

16 (y) A maximum of ten staff employed by the department of commerce
17 to administer innovation and policy functions, including the three
18 principal policy assistants exempted under (v) of this subsection;

19 (z) Staff employed by Washington State University to administer
20 energy education, applied research, and technology transfer programs
21 under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

22 (aa) Officers and employees of the consolidated technology
23 services agency created in RCW 43.105.006 that perform the following
24 functions or duties: Systems integration; data center engineering and
25 management; network systems engineering and management; information
26 technology contracting; information technology customer relations
27 management; and network and systems security;

28 (bb) The executive director of the Washington statewide reentry
29 council;

30 (cc) Officers and employees of the Washington state cannabis
31 commission formed under chapter 69.--- RCW (the new chapter created
32 in section 16 of this act).

33 (2) The following classifications, positions, and employees of
34 institutions of higher education and related boards are hereby
35 exempted from coverage of this chapter:

36 (a) Members of the governing board of each institution of higher
37 education and related boards, all presidents, vice presidents, and
38 their confidential secretaries, administrative, and personal
39 assistants; deans, directors, and chairs; academic personnel; and
40 executive heads of major administrative or academic divisions

1 employed by institutions of higher education; principal assistants to
2 executive heads of major administrative or academic divisions; other
3 managerial or professional employees in an institution or related
4 board having substantial responsibility for directing or controlling
5 program operations and accountable for allocation of resources and
6 program results, or for the formulation of institutional policy, or
7 for carrying out personnel administration or labor relations
8 functions, legislative relations, public information, development,
9 senior computer systems and network programming, or internal audits
10 and investigations; and any employee of a community college district
11 whose place of work is one which is physically located outside the
12 state of Washington and who is employed pursuant to RCW 28B.50.092
13 and assigned to an educational program operating outside of the state
14 of Washington;

15 (b) The governing board of each institution, and related boards,
16 may also exempt from this chapter classifications involving research
17 activities, counseling of students, extension or continuing education
18 activities, graphic arts or publications activities requiring
19 prescribed academic preparation or special training as determined by
20 the board: PROVIDED, That no nonacademic employee engaged in office,
21 clerical, maintenance, or food and trade services may be exempted by
22 the board under this provision;

23 (c) Printing craft employees in the department of printing at the
24 University of Washington.

25 (3) In addition to the exemptions specifically provided by this
26 chapter, the director may provide for further exemptions pursuant to
27 the following procedures. The governor or other appropriate elected
28 official may submit requests for exemption to the office of financial
29 management stating the reasons for requesting such exemptions. The
30 director shall hold a public hearing, after proper notice, on
31 requests submitted pursuant to this subsection. If the director
32 determines that the position for which exemption is requested is one
33 involving substantial responsibility for the formulation of basic
34 agency or executive policy or one involving directing and controlling
35 program operations of an agency or a major administrative division
36 thereof, or is a senior expert in enterprise information technology
37 infrastructure, engineering, or systems, the director shall grant the
38 request. The total number of additional exemptions permitted under
39 this subsection shall not exceed one percent of the number of
40 employees in the classified service not including employees of

1 institutions of higher education and related boards for those
2 agencies not directly under the authority of any elected public
3 official other than the governor, and shall not exceed a total of
4 twenty-five for all agencies under the authority of elected public
5 officials other than the governor.

6 (4) The salary and fringe benefits of all positions presently or
7 hereafter exempted except for the chief executive officer of each
8 agency, full-time members of boards and commissions, administrative
9 assistants and confidential secretaries in the immediate office of an
10 elected state official, and the personnel listed in subsections
11 (1)(j) through (t) and (2) of this section, shall be determined by
12 the director. Changes to the classification plan affecting exempt
13 salaries must meet the same provisions for classified salary
14 increases resulting from adjustments to the classification plan as
15 outlined in RCW 41.06.152.

16 (5)(a) Any person holding a classified position subject to the
17 provisions of this chapter shall, when and if such position is
18 subsequently exempted from the application of this chapter, be
19 afforded the following rights: If such person previously held
20 permanent status in another classified position, such person shall
21 have a right of reversion to the highest class of position previously
22 held, or to a position of similar nature and salary.

23 (b) Any classified employee having civil service status in a
24 classified position who accepts an appointment in an exempt position
25 shall have the right of reversion to the highest class of position
26 previously held, or to a position of similar nature and salary.

27 (c) A person occupying an exempt position who is terminated from
28 the position for gross misconduct or malfeasance does not have the
29 right of reversion to a classified position as provided for in this
30 section.

31 **Sec. 15.** RCW 82.04.270 and 2004 c 24 s 5 are each amended to
32 read as follows:

33 (1) Upon every person engaging within this state in the business
34 of making sales at wholesale, except persons taxable as wholesalers
35 under other provisions of this chapter; as to such persons the amount
36 of tax with respect to such business shall be equal to the gross
37 proceeds of sales of such business multiplied by the rate of 0.484
38 percent.

1 (2) Upon every person engaging within this state in the business
2 of making sales at wholesale, including persons subject to the
3 surcharge under section 13 of this act, except persons otherwise
4 taxable as wholesalers under other provisions of this chapter; as to
5 such persons the amount of tax with respect to such business shall be
6 equal to the gross proceeds of sales of such business multiplied by
7 the rate of 0.484 percent.

8 NEW SECTION. **Sec. 16.** Sections 1 through 12 of this act
9 constitute a new chapter in Title 69 RCW.

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