**5476 AMS PEDE S2939.2 - NOT FOR FLOOR USE**

**SB 5476** - S AMD **831**

By Senator Pedersen

**ADOPTED AS AMENDED 04/15/2021**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds that substance use disorder is a disease and should be treated using a public health, rather than a criminal justice-centered, approach. Existing laws criminalizing the possession of drugs have been ineffective in reducing drug use and preventing substance use disorder. These laws cause significant harm to individuals who use drugs by disrupting and further destabilizing their lives. It also contributes to an increased risk of death, the spread of infectious diseases, mass incarceration, the separation of families, and barriers to accessing housing, employment, and other vital services. Furthermore, even though research shows that drugs are used and sold at similar levels across all races, laws criminalizing the use of drugs have disproportionately impacted minority communities.

This act takes the important first step of reducing the crime of possession from a felony to a gross misdemeanor and institutes greater opportunities for treatment. In coordination with this act, the legislature intends to increase funding for programs that have a proven track record of assisting individuals to break free from substance use dependency. These programs include LEAD (law enforcement assisted diversion/let everyone advance with dignity program); HOST (homeless outreach stabilization transition teams); peer-run clubhouses; opioid treatment network; project for psychiatric outreach for the homeless; mobile opioid treatment grant; peer support programs; and family navigators.

The purpose of this act is to save lives and to help transform Washington's approach to drug use from one based on criminalization and stigma to one based on science and compassion.

**PART I**

**POSSESSION AND USE OF CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES, AND LEGEND DRUGS**

**Sec.**  RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or knowingly possess a counterfeit substance.

(2) ((~~Any~~)) Except as provided in subsection (3) of this section, any person who violates this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) A violation of this section involving possession is a gross misdemeanor. Where a case is legally sufficient, the prosecutor shall divert the case for treatment if the alleged violation involving possession is the person's first or second violation. On a person's third and subsequent violation involving possession, the prosecutor is encouraged to divert the case for treatment.

**Sec.**  RCW 69.50.4013 and 2017 c 317 s 15 are each amended to read as follows:

(1) It is unlawful for any person to knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a ((~~class C felony~~)) gross misdemeanor punishable under chapter 9A.20 RCW.

(3) Where a case is legally sufficient, the prosecutor shall divert the case for treatment if the alleged violation is the person's first or second violation of this section. On a person's third and subsequent violation of this section, the prosecutor is encouraged to divert the case for treatment.

(4)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

((~~(4)~~)) (5)(a) The delivery by a person twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable marijuana;

(ii) Eight ounces of marijuana-infused product in solid form;

(iii) Thirty-six ounces of marijuana-infused product in liquid form; or

(iv) Three and one-half grams of marijuana concentrates.

(b) The act of delivering marijuana or a marijuana product as authorized under this subsection ((~~(4)~~)) (5) must meet one of the following requirements:

(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or

(ii) The marijuana or marijuana product must be in the original packaging as purchased from the marijuana retailer.

((~~(5)~~)) (6) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

((~~(6)~~)) (7) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

**Sec.**  RCW 69.50.412 and 2019 c 64 s 22 are each amended to read as follows:

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare((~~, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body~~)) a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare((~~, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body~~)) a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his or her junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases.

**Sec.**  RCW 69.41.030 and 2019 c 55 s 9 are each amended to read as follows:

(1) ((~~It~~)) Except as provided in subsection (2) of this section, it shall be unlawful for any person to sell, deliver, or knowingly possess any legend drug ((~~except~~)).

(2) The sale, delivery, or possession of a legend drug does not constitute a violation of this section upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

((~~(2)~~)) (3)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor. Where a case is legally sufficient, the prosecutor shall divert the case for treatment if the alleged violation involving possession is the person's first or second violation. On a person's third and subsequent violation involving possession, the prosecutor is encouraged to divert the case for treatment.

**Sec.**  RCW 69.41.030 and 2020 c 80 s 41 are each amended to read as follows:

(1) ((~~It~~)) Except as provided in subsection (2) of this section, it shall be unlawful for any person to sell, deliver, or knowingly possess any legend drug ((~~except~~)).

(2) The sale, delivery, or possession of a legend drug does not constitute a violation of this section upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

((~~(2)~~)) (3)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor. Where a case is legally sufficient, the prosecutor shall divert the case for treatment if the alleged violation involving possession is the person's first or second violation. On a person's third and subsequent violation involving possession, the prosecutor is encouraged to divert the case for treatment.

**PART II**

**PERSONAL USE AMOUNTS OF CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES, AND LEGEND DRUGS**

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

(1) By October 1, 2022, the director, in consultation with the department and the pharmacy quality assurance commission, shall adopt rules establishing maximum personal use amounts of controlled substances, counterfeit substances, and legend drugs known to be used by people for recreational or nonmedical and nonprescribed purposes.

(2) When the committee learns of a recreational or nonmedical and nonprescribed use of a controlled substance, counterfeit substance, or legend drug for which a maximum personal use amount has not been established, the director must adopt a maximum personal use amount for that substance within one year of learning of its recreational or nonmedical and nonprescribed use.

(3) In adopting the rules under this section, the director must convene and consult with a work group, which must include, at a minimum: Persons who currently use controlled substances outside the legal authority of a prescription or valid practitioner order; persons in recovery from substance use disorder who previously used substances outside the legal authority of a prescription or valid practitioner order; representatives from law enforcement; a representative of public defenders; a representative of prosecutors; and experts relevant to setting threshold amounts of controlled substances.

(4) For the purposes of this section, the term "personal use amount" has the same meaning as in RCW 69.50.101.

**Sec.**  RCW 69.41.010 and 2019 c 358 s 6 and 2019 c 308 s 23 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Commission" means the pharmacy quality assurance commission.

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(5) "Department" means the department of health.

(6) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(7) "Dispenser" means a practitioner who dispenses.

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(9) "Distributor" means a person who distributes.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

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

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Personal use amount" has the meaning provided in RCW 69.50.101.

(18) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

((~~(18)~~)) (19) "Secretary" means the secretary of health or the secretary's designee.

**Sec.**  RCW 69.41.010 and 2020 c 80 s 40 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Commission" means the pharmacy quality assurance commission.

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(5) "Department" means the department of health.

(6) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(7) "Dispenser" means a practitioner who dispenses.

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(9) "Distributor" means a person who distributes.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

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

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Personal use amount" has the meaning provided in RCW 69.50.101.

(18) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

((~~(18)~~)) (19) "Secretary" means the secretary of health or the secretary's designee.

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

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

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

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

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

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

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

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

(e) "CBD product" means any product containing or consisting of cannabidiol.

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

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

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) "Immediate precursor" means a substance:

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

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

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

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

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

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

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

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

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

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

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

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

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

(aa) "Marijuana processor" means a person licensed by the board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(bb) "Marijuana producer" means a person licensed by the board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(cc) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

(kk) "Personal use amount" means the maximum amount of a particular controlled substance, legend drug, or counterfeit substance that the health care authority has determined to be consistent with personal, nonprescribed use patterns of people with substance use disorder, as provided under section 7 of this act.

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

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

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

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 8 s 43 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

(e) "CBD product" means any product containing or consisting of cannabidiol.

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

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

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) "Immediate precursor" means a substance:

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

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

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

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

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

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

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

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

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

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

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

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

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

(aa) "Marijuana processor" means a person licensed by the board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(bb) "Marijuana producer" means a person licensed by the board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(cc) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

(kk) "Personal use amount" means the maximum amount of a particular controlled substance, legend drug, or counterfeit substance that the health care authority has determined to be consistent with personal, nonprescribed use patterns of people with substance use disorder, as provided under section 7 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PART III**

**SUBSTANCE USE RECOVERY SERVICES ADVISORY COMMITTEE**

NEW SECTION. **Sec.**  A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority shall establish the substance use recovery services advisory committee to make recommendations for implementation of a substance use recovery services plan.

(2) The authority must, in consultation with the University of Washington department of psychiatry and behavioral sciences and an organization that represents the interests of people who have been directly impacted by substance use and the criminal legal system, appoint members to the advisory committee who have relevant background related to the needs of persons with substance use disorder. The membership of the advisory committee must include, but is not limited to, experts in the etiology and stabilization of substance use disorders, including expertise in medication-assisted treatment and other innovative medication therapies; experts in mental health and trauma and their comorbidity with substance use disorders; people who are currently using controlled substances outside the legal authority of prescription or valid practitioner order; experts in the relationship between social determinants of health, including housing and substance use disorder; experts in drug user health and harm reduction; representatives of city and county governments; a representative of urban police chiefs; a representative of rural county sheriffs; a representative of the interests of rural communities; a representative of fire chiefs; experts in peer support services; experts in substance use disorder recovery support services; experts in diversion from the criminal legal system to community-based care for people with complex behavioral health needs; experts in reducing racial disparity in exposure to the criminal legal system; an academic researcher with an expertise in drug policy and program evaluation; a substance use disorder professional; a representative of public defenders; a representative of prosecutors; a representative of the criminal justice training commission; a nongovernmental immigration attorney with expertise in the immigration consequences of drug possession and use crimes and findings of substance use disorder; recovery housing providers; low-barrier housing providers; representatives of racial justice organizations, including organizations promoting antiracism and equity in health care; a representative of a local health jurisdiction with expertise in overdose prevention and harm reduction; representatives of the interests of tribes; at least three adults in recovery from substance use disorder, including individuals with previous contact with the criminal legal system due to substance use; at least three youths in recovery from substance use disorder, including youths with previous criminal legal system contact due to substance use; and at least three family members of persons with substance use disorder. The advisory committee shall be reflective of the community of individuals living with substance use disorder, including people who are Black, indigenous, and people of color, and individuals who can represent the unique needs of rural communities.

(3) The advisory committee must make recommendations and provide perspectives to the authority regarding:

(a) Reforms to state laws that align with the goal of treating substance use disorder as a disease, rather than a criminal behavior;

(b) Current regional capacity for existing public and private programs providing substance use disorder assessments, each of the American society of addiction medicine levels of care, and recovery support services;

(c) Barriers to accessing the existing health system for those populations chronically exposed to criminal legal system responses relating to complex behavioral health conditions and the consequences of trauma, and possible innovations that could reduce those barriers and improve the quality and accessibility of care for those populations;

(d) Evidence-based, research-based, and promising treatment and recovery services appropriate for target populations, to include, but not be limited to, field-based outreach and engagement, case management, mental and physical health care, contingency management, medication-assisted treatment and other innovative medication therapies, peer support services, family education, housing, job training and employment programs, and treatments that have not traditionally been covered by insurance;

(e) Workforce needs for the behavioral health services sector, including wage and retention challenges;

(f) Options for leveraging existing integrated managed care, medicaid waiver, American Indian or Alaska Native fee-for-service behavioral health benefits, and private insurance service capacity for substance use disorders, including but not limited to coordination with managed care organizations, behavioral health administrative services organizations, the Washington health benefit exchange, accountable communities of health, and the office of the insurance commissioner;

(g) Framework and design assistance for jurisdictions to assist in compliance with the requirements of RCW 10.31.110 for diversion of individuals with complex behavioral health conditions to community-based care whenever possible and appropriate, and identifying resource gaps that impede jurisdictions in fully realizing the potential impact of this approach;

(h) The design of a referral mechanism for referring people with substance use disorder or problematic behaviors resulting from drug use into the supportive services described in this section, including intercepting individuals who likely would otherwise be referred into the criminal legal system, with the express intention of ensuring that decriminalization of possession of personal use amounts does not inadvertently contribute to increased racial disparity among those who continue to be exposed to the criminal legal system due to income instability and involvement in the illicit economy to meet basic needs;

(i) The design of ongoing qualitative and quantitative research about the types of services desired by people with substance use disorders and barriers they experience in accessing existing and recommended services; and

(j) Proposing a funding framework in which, over time, resources are shifted from punishment sectors to community-based care interventions such that community-based care becomes the primary strategy for addressing and resolving public order issues related to behavioral health conditions.

(4) The authority shall submit a summary report of the substance use recovery services plan and recommended changes to the law to the appropriate committees of the legislature by October 1, 2022.

(5) This section expires December 31, 2023.

**PART IV**

**RESENTENCING AND RELEASE OF PERSONS IMPACTED BY *STATE V. BLAKE***

**Sec.**  RCW 2.24.010 and 2013 c 27 s 3 are each amended to read as follows:

(1) There may be appointed in each county or judicial district, by the judges of the superior court having jurisdiction therein, one or more court commissioners for said county or judicial district. Each such commissioner shall be a citizen of the United States and shall hold the office during the pleasure of the judges making the appointment.

(2)(a) There may be appointed ((~~in counties with a population of more than four hundred thousand,~~)) by the presiding judge of the superior court having jurisdiction ((~~therein~~)), one or more attorneys to act as criminal commissioners to assist the superior court in disposing of adult criminal cases. Such criminal commissioners shall have power, authority, and jurisdiction, concurrent with the superior court and the judges thereof, in adult criminal cases, to preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040; accept pleas if authorized by local court rules; appoint counsel; make determinations of probable cause; set, amend, and review conditions of pretrial release; set bail; set trial and hearing dates; authorize continuances; accept waivers of the right to speedy trial; and authorize and issue search warrants and orders to intercept, monitor, or record wired or wireless telecommunications or for the installation of electronic taps or other devices to include, but not be limited to, vehicle global positioning system or other mobile tracking devices with all the powers conferred upon the judge of the superior court in such matters. Criminal commissioners also shall have the authority to conduct resentencing hearings and to vacate convictions pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021).

(b) The county legislative authority must approve the creation of criminal commissioner positions.

**Sec.**  RCW 2.24.040 and 2009 c 28 s 1 are each amended to read as follows:

Such court commissioner shall have power, authority, and jurisdiction, concurrent with the superior court and the judge thereof, in the following particulars:

(1) To hear and determine all matters in probate, to make and issue all proper orders therein, and to issue citations in all cases where same are authorized by the probate statutes of this state.

(2) To grant and enter defaults and enter judgment thereon.

(3) To issue temporary restraining orders and temporary injunctions, and to fix and approve bonds thereon.

(4) To act as referee in all matters and actions referred to him or her by the superior court as such, with all the powers now conferred upon referees by law.

(5) To hear and determine all proceedings supplemental to execution, with all the powers conferred upon the judge of the superior court in such matters.

(6) To hear and determine all petitions for the adoption of children and for the dissolution of incorporations.

(7) To hear and determine all applications for the commitment of any person to the hospital for the insane, with all the powers of the superior court in such matters: PROVIDED, That in cases where a jury is demanded, same shall be referred to the superior court for trial.

(8) To hear and determine all complaints for the commitments of minors with all powers conferred upon the superior court in such matters.

(9) To hear and determine ex parte and uncontested civil matters of any nature.

(10) To grant adjournments, administer oaths, preserve order, compel attendance of witnesses, and to punish for contempts in the refusal to obey or the neglect of the court commissioner's lawful orders made in any matter before the court commissioner as fully as the judge of the superior court.

(11) To take acknowledgments and proofs of deeds, mortgages and all other instruments requiring acknowledgment under the laws of this state, and to take affidavits and depositions in all cases.

(12) To provide an official seal, upon which shall be engraved the words "Court Commissioner," and the name of the county for which he or she may be appointed, and to authenticate his official acts therewith in all cases where same is necessary.

(13) To charge and collect, for his or her own use, the same fees for the official performance of official acts mentioned in subsections (4) and (11) of this section as are provided by law for referees and notaries public.

(14) To hear and determine small claims appeals as provided in chapter 12.36 RCW.

(15) In adult criminal cases, to preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040; accept pleas if authorized by local court rules; appoint counsel; make determinations of probable cause; set, amend, and review conditions of pretrial release; set bail; set trial and hearing dates; authorize continuances; ((~~and~~)) accept waivers of the right to speedy trial; and conduct resentencing hearings and to vacate convictions pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021).

**Sec.**  RCW 9.94A.728 and 2018 c 166 s 2 are each amended to read as follows:

(1) No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An offender may earn early release time as authorized by RCW 9.94A.729;

(b) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(A) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(B) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final twelve months of the offender's term of confinement may be served in partial confinement for aiding the offender with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f) No more than the final six months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733;

(g) The governor may pardon any offender;

(h) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(i) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any person convicted of one or more crimes committed prior to the person's eighteenth birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Notwithstanding any other provision of this section, an offender entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement pursuant to a court order if the offender has already served a period of confinement that exceeds his or her new standard range. This provision does not create an independent right to release from confinement prior to resentencing.

(3) Offenders residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

NEW SECTION. **Sec.**  The *State v. Blake* reimbursement account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for state and local government costs resulting from the supreme court's decision in *State v. Blake* and to reimburse individuals for legal financial obligations paid in connection with sentences that have been invalidated as a result of the decision in *State v. Blake*.

**PART V**

**ELIMINATION OF CRIMINAL PENALTIES FOR PERSONAL USE AMOUNTS OF CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES, AND LEGEND DRUGS**

**Sec.**  RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for ((~~any~~)):

(a) Any person to create((~~,~~)) or deliver((~~, or possess~~)) a counterfeit substance;

(b) Any person to knowingly possess more than a personal use amount of a counterfeit substance; or

(c) A person under the age of 21 to knowingly possess a counterfeit substance of any amount.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) Any person who violates subsection (1)(b) or (c) of this section is guilty of a gross misdemeanor. Where a case is legally sufficient, the prosecutor shall divert the case for treatment if the alleged violation involving possession is the person's first or second violation. On a person's third and subsequent violation involving possession, the prosecutor may divert the case for treatment.

(4) A person 21 years of age or older who possesses a counterfeit substance in an amount that does not exceed the applicable personal use amount may be referred to a local diversion program for connection to substance use disorder resources.

**Sec.**  RCW 69.50.4013 and 2017 c 317 s 15 are each amended to read as follows:

(1) ((~~It is unlawful for any person to possess a controlled substance unless~~)) Unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter, it is unlawful for:

(a) Any person to knowingly possess more than a personal use amount of a controlled substance; or

(b) A person under the age of 21 to knowingly possess a controlled substance of any amount.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a ((~~class C felony~~)) gross misdemeanor punishable under chapter 9A.20 RCW.

(3) A person 21 years of age or older who possesses a controlled substance in an amount that does not exceed the applicable personal use amount may be referred to a local diversion program for connection to substance use disorder resources.

(4)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

((~~(4)~~)) (5)(a) The delivery by a person twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable marijuana;

(ii) Eight ounces of marijuana-infused product in solid form;

(iii) Thirty-six ounces of marijuana-infused product in liquid form; or

(iv) Three and one-half grams of marijuana concentrates.

(b) The act of delivering marijuana or a marijuana product as authorized under this subsection ((~~(4)~~)) (5) must meet one of the following requirements:

(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or

(ii) The marijuana or marijuana product must be in the original packaging as purchased from the marijuana retailer.

((~~(5)~~)) (6) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

((~~(6)~~)) (7) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

**Sec.**  RCW 69.41.030 and 2020 c 80 s 41 are each amended to read as follows:

(1) ((~~It~~)) Except as provided in subsection (2) of this section, it shall be unlawful for ((~~any~~)):

(a) Any person to sell((~~,~~)) or deliver((~~, or possess~~)) any legend drug ((~~except~~));

(b) Any person to knowingly possess more than a personal use amount of any legend drug; or

(c) A person under the age of 21 to knowingly possess a legend drug of any amount.

(2) The sale, delivery, or possession of a legend drug does not constitute a violation of this section upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

((~~(2)~~)) (3)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor. Where a case is legally sufficient, the prosecutor shall divert the case for treatment if the alleged violation involving possession is the person's first or second violation. On a person's third and subsequent violation involving possession, the prosecutor may divert the case for treatment.

(4) A person 21 years of age or older who possesses a legend drug in an amount that does not exceed the applicable personal use amount may be referred to a local diversion program for connection to substance use disorder resources.

**Sec.**  RCW 69.50.445 and 2015 2nd sp.s. c 4 s 401 are each amended to read as follows:

(1) It is unlawful to open a package containing marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, or consume marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, in view of the general public or in a public place.

(2) It is unlawful to open a package containing an unauthorized controlled substance or consume an unauthorized controlled substance in view of the general public or in a public place.

(3) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

((~~(3)~~)) (4)(a) A person who violates subsection (1) of this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

(b) A person who violates subsection (2) of this section is guilty of a class 2 civil infraction under chapter 7.80 RCW.

**PART VI**

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  Sections 5, 8, and 10 of this act expire July 1, 2022.

NEW SECTION. **Sec.**  Sections 6, 9, and 11 of this act take effect July 1, 2022.

NEW SECTION. **Sec.**  (1) Sections 2, 3, and 6 of this act expire July 1, 2023, and sections 17 through 20 of this act take effect July 1, 2023, if the legislature does not adopt legislation by July 1, 2023, in response to the summary report of the substance use recovery services plan as provided in section 12 of this act.

(2) If the legislature adopts legislation by July 1, 2023, in response to the summary report of the substance use recovery services plan as provided in section 12 of this act, sections 17 through 20 of this act are null and void.

(3) The substance use recovery services advisory committee must provide written notice by July 1, 2023, of the effective dates or expiration dates, or both, under this section and whether the legislature has adopted legislation in response to the summary report of the substance use recovery services plan to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others deemed appropriate by the committee.

NEW SECTION. **Sec.**  Sections 1 through 5, 7, 8, 10, and 12 through 16 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

**SB 5476** - S AMD **831**

By Senator Pedersen

**ADOPTED AS AMENDED 04/15/2021**

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "responding to the *State v. Blake* decision by addressing justice system responses and behavioral health prevention, treatment, and related services for individuals using or possessing controlled substances, counterfeit substances, and legend drugs; amending RCW 69.50.4011, 69.50.4013, 69.50.412, 69.41.030, 69.41.030, 69.41.010, 69.50.101, 2.24.010, 2.24.040, 9.94A.728, 69.50.4011, 69.50.4013, 69.41.030, and 69.50.445; reenacting and amending RCW 69.41.010 and 69.50.101; adding a new section to chapter 71.24 RCW; adding a new section to chapter 41.05 RCW; creating new sections; prescribing penalties; providing an effective date; providing a contingent effective date; providing expiration dates; providing a contingent expiration date; and declaring an emergency."

EFFECT: (1) Amends the title;

(2) Adds intent statement, including intent to increase funding for substance use disorder treatment programs;

(3) Reinstates criminal penalties for possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs;

(4) Decreases criminal penalty for possession of controlled substances and counterfeit substances from a felony to a gross misdemeanor;

(5) Requires the prosecutor to divert a person's first and second violations for possession of a controlled substance, counterfeit substance, or legend drug and encourages diversion thereafter when agreed by the prosecutor;

(6) Retains provisions removing criminal penalties for possessing drug paraphernalia for personal use;

(7) Removes provision directing funds from the civil infraction be deposited in the State v. Blake reimbursement account;

(8) Requires the Health Care Authority (HCA) to adopt rules establishing maximum personal use amounts of controlled substances by October 1, 2022;

(9) Defines personal use amount in statute as the amounts established by the HCA;

(10) Requires the HCA to establish the substance use recovery services advisory committee to make recommendations for implementation of a substance use recovery services plan, including recommended reforms to the law;

(11) Authorizes the presiding judge of the superior court of any county in the state to appoint court commissioners to assist the court with adult criminal cases, including the authority to conduct resentencing hearings and vacate convictions pursuant to *State v. Blake*;

(12) Clarifies a person may be released from confinement if *State v. Blake* results in vacation of the person's conviction or resentencing and the person has served a term of confinement in excess of the new sentence;

(13) If the legislature does not act by July 1, 2023, institutes provisions removing criminal penalties for possession of a personal use amount of a controlled substance, counterfeit substance, or legend drug for persons 21 years of age or older and creating a civil infraction for using controlled substances in public.