
SUBSTITUTE SENATE BILL 5318

State of Washington

66th Legislature

2019 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Rivers, Palumbo, and Wagoner)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to reforming the compliance and enforcement
2 provisions for marijuana licensees; amending RCW 69.50.342 and
3 69.50.331; reenacting and amending RCW 69.50.101; adding new sections
4 to chapter 43.05 RCW; adding new sections to chapter 69.50 RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) In the years since the creation of a legal and regulated
9 marketplace for adult use of cannabis, the industry, stakeholders,
10 and state agencies have collaborated to develop a safe, fully
11 regulated marketplace.

12 (2) As the regulated marketplace has been developing, Washington
13 residents with a strong entrepreneurial spirit have taken great
14 financial and personal risk to become licensed and part of this
15 nascent industry.

16 (3) It should not be surprising that mistakes have been made both
17 by licensees and regulators, and that both have learned from these
18 mistakes leading to a stronger, safer industry.

19 (4) While a strong focus on enforcement is an important component
20 of the regulated marketplace, a strong focus on compliance and
21 education is also critically necessary to assist licensees who strive

1 for compliance and in order to allow the board to focus its
2 enforcement priorities on those violations that directly harm public
3 health and safety.

4 (5) The risk taking entrepreneurs who are trying to comply with
5 board regulations should not face punitive consequences for mistakes
6 made during this initial phase of the industry that did not pose a
7 direct threat to public health and safety.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.05
9 RCW to read as follows:

10 (1) If, during an inspection or visit to a marijuana business
11 licensed under chapter 69.50 RCW that is not a technical assistance
12 visit, the liquor and cannabis board becomes aware of conditions that
13 are not in compliance with applicable laws and rules enforced by the
14 board and are not subject to civil penalties as provided for in
15 section 3 of this act, the board may issue a notice of correction to
16 the responsible party that includes:

17 (a) A description of the condition that is not in compliance and
18 the text of the specific section or subsection of the applicable
19 state law or rule;

20 (b) A statement of what is required to achieve compliance;

21 (c) The date by which the board requires compliance to be
22 achieved;

23 (d) Notice of the means to contact any technical assistance
24 services provided by the board or others; and

25 (e) Notice of when, where, and to whom a request to extend the
26 time to achieve compliance for good cause may be filed with the
27 board.

28 (2) A notice of correction is not a formal enforcement action, is
29 not subject to appeal, and is a public record.

30 (3) If the liquor and cannabis board issues a notice of
31 correction, it may not issue a civil penalty for the violations
32 identified in the notice of correction unless the responsible party
33 fails to comply with the notice.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.05
35 RCW to read as follows:

36 (1) The liquor and cannabis board may issue a civil penalty
37 without first issuing a notice of correction if:

1 (a) The person has previously been subject to an enforcement
2 action for the same or similar type of violation of the same statute
3 or rule or has been given previous notice of the same or similar type
4 of violation of the same statute or rule;

5 (b) Compliance is not achieved by the date established by the
6 liquor and cannabis board in a previously issued notice of correction
7 and if the board has responded to a request for review of the date by
8 reaffirming the original date or establishing a new date; or

9 (c) The violation has a probability of direct or immediate
10 relationship to public safety, as defined by the liquor and cannabis
11 board in rule.

12 (2) The liquor and cannabis board may adopt rules to implement
13 this section and section 2 of this act.

14 **Sec. 4.** RCW 69.50.342 and 2015 2nd sp.s. c 4 s 1601 are each
15 amended to read as follows:

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

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

26 (b) The books and records to be created and maintained by
27 licensees, the reports to be made thereon to the state liquor and
28 cannabis board, and inspection of the books and records;

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

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

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

3 (f) Retail outlet locations and hours of operation;

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

8 (h) Forms to be used for purposes of this chapter and chapter
9 69.51A RCW or the rules adopted to implement and enforce these
10 chapters, the terms and conditions to be contained in licenses issued
11 under this chapter and chapter 69.51A RCW, and the qualifications for
12 receiving a license issued under this chapter and chapter 69.51A RCW,
13 including a criminal history record information check. The state
14 liquor and cannabis board may submit any criminal history record
15 information check to the Washington state patrol and to the
16 identification division of the federal bureau of investigation in
17 order that these agencies may search their records for prior arrests
18 and convictions of the individual or individuals who filled out the
19 forms. The state liquor and cannabis board must require
20 fingerprinting of any applicant whose criminal history record
21 information check is submitted to the federal bureau of
22 investigation;

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

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

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

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

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

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

11 NEW SECTION. Sec. 5. A new section is added to chapter 69.50
12 RCW to read as follows:

13 (1) The board may grant a licensee's application for advice and
14 consultation as provided in RCW 69.50.342(3) and visit the licensee's
15 licensed premises in order to provide such advice and consultation.
16 Advice and consultation services are limited to the matters specified
17 in the request affecting the interpretation and applicability of the
18 standards in this chapter to the conditions, structures, machines,
19 equipment, apparatus, devices, materials, methods, means, and
20 practices in the licensee's licensed premises. The board may provide
21 for an alternative means of affording consultation and advice other
22 than on-site consultation.

23 (2) The board must make recommendations on eliminating areas of
24 concern disclosed within the scope of the on-site consultation. A
25 visit to a licensee's licensed premises may not be considered an
26 inspection or investigation under this chapter. During the visit, the
27 board may not issue notices or citations and may not assess civil
28 penalties. However, if the on-site visit discloses a violation with a
29 direct or immediate relationship to public safety and the violation
30 is not corrected, the board may investigate.

31 (3) This section does not provide immunity to a licensee who has
32 applied for consultative services from inspections or investigations
33 conducted under this chapter or from any inspection conducted as a
34 result of a complaint before, during, or after the provision of
35 consultative services.

36 (4) This section does not require an inspection of a licensee's
37 licensed premises that has been visited for consultative purposes.
38 However, if the premises are inspected after a visit, the board may
39 consider any information obtained during the consultation visit in

1 determining the nature of an alleged violation and the amount of
2 penalties to be assessed, if any.

3 (5) Rules adopted under section 6 of this act must provide that
4 violations with a direct or immediate relationship to public safety
5 discovered during the consultation visit must be corrected within a
6 specified period of time and an inspection must be conducted at the
7 end of that time period.

8 (6) All licensees requesting consultative services must be
9 advised of this section and the rules adopted by the board relating
10 to the voluntary compliance program. Information obtained by the
11 board as a result of licensee-requested consultation and training
12 services is confidential and not subject to public inspection under
13 chapter 42.56 RCW.

14 (7) The board may adopt rules on the frequency, manner, and
15 method of providing consultative services to licensees. Rules may
16 include scheduling of consultative services and prioritizing requests
17 for the services while maintaining the enforcement requirements of
18 this chapter.

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

21 (1) The board must prescribe procedures for the following:

22 (a) Issuance of written warnings or notices to correct in lieu of
23 penalties, sanctions, or other violations with respect to regulatory
24 violations that have no direct or immediate relationship to public
25 safety as defined by the board;

26 (b) Waiving any fines, civil penalties, or administrative
27 sanctions for violations, that have no direct or immediate
28 relationship to public safety, and are corrected by the licensee
29 within a reasonable amount of time as designated by the board; and

30 (c) A compliance program in accordance with chapter 43.05 RCW and
31 RCW 69.50.342, whereby licensees may request compliance assistance
32 and inspections without issuance of a penalty, sanction, or other
33 violation provided that any noncompliant issues are resolved within a
34 specified period of time.

35 (2) The board must adopt rules prescribing penalties for
36 violations of this chapter. The board:

37 (a) May establish escalating penalties for violation of this
38 chapter, provided that the cumulative effect of any such escalating
39 penalties cannot last beyond two years;

1 (b) May not include cancellation of a license for a single
2 violation or for cumulative violations, unless the board can prove by
3 a preponderance of the evidence that:

4 (i) The current or a prior administrative violation evidences:

5 (A) Diversion of marijuana product to the illicit market or sales
6 across state lines;

7 (B) Furnishing of marijuana product to minors;

8 (C) Diversion of revenue from the sale of marijuana product to
9 criminal enterprises, gangs, or cartels;

10 (D) Use of firearms in a facility licensed by the board that
11 poses a direct and significant threat to public safety; or

12 (E) Other nonmarijuana-related, criminal behavior; or

13 (ii) The licensee has engaged in a pattern and practice of
14 intentional and flagrant disregard of the law;

15 (c) May include cancellation of a license for cumulative
16 violations only if a marijuana licensee commits at least four
17 violations within a two-year period of time;

18 (d) Must consider aggravating and mitigating circumstances and
19 deviate from the prescribed penalties accordingly, and must authorize
20 enforcement officers to do the same, provided that such penalty may
21 not exceed the maximum escalating penalty prescribed by the board for
22 that violation; and

23 (e) May not issue a violation if there is misconduct by an
24 employee that was unpreventable and the licensee took reasonable
25 actions to address the misconduct. The possible range of actions to
26 address the misconduct may include additional education and training,
27 or possible termination for serious or repeated misconduct.

28 **Sec. 7.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to
29 read as follows:

30 (1) For the purpose of considering any application for a license
31 to produce, process, research, transport, or deliver marijuana,
32 useable marijuana, marijuana concentrates, or marijuana-infused
33 products subject to the regulations established under RCW 69.50.385,
34 or sell marijuana, or for the renewal of a license to produce,
35 process, research, transport, or deliver marijuana, useable
36 marijuana, marijuana concentrates, or marijuana-infused products
37 subject to the regulations established under RCW 69.50.385, or sell
38 marijuana, the (~~state liquor and cannabis~~) board must conduct a

1 comprehensive, fair, and impartial evaluation of the applications
2 timely received.

3 (a) The (~~state liquor and cannabis~~) board may cause an
4 inspection of the premises to be made, and may inquire into all
5 matters in connection with the construction and operation of the
6 premises. For the purpose of reviewing any application for a license
7 and for considering the denial, suspension, revocation, cancellation,
8 or renewal or denial thereof, of any license, the (~~state liquor and~~
9 ~~cannabis~~) board may consider any prior administrative violation
10 history record with the board or prior criminal (~~conduct~~) arrests
11 or convictions of the applicant (~~including an administrative~~
12 ~~violation history record with the state liquor and cannabis board~~)
13 and a criminal history record information check. The (~~state liquor~~
14 ~~and cannabis~~) board may submit the criminal history record
15 information check to the Washington state patrol and to the
16 identification division of the federal bureau of investigation in
17 order that these agencies may search their records for prior arrests
18 and convictions of the individual or individuals who filled out the
19 forms. The (~~state liquor and cannabis~~) board must require
20 fingerprinting of any applicant whose criminal history record
21 information check is submitted to the federal bureau of
22 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
23 RCW do not apply to these cases. Subject to the provisions of this
24 section, the (~~state liquor and cannabis~~) board may, in its
25 discretion, grant or deny the renewal or license applied for. Denial
26 may be based on, without limitation, the existence of chronic illegal
27 activity documented in objections submitted pursuant to subsections
28 (7)(c) and (10) of this section. Authority to approve an uncontested
29 or unopposed license may be granted by the (~~state liquor and~~
30 ~~cannabis~~) board to any staff member the board designates in writing.
31 Conditions for granting this authority must be adopted by rule.

32 (b) No license of any kind may be issued to:

33 (i) A person under the age of twenty-one years;

34 (ii) A person doing business as a sole proprietor who has not
35 lawfully resided in the state for at least six months prior to
36 applying to receive a license;

37 (iii) A partnership, employee cooperative, association, nonprofit
38 corporation, or corporation unless formed under the laws of this
39 state, and unless all of the members thereof are qualified to obtain
40 a license as provided in this section; or

1 (iv) A person whose place of business is conducted by a manager
2 or agent, unless the manager or agent possesses the same
3 qualifications required of the licensee.

4 (2)(a) The (~~state liquor and cannabis~~) board may, in its
5 discretion, subject to (~~the provisions of~~) sections 2 and 3 of this
6 act, RCW 69.50.334, and 69.50.342(3) suspend or cancel any license;
7 and all protections of the licensee from criminal or civil sanctions
8 under state law for producing, processing, researching, or selling
9 marijuana, marijuana concentrates, useable marijuana, or marijuana-
10 infused products thereunder must be suspended or terminated, as the
11 case may be.

12 (b) The (~~state liquor and cannabis~~) board must immediately
13 suspend the license of a person who has been certified pursuant to
14 RCW 74.20A.320 by the department of social and health services as a
15 person who is not in compliance with a support order. If the person
16 has continued to meet all other requirements for reinstatement during
17 the suspension, reissuance of the license is automatic upon the
18 (~~state liquor and cannabis~~) board's receipt of a release issued by
19 the department of social and health services stating that the
20 licensee is in compliance with the order.

21 (c) The (~~state liquor and cannabis~~) board may request the
22 appointment of administrative law judges under chapter 34.12 RCW who
23 shall have power to administer oaths, issue subpoenas for the
24 attendance of witnesses and the production of papers, books,
25 accounts, documents, and testimony, examine witnesses, (~~and to~~)
26 receive testimony in any inquiry, investigation, hearing, or
27 proceeding in any part of the state, and consider mitigating and
28 aggravating circumstances in any case and deviate from any prescribed
29 penalty, under rules (~~and regulations~~) the (~~state liquor and~~
30 ~~cannabis~~) board may adopt.

31 (d) Witnesses must be allowed fees and mileage each way to and
32 from any inquiry, investigation, hearing, or proceeding at the rate
33 authorized by RCW 34.05.446. Fees need not be paid in advance of
34 appearance of witnesses to testify or to produce books, records, or
35 other legal evidence.

36 (e) In case of disobedience of any person to comply with the
37 order of the (~~state liquor and cannabis~~) board or a subpoena issued
38 by the (~~state liquor and cannabis~~) board, or any of its members, or
39 administrative law judges, or on the refusal of a witness to testify
40 to any matter regarding which he or she may be lawfully interrogated,

1 the judge of the superior court of the county in which the person
2 resides, on application of any member of the board or administrative
3 law judge, compels obedience by contempt proceedings, as in the case
4 of disobedience of the requirements of a subpoena issued from said
5 court or a refusal to testify therein.

6 (3) Upon receipt of notice of the suspension or cancellation of a
7 license, the licensee must forthwith deliver up the license to the
8 (~~state liquor and cannabis~~) board. Where the license has been
9 suspended only, the (~~state liquor and cannabis~~) board must return
10 the license to the licensee at the expiration or termination of the
11 period of suspension. The (~~state liquor and cannabis~~) board must
12 notify all other licensees in the county where the subject licensee
13 has its premises of the suspension or cancellation of the license;
14 and no other licensee or employee of another licensee may allow or
15 cause any marijuana, marijuana concentrates, useable marijuana, or
16 marijuana-infused products to be delivered to or for any person at
17 the premises of the subject licensee.

18 (4) Every license issued under this chapter is subject to all
19 conditions and restrictions imposed by this chapter or by rules
20 adopted by the (~~state liquor and cannabis~~) board to implement and
21 enforce this chapter. All conditions and restrictions imposed by the
22 (~~state liquor and cannabis~~) board in the issuance of an individual
23 license must be listed on the face of the individual license along
24 with the trade name, address, and expiration date.

25 (5) Every licensee must post and keep posted its license, or
26 licenses, in a conspicuous place on the premises.

27 (6) No licensee may employ any person under the age of twenty-one
28 years.

29 (7) (a) Before the (~~state liquor and cannabis~~) board issues a
30 new or renewed license to an applicant it must give notice of the
31 application to the chief executive officer of the incorporated city
32 or town, if the application is for a license within an incorporated
33 city or town, or to the county legislative authority, if the
34 application is for a license outside the boundaries of incorporated
35 cities or towns, or to the tribal government if the application is
36 for a license within Indian country, or to the port authority if the
37 application for a license is located on property owned by a port
38 authority.

39 (b) The incorporated city or town through the official or
40 employee selected by it, the county legislative authority or the

1 official or employee selected by it, the tribal government, or port
2 authority has the right to file with the (~~state liquor and~~
3 ~~cannabis~~) board within twenty days after the date of transmittal of
4 the notice for applications, or at least thirty days prior to the
5 expiration date for renewals, written objections against the
6 applicant or against the premises for which the new or renewed
7 license is asked. The (~~state liquor and cannabis~~) board may extend
8 the time period for submitting written objections upon request from
9 the authority notified by the (~~state liquor and cannabis~~) board.

10 (c) The written objections must include a statement of all facts
11 upon which the objections are based, and in case written objections
12 are filed, the city or town or county legislative authority may
13 request, and the (~~state liquor and cannabis~~) board may in its
14 discretion hold, a hearing subject to the applicable provisions of
15 Title 34 RCW. If the (~~state liquor and cannabis~~) board makes an
16 initial decision to deny a license or renewal based on the written
17 objections of an incorporated city or town or county legislative
18 authority, the applicant may request a hearing subject to the
19 applicable provisions of Title 34 RCW. If a hearing is held at the
20 request of the applicant, (~~state liquor and cannabis~~) board
21 representatives must present and defend the (~~state liquor and~~
22 ~~cannabis~~) board's initial decision to deny a license or renewal.

23 (d) Upon the granting of a license under this title the (~~state~~
24 ~~liquor and cannabis~~) board must send written notification to the
25 chief executive officer of the incorporated city or town in which the
26 license is granted, or to the county legislative authority if the
27 license is granted outside the boundaries of incorporated cities or
28 towns.

29 (8) (a) Except as provided in (b) through (d) of this subsection,
30 the (~~state liquor and cannabis~~) board may not issue a license for
31 any premises within one thousand feet of the perimeter of the grounds
32 of any elementary or secondary school, playground, recreation center
33 or facility, child care center, public park, public transit center,
34 or library, or any game arcade admission to which is not restricted
35 to persons aged twenty-one years or older.

36 (b) A city, county, or town may permit the licensing of premises
37 within one thousand feet but not less than one hundred feet of the
38 facilities described in (a) of this subsection, except elementary
39 schools, secondary schools, and playgrounds, by enacting an ordinance
40 authorizing such distance reduction, provided that such distance

1 reduction will not negatively impact the jurisdiction's civil
2 regulatory enforcement, criminal law enforcement interests, public
3 safety, or public health.

4 (c) A city, county, or town may permit the licensing of research
5 premises allowed under RCW 69.50.372 within one thousand feet but not
6 less than one hundred feet of the facilities described in (a) of this
7 subsection by enacting an ordinance authorizing such distance
8 reduction, provided that the ordinance will not negatively impact the
9 jurisdiction's civil regulatory enforcement, criminal law
10 enforcement, public safety, or public health.

11 (d) The (~~state liquor and cannabis~~) board may license premises
12 located in compliance with the distance requirements set in an
13 ordinance adopted under (b) or (c) of this subsection. Before issuing
14 or renewing a research license for premises within one thousand feet
15 but not less than one hundred feet of an elementary school, secondary
16 school, or playground in compliance with an ordinance passed pursuant
17 to (c) of this subsection, the board must ensure that the facility:

18 (i) Meets a security standard exceeding that which applies to
19 marijuana producer, processor, or retailer licensees;

20 (ii) Is inaccessible to the public and no part of the operation
21 of the facility is in view of the general public; and

22 (iii) Bears no advertising or signage indicating that it is a
23 marijuana research facility.

24 (e) The (~~state liquor and cannabis~~) board may not issue a
25 license for any premises within Indian country, as defined in 18
26 U.S.C. Sec. 1151, including any fee patent lands within the exterior
27 boundaries of a reservation, without the consent of the federally
28 recognized tribe associated with the reservation or Indian country.

29 (9) A city, town, or county may adopt an ordinance prohibiting a
30 marijuana producer or marijuana processor from operating or locating
31 a business within areas zoned primarily for residential use or rural
32 use with a minimum lot size of five acres or smaller.

33 (10) In determining whether to grant or deny a license or renewal
34 of any license, the (~~state liquor and cannabis~~) board must give
35 substantial weight to objections from an incorporated city or town or
36 county legislative authority based upon chronic illegal activity
37 associated with the applicant's operations of the premises proposed
38 to be licensed or the applicant's operation of any other licensed
39 premises, or the conduct of the applicant's patrons inside or outside
40 the licensed premises. "Chronic illegal activity" means (a) a

1 pervasive pattern of activity that threatens the public health,
2 safety, and welfare of the city, town, or county including, but not
3 limited to, open container violations, assaults, disturbances,
4 disorderly conduct, or other criminal law violations, or as
5 documented in crime statistics, police reports, emergency medical
6 response data, calls for service, field data, or similar records of a
7 law enforcement agency for the city, town, county, or any other
8 municipal corporation or any state agency; or (b) an unreasonably
9 high number of citations for violations of RCW 46.61.502 associated
10 with the applicant's or licensee's operation of any licensed premises
11 as indicated by the reported statements given to law enforcement upon
12 arrest.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 69.50
14 RCW to read as follows:

15 (1) This section applies to the board's issuance of
16 administrative violations to licensed marijuana producers,
17 processors, retailers, transporters, and researchers, when a
18 settlement conference is held between a hearing examiner or designee
19 of the board and the marijuana licensee that received a notice of an
20 alleged administrative violation or violations.

21 (2) If a settlement agreement is entered between a marijuana
22 licensee and a hearing examiner or designee of the board at or after
23 a settlement conference, the terms of the settlement agreement must
24 be given substantial weight by the board and the board may only
25 disapprove, modify, change, or add to the terms of the settlement
26 agreement including terms addressing penalties and license
27 restrictions if the board finds the agreements to be clearly
28 erroneous.

29 (3) For the purposes of this section:

30 (a) "Settlement agreement" means the agreement or compromise
31 between a licensed marijuana producer, processor, retailer,
32 researcher, transporter, or researcher and the hearing examiner or
33 designee of the board with authority to participate in the settlement
34 conference, that:

35 (i) Includes the terms of the agreement or compromise regarding
36 an alleged violation or violations by the licensee of this chapter,
37 chapter 69.51A RCW, or rules adopted under either chapter, and any
38 related penalty or licensing restriction; and

1 (ii) Is in writing and signed by the licensee and the hearing
2 examiner or designee of the board.

3 (b) "Settlement conference" means a meeting or discussion between
4 a licensed marijuana producer, processor, retailer, researcher,
5 transporter, researcher, or authorized representative of any of the
6 preceding licensees, and a hearing examiner or designee of the board,
7 held for purposes such as discussing the circumstances surrounding an
8 alleged violation of law or rules by the licensee, the recommended
9 penalty, and any aggravating or mitigating factors, and that is
10 intended to resolve the alleged violation before an administrative
11 hearing or judicial proceeding is initiated.

12 **Sec. 9.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and
13 amended to read as follows:

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

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

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

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

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

27 (c) "CBD concentration" has the meaning provided in RCW
28 69.51A.010.

29 (d) "CBD product" means any product containing or consisting of
30 cannabidiol.

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

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

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

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

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

11 (2) The term does not include:

12 (i) a controlled substance;

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

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

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

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

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

27 (j) "Designated provider" has the meaning provided in RCW
28 69.51A.010.

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

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

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

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

38 (o) "Drug" means (1) a controlled substance recognized as a drug
39 in the official United States pharmacopoeia/national formulary or the
40 official homeopathic pharmacopoeia of the United States, or any

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

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

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

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

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

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

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

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

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

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

39 (v) "Lot number" must identify the licensee by business or trade
40 name and Washington state unified business identifier number, and the

1 date of harvest or processing for each lot of marijuana, marijuana
2 concentrates, useable marijuana, or marijuana-infused product.

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

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

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

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

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

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

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

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

1 marijuana concentrates, useable marijuana, and marijuana-infused
2 products at wholesale to marijuana retailers.

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

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

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

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

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

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

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

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

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

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

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

1 (6) Cocaine base.

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

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

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

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

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

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

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

24 (ll) "Practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (ww) "Board" means the Washington state liquor and cannabis
12 board.

--- END ---