

E2SSB 5367 - H COMM AMD

By Committee on Regulated Substances & Gaming

ADOPTED AND ENGROSSED 04/07/2023

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

3 **"Sec. 1.** RCW 15.140.020 and 2022 c 16 s 19 are each amended to
4 read as follows:

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

7 (1) "Agriculture improvement act of 2018" means sections 7605,
8 10113, 10114, and 12619 of the agriculture improvement act of 2018,
9 P.L. 115-334.

10 (2) "Cannabis" has the meaning provided in RCW 69.50.101.

11 (3) "Crop" means hemp grown as an agricultural commodity.

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

14 (5) "Department" means the Washington state department of
15 agriculture.

16 (6) "Food" has the same meaning as defined in RCW 69.07.010.

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

22 (8) "Hemp consumable" means a product that is sold or provided to
23 another person, that is:

24 (a) Made of hemp;

25 (b) Not a cannabis product, as defined in RCW 69.50.101; and

26 (c) Intended to be consumed or absorbed inside the body by any
27 means, including inhalation, ingestion, or insertion.

28 (9) "Hemp processor" means a person who takes possession of raw
29 hemp material with the intent to modify, package, or sell a
30 transitional or finished hemp product.

31 ~~((9))~~ (10) (a) "Industrial hemp" means all parts and varieties
32 of the genera *Cannabis*, cultivated or possessed by a grower, whether

1 growing or not, that contain a tetrahydrocannabinol concentration of
2 0.3 percent or less by dry weight that was grown under the industrial
3 hemp research program as it existed on December 31, 2019.

4 (b) "Industrial hemp" does not include plants of the genera
5 *Cannabis* that meet the definition of "cannabis."

6 ~~((10))~~ (11) "Postharvest test" means a test of ~~((delta-9))~~
7 tetrahydrocannabinol concentration levels of hemp after being
8 harvested based on:

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

10 (b) Other approved testing methods.

11 ~~((11))~~ (12) "Process" means the processing, compounding, or
12 conversion of hemp into hemp commodities or products.

13 ~~((12))~~ (13) "Produce" or "production" means the planting,
14 cultivation, growing, or harvesting of hemp including hemp seed.

15 **Sec. 2.** RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and
16 amended to read as follows:

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

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

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

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

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

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

31 (d) "Cannabis" means all parts of the plant *Cannabis*, whether
32 growing or not, with a THC concentration greater than 0.3 percent on
33 a dry weight basis ~~((; the seeds thereof; the resin extracted from any
34 part of the plant; and every compound, manufacture, salt, derivative,
35 mixture, or preparation of the plant, its seeds or resin. The term
36 does not include:~~

37 ~~(1) The mature stalks of the plant, fiber produced from the
38 stalks, oil or cake made from the seeds of the plant, any other
39 compound, manufacture, salt, derivative, mixture, or preparation of~~

1 ~~the mature stalks (except the resin extracted therefrom), fiber, oil,~~
2 ~~or cake, or the sterilized seed of the plant which is incapable of~~
3 ~~germination; or~~

4 ~~(2) Hemp or industrial hemp as defined in RCW 15.140.020,))~~
5 during the growing cycle through harvest and usable cannabis.
6 "Cannabis" does not include hemp or industrial hemp as defined in RCW
7 15.140.020, or seeds used for licensed hemp production under chapter
8 15.140 RCW.

9 (e) "Cannabis concentrates" means products consisting wholly or
10 in part of the resin extracted from any part of the plant *Cannabis*
11 and having a THC concentration greater than ten percent.

12 (f) "Cannabis processor" means a person licensed by the board to
13 process cannabis into cannabis concentrates, useable cannabis, and
14 cannabis-infused products, package and label cannabis concentrates,
15 useable cannabis, and cannabis-infused products for sale in retail
16 outlets, and sell cannabis concentrates, useable cannabis, and
17 cannabis-infused products at wholesale to cannabis retailers.

18 (g) "Cannabis producer" means a person licensed by the board to
19 produce and sell cannabis at wholesale to cannabis processors and
20 other cannabis producers.

21 (h) (1) "Cannabis products" means useable cannabis, cannabis
22 concentrates, and cannabis-infused products as defined in this
23 section, including any product intended to be consumed or absorbed
24 inside the body by any means including inhalation, ingestion, or
25 insertion, with any detectable amount of THC.

26 (2) "Cannabis products" also means any product containing only
27 THC content.

28 (3) "Cannabis products" does not include cannabis health and
29 beauty aids as defined in RCW 69.50.575 or products approved by the
30 United States food and drug administration.

31 (i) "Cannabis researcher" means a person licensed by the board to
32 produce, process, and possess cannabis for the purposes of conducting
33 research on cannabis and cannabis-derived drug products.

34 (j) "Cannabis retailer" means a person licensed by the board to
35 sell cannabis concentrates, useable cannabis, and cannabis-infused
36 products in a retail outlet.

37 (k) "Cannabis-infused products" means products that contain
38 cannabis or cannabis extracts, are intended for human use, are
39 derived from cannabis as defined in subsection (d) of this section,
40 and have a THC concentration no greater than ten percent. The term

1 "cannabis-infused products" does not include either useable cannabis
2 or cannabis concentrates.

3 (l) "CBD concentration" has the meaning provided in RCW
4 69.51A.010.

5 (m) "CBD product" means any product containing or consisting of
6 cannabidiol.

7 (n) "Commission" means the pharmacy quality assurance commission.

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

12 (p)(1) "Controlled substance analog" means a substance the
13 chemical structure of which is substantially similar to the chemical
14 structure of a controlled substance in Schedule I or II and:

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

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

25 (2) The term does not include:

26 (i) a controlled substance;

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

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

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

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

40 (r) "Department" means the department of health.

1 (s) "Designated provider" has the meaning provided in RCW
2 69.51A.010.

3 (t) "Dispense" means the interpretation of a prescription or
4 order for a controlled substance and, pursuant to that prescription
5 or order, the proper selection, measuring, compounding, labeling, or
6 packaging necessary to prepare that prescription or order for
7 delivery.

8 (u) "Dispenser" means a practitioner who dispenses.

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

11 (w) "Distributor" means a person who distributes.

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

23 (y) "Drug enforcement administration" means the drug enforcement
24 administration in the United States Department of Justice, or its
25 successor agency.

26 (z) "Electronic communication of prescription information" means
27 the transmission of a prescription or refill authorization for a drug
28 of a practitioner using computer systems. The term does not include a
29 prescription or refill authorization verbally transmitted by
30 telephone nor a facsimile manually signed by the practitioner.

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

34 (bb) "Immediate precursor" means a substance:

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

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

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

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

9 (dd) "Lot" means a definite quantity of cannabis, cannabis
10 concentrates, useable cannabis, or cannabis-infused product
11 identified by a lot number, every portion or package of which is
12 uniform within recognized tolerances for the factors that appear in
13 the labeling.

14 (ee) "Lot number" must identify the licensee by business or trade
15 name and Washington state unified business identifier number, and the
16 date of harvest or processing for each lot of cannabis, cannabis
17 concentrates, useable cannabis, or cannabis-infused product.

18 (ff) "Manufacture" means the production, preparation,
19 propagation, compounding, conversion, or processing of a controlled
20 substance, either directly or indirectly or by extraction from
21 substances of natural origin, or independently by means of chemical
22 synthesis, or by a combination of extraction and chemical synthesis,
23 and includes any packaging or repackaging of the substance or
24 labeling or relabeling of its container. The term does not include
25 the preparation, compounding, packaging, repackaging, labeling, or
26 relabeling of a controlled substance:

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

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

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

38 (1) Opium, opium derivative, and any derivative of opium or opium
39 derivative, including their salts, isomers, and salts of isomers,
40 whenever the existence of the salts, isomers, and salts of isomers is

1 possible within the specific chemical designation. The term does not
2 include the isoquinoline alkaloids of opium.

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

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

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

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

13 (6) Cocaine base.

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

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

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

27 (ii) "Opium poppy" means the plant of the species *Papaver*
28 *somniferum* L., except its seeds.

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

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

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

36 (mm) "Practitioner" means:

37 (1) A physician under chapter 18.71 RCW; a physician assistant
38 under chapter 18.71A RCW; an osteopathic physician and surgeon under
39 chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW
40 who is certified by the optometry board under RCW 18.53.010 subject

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (yy) "Package" means a container that has a single unit or group
27 of units.

28 (zz) "Unit" means an individual consumable item within a package
29 of one or more consumable items in solid, liquid, gas, or any form
30 intended for human consumption.

31 **Sec. 3.** RCW 69.50.326 and 2022 c 16 s 55 are each amended to
32 read as follows:

33 (1) Licensed cannabis producers and licensed cannabis processors
34 may use a CBD product as an additive for the purpose of enhancing the
35 cannabidiol concentration of any product authorized for production,
36 processing, and sale under this chapter. Except as otherwise provided
37 in subsection (2) of this section, such CBD product additives must be
38 lawfully produced by, or purchased from, a producer or processor
39 licensed under this chapter.

1 (2) Subject to the requirements set forth in (a) (~~and (b)~~)
2 through (c) of this subsection, and for the purpose of enhancing the
3 cannabidiol concentration of any product authorized for production,
4 processing, or sale under this chapter, licensed cannabis producers
5 and licensed cannabis processors may use a CBD product obtained from
6 a source not licensed under this chapter, provided the CBD product:

7 (a) (~~Has a THC level of 0.3 percent or less on a dry weight~~
8 ~~basis; and~~

9 ~~(b)~~) Is not cannabis, or a cannabis product, as defined in this
10 chapter;

11 (b) Is not a synthetic cannabinoid; and

12 (c) Has been tested for contaminants and toxins by a testing
13 laboratory accredited under this chapter and in accordance with
14 testing standards established under this chapter and the applicable
15 administrative rules.

16 (3) Subject to the requirements of this subsection (3), the board
17 may enact rules necessary to implement the requirements of this
18 section. Such rule making is limited to regulations pertaining to
19 laboratory testing and product safety standards for those cannabidiol
20 products used by licensed producers and processors in the manufacture
21 of cannabis products marketed by licensed retailers under this
22 chapter. The purpose of such rule making must be to ensure the safety
23 and purity of cannabidiol products used by cannabis producers and
24 processors licensed under this chapter and incorporated into products
25 sold by licensed recreational cannabis retailers. This rule-making
26 authority does not include the authority to enact rules regarding
27 either the production or processing practices of the industrial hemp
28 industry or any cannabidiol products that are sold or marketed
29 outside of the regulatory framework established under this chapter.

30 **Sec. 4.** RCW 69.50.346 and 2022 c 16 s 66 are each amended to
31 read as follows:

32 (1) The label on a cannabis product (~~container~~) package,
33 including cannabis concentrates, useable cannabis, or cannabis-
34 infused products, sold at retail must include:

35 (a) The business or trade name and Washington state unified
36 business identifier number of the cannabis producer and processor;

37 (b) The lot numbers of the product;

38 (c) The THC concentration and CBD concentration of the product;

1 (d) Medically and scientifically accurate and reliable
2 information about the health and safety risks posed by cannabis use;

3 (e) Language required by RCW 69.04.480; and

4 (f) A disclaimer, subject to the following conditions:

5 (i) Where there is one statement made under subsection (2) of
6 this section, or as described in subsection (5)(b) of this section,
7 the disclaimer must state "This statement has not been evaluated by
8 the State of Washington. This product is not intended to diagnose,
9 treat, cure, or prevent any disease."; and

10 (ii) Where there is more than one statement made under subsection
11 (2) of this section, or as described in subsection (5)(b) of this
12 section, the disclaimer must state "These statements have not been
13 evaluated by the State of Washington. This product is not intended to
14 diagnose, treat, cure, or prevent any disease."

15 (2)(a) For cannabis products that have been identified by the
16 department in rules adopted under RCW 69.50.375(4) in chapter 246-70
17 WAC as being a compliant cannabis product, the product label and
18 labeling may include a structure or function claim describing the
19 intended role of a product to maintain the structure or any function
20 of the body, or characterize the documented mechanism by which the
21 product acts to maintain such structure or function, provided that
22 the claim is truthful and not misleading.

23 (b) A statement made under (a) of this subsection may not claim
24 to diagnose, mitigate, treat, cure, or prevent any disease.

25 (3) The labels and labeling may not be:

26 (a) False or misleading; or

27 (b) Especially appealing to children.

28 (4) The label is not required to include the business or trade
29 name or Washington state unified business identifier number of, or
30 any information about, the cannabis retailer selling the cannabis
31 product.

32 (5) A cannabis product is not in violation of any Washington
33 state law or rule of the board solely because its label or labeling
34 contains:

35 (a) Directions or recommended conditions of use; or

36 (b) A warning describing the psychoactive effects of the cannabis
37 product, provided that the warning is truthful and not misleading.

38 (6) This section does not create any civil liability on the part
39 of the state, the board, any other state agency, officer, employee,
40 or agent based on a cannabis licensee's description of a structure or

1 function claim or the product's intended role under subsection (2) of
2 this section.

3 (7) Nothing in this section shall apply to a drug, as defined in
4 RCW 69.50.101, or a pharmaceutical product approved by the United
5 States food and drug administration.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50
7 RCW to read as follows:

8 (1) Except as otherwise provided in this chapter or as permitted
9 under an agreement between the state and a tribe entered into under
10 RCW 43.06.490, no person may manufacture, sell, or distribute
11 cannabis, cannabis concentrates, useable cannabis, or cannabis-
12 infused products, or any cannabis products without a valid license
13 issued by the board or commission.

14 (2) Except as permitted under an agreement between the state and
15 a tribe entered into under RCW 43.06.490, any person performing any
16 act requiring a license under this title, without having in force an
17 appropriate and valid license issued to the person, is in violation
18 of this chapter.

19 (3) The producing, processing, manufacturing, or sale of any
20 synthetically derived, or completely synthetic, cannabinoid is
21 prohibited, except for products approved by the United States food
22 and drug administration.

23 NEW SECTION. **Sec. 6.** Nothing in this act shall be construed to
24 require any agency to purchase a liquid chromatography-mass
25 spectrometry instrument.

26 NEW SECTION. **Sec. 7.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected."

30 Correct the title.

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