

---

HOUSE BILL 1668

---

State of Washington

67th Legislature

2022 Regular Session

By Representatives Kloba, Wylie, and Young; by request of Liquor and Cannabis Board

Prefiled 12/20/21. Read first time 01/10/22. Referred to Committee on Commerce & Gaming.

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

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

9 NEW SECTION. **Sec. 1.** Due to the evolving nature of new  
10 cannabinoids being identified in the plant *Cannabis* that may be  
11 impairing, the legislature finds there is a need to provide consumers  
12 legal access to products that have been tested and which meet the  
13 same standards for quality and safety as delta-9  
14 tetrahydrocannabinol. The legislature further finds there is a need  
15 to require labeling, serving size, potency, and ingredient disclosure  
16 standards for any impairing cannabinoid product. The legislature  
17 further finds there is a need to distinguish cannabinoids derived  
18 from natural plants that are prepared for human consumption and the  
19 more unpredictable artificial cannabinoids created solely through  
20 chemical reactions. The legislature further recognizes the need to  
21 maintain clarity between plants defined as marijuana and plants

1 defined as hemp. The primary purpose of this act is to authorize the  
2 liquor and cannabis board to regulate all cannabinoids that may be  
3 impairing, regardless of origin, and to direct the board to adopt  
4 rules related to cannabinoid products and *Cannabis* isolates, except  
5 those authorized as a drug by the federal food and drug  
6 administration.

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

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

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

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

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

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

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

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

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

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

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

2 ~~((d))~~ (e) "Cannabinoid" means any of the chemical compounds  
3 that are the active constituents of the plant Cannabis and their  
4 acids including, but not limited to, tetrahydrocannabinol,  
5 tetrahydrocannabinolic acid, cannabidiol, cannabidiolic acid,  
6 cannabinol, cannabigerol, cannabichromene, cannabicyclol,  
7 cannabivarin, tetrahydrocannabivarin, cannabidivarin,  
8 cannabichromevarin, cannabigerovarin, cannabigerol monomethyl ether,  
9 cannabielsoin, and cannabicitran. Cannabinoids do not include  
10 artificial cannabinoids, as that term is defined in this section and  
11 in Schedules I through V of the Washington state controlled  
12 substances act.

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

16 (g) "CBD concentration" has the meaning provided in RCW  
17 69.51A.010.

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

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

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

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

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

36 (ii) with respect to a particular individual, that the individual  
37 represents or intends to have a stimulant, depressant, or  
38 hallucinogenic effect on the central nervous system substantially  
39 similar to the stimulant, depressant, or hallucinogenic effect on the

1 central nervous system of a controlled substance included in Schedule  
2 I or II.

3 (2) The term does not include:

4 (i) a controlled substance;

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

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

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

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

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

19 (~~(k)~~) (n) "Designated provider" has the meaning provided in RCW  
20 69.51A.010.

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

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

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

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

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

34 (~~(p)~~) (t) "Drug" means (1) a controlled substance recognized as  
35 a drug in the official United States pharmacopoeia/national formulary  
36 or the official homeopathic pharmacopoeia of the United States, or  
37 any supplement to them; (2) controlled substances intended for use in  
38 the diagnosis, cure, mitigation, treatment, or prevention of disease  
39 in individuals or animals; (3) controlled substances (other than  
40 food) intended to affect the structure or any function of the body of

1 individuals or animals; and (4) controlled substances intended for  
2 use as a component of any article specified in (1), (2), or (3) of  
3 this subsection. The term does not include devices or their  
4 components, parts, or accessories.

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

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

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

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

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

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

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

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

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

31 ~~((u))~~ (aa) "Isolate" means extract from the plant Cannabis of  
32 95 percent or more of a single cannabinoid compound.

33 (bb) "Isomer" means an optical isomer, but in subsection ~~((gg))~~  
34 (nn) (5) of this section, RCW 69.50.204(a) (12) and (34), and  
35 69.50.206(b) (4), the term includes any geometrical isomer; in RCW  
36 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any  
37 positional isomer; and in RCW 69.50.204(a) (35), 69.50.204(c), and  
38 69.50.208(a) the term includes any positional or geometric isomer.

39 ~~((v))~~ (cc) "Lot" means a definite quantity of marijuana,  
40 marijuana concentrates, useable marijuana, or marijuana-infused

1 product identified by a lot number, every portion or package of which  
2 is uniform within recognized tolerances for the factors that appear  
3 in the labeling.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (~~(ff)~~) (mm) "Marijuana-infused products" means products that  
39 contain marijuana or marijuana extracts, isolates, or distillates,  
40 that are intended for human use, are derived from marijuana as

1 defined in subsection ~~((y))~~ (ff) of this section, and ~~((have a THC~~  
2 ~~concentration))~~ contain no greater than ten percent total THC. The  
3 term "marijuana-infused products" does not include either useable  
4 marijuana or marijuana concentrates.

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

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

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

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

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

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

24 (6) Cocaine base.

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

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

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

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

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

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

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

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

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

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

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

32       (3) A physician licensed to practice medicine and surgery, a  
33 physician licensed to practice osteopathic medicine and surgery, a  
34 dentist licensed to practice dentistry, a podiatric physician and  
35 surgeon licensed to practice podiatric medicine and surgery, a  
36 licensed physician assistant or a licensed osteopathic physician  
37 assistant specifically approved to prescribe controlled substances by  
38 his or her state's medical commission or equivalent and his or her  
39 supervising physician, an advanced registered nurse practitioner  
40 licensed to prescribe controlled substances, or a veterinarian

1 licensed to practice veterinary medicine in any state of the United  
2 States.

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

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

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

12 ~~((qq))~~ (yy) "Recognition card" has the meaning provided in RCW  
13 69.51A.010.

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

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

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

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

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

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

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

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

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

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

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

24 NEW SECTION. Sec. 3. A new section is added to chapter 69.50  
25 RCW to read as follows:

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

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

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

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

10 (1) Products containing cannabinoids that may be impairing;

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

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

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

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

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

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

27 **Sec. 4.** RCW 69.50.325 and 2020 c 236 s 6 are each amended to  
28 read as follows:

29 (1) There shall be a marijuana producer's license regulated by  
30 the board and subject to annual renewal. The licensee is authorized  
31 to produce, prepare, and propagate marijuana grown from seeds or  
32 clones of natural origin: (a) Marijuana for sale at wholesale to  
33 marijuana processors and other marijuana producers; (b) immature  
34 plants or clones and seeds for sale to cooperatives as described  
35 under RCW 69.51A.250; and (c) immature plants or clones and seeds for  
36 sale to qualifying patients and designated providers as provided  
37 under RCW 69.51A.310. The production, possession, delivery,  
38 distribution, and sale of marijuana in accordance with the provisions  
39 of this chapter and the rules adopted to implement and enforce it, by

1 a validly licensed marijuana producer, shall not be a criminal or  
2 civil offense under Washington state law. Every marijuana producer's  
3 license shall be issued in the name of the applicant, shall specify  
4 the location at which the marijuana producer intends to operate,  
5 which must be within the state of Washington, and the holder thereof  
6 shall not allow any other person to use the license. The application  
7 fee for a marijuana producer's license shall be two hundred fifty  
8 dollars. The annual fee for issuance and renewal of a marijuana  
9 producer's license shall be one thousand three hundred eighty-one  
10 dollars. A separate license shall be required for each location at  
11 which a marijuana producer intends to produce marijuana.

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

38 (3) (a) There shall be a marijuana retailer's license to sell  
39 marijuana concentrates, useable marijuana, and marijuana-infused  
40 products, and other products containing greater than 0.5 milligrams

1 per serving of a cannabinoid that may be impairing at retail in  
2 retail outlets, regulated by the board and subject to annual renewal.  
3 The possession, delivery, distribution, and sale of marijuana  
4 concentrates, useable marijuana, and marijuana-infused products in  
5 accordance with the provisions of this chapter and the rules adopted  
6 to implement and enforce it, by a validly licensed marijuana  
7 retailer, shall not be a criminal or civil offense under Washington  
8 state law. Every marijuana retailer's license shall be issued in the  
9 name of the applicant, shall specify the location of the retail  
10 outlet the licensee intends to operate, which must be within the  
11 state of Washington, and the holder thereof shall not allow any other  
12 person to use the license. The application fee for a marijuana  
13 retailer's license shall be two hundred fifty dollars. The annual fee  
14 for issuance and renewal of a marijuana retailer's license shall be  
15 one thousand three hundred eighty-one dollars. A separate license  
16 shall be required for each location at which a marijuana retailer  
17 intends to sell marijuana concentrates, useable marijuana, and  
18 marijuana-infused products.

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

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

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

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

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

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

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

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

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

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

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

20 **Sec. 5.** RCW 69.50.326 and 2018 c 132 s 1 are each amended to  
21 read as follows:

22 (1) Licensed marijuana producers and licensed marijuana  
23 processors may use ((a)) CBD ((product)), other nonimpairing  
24 cannabinoids, or nonimpairing plant Cannabis isolates as ((an))  
25 additives for the purpose of enhancing the ((cannabinoid))  
26 nonimpairing cannabinoid concentration of any product authorized for  
27 production, processing, and sale under this chapter. Except as  
28 otherwise provided in subsection (2) of this section, such ((CBD

29 product additives)) cannabinoid products or isolates must be lawfully  
30 produced by a licensed marijuana producer, or purchased from((r)) a  
31 producer or processor licensed under this chapter.

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

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

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

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

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

15 (3) Subject to the requirements of this subsection (3), the  
16 ~~((liquor and cannabis))~~ board may enact rules necessary to implement  
17 the requirements of this section. Such rule making ~~((is limited to))~~  
18 includes regulations pertaining to laboratory testing and product  
19 safety standards for ~~((those))~~ naturally and synthetically derived  
20 cannabidiol or other nonimpairing cannabinoid products used by  
21 licensed producers and processors in the manufacture of marijuana  
22 products marketed by licensed retailers under this chapter ~~((69.50~~  
23 ~~RCW))~~. Any synthetically derived cannabinoid used by licensed  
24 producers and processors in the manufacture of marijuana products  
25 marketed by licensed retailers under this chapter must be in  
26 compliance with rules adopted by the board, prior to manufacturing  
27 and sale to other licensees. Rule making by the board pertaining to  
28 any synthetically derived cannabinoid must be in consultation with  
29 the department of health and the department of agriculture. The  
30 purpose of such rule making must be to ensure the safety and purity  
31 of cannabidiol and other nonimpairing cannabinoid products used by  
32 marijuana producers and processors licensed under this chapter  
33 ~~((69.50—RCW))~~ and incorporated into products sold by licensed  
34 recreational marijuana retailers. This rule-making authority does not  
35 include the authority to enact rules regarding either the production  
36 or processing practices of the industrial hemp industry or any  
37 cannabidiol products that are sold or marketed outside of the  
38 regulatory framework established under this chapter ((69.50—RCW)).

39 (4) Licensed marijuana producers and licensed marijuana  
40 processors may not use any artificial cannabinoids, as defined in

1 this chapter, as an additive to any product authorized for  
2 production, processing, and sale under this chapter.

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

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

10 **Sec. 6.** RCW 69.50.342 and 2020 c 133 s 3 are each amended to  
11 read as follows:

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

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

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

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

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

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

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

38 (g) Labeling requirements and restrictions on advertisement of  
39 marijuana, useable marijuana, marijuana concentrates, cannabis health

1 and beauty aids, and marijuana-infused products for sale in retail  
2 outlets;

3 (h) Forms to be used for purposes of this chapter and chapter  
4 69.51A RCW or the rules adopted to implement and enforce these  
5 chapters, the terms and conditions to be contained in licenses issued  
6 under this chapter and chapter 69.51A RCW, and the qualifications for  
7 receiving a license issued under this chapter and chapter 69.51A RCW,  
8 including a criminal history record information check. The board may  
9 submit any criminal history record information check to the  
10 Washington state patrol and to the identification division of the  
11 federal bureau of investigation in order that these agencies may  
12 search their records for prior arrests and convictions of the  
13 individual or individuals who filled out the forms. The board must  
14 require fingerprinting of any applicant whose criminal history record  
15 information check is submitted to the federal bureau of  
16 investigation;

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

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

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

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

35 (m) The prohibition of any type of device used in conjunction  
36 with a marijuana vapor product and the prohibition of the use of any  
37 type of additive, solvent, ingredient, or compound in the production  
38 and processing of marijuana products, including marijuana vapor  
39 products, when the board determines, following consultation with the  
40 department of health or any other authority the board deems

1 appropriate, that the device, additive, solvent, ingredient, or  
2 compound may pose a risk to public health or youth access; ((and))

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

9 (o) The production, processing, transportation, delivery, sale,  
10 and purchase of naturally derived cannabinoids or synthetically  
11 derived cannabinoids, with the exception of hemp as defined in RCW  
12 15.140.020, and products authorized as a drug by the federal food and  
13 drug administration.

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

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

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

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

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

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

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

5       (~~(3)~~) (4) Delivery, distribution, and sale of useable marijuana  
6 or marijuana-infused products to a marijuana retailer validly  
7 licensed under chapter 3, Laws of 2013; and

8       (~~(4)~~) (5) Delivery, distribution, and sale of useable  
9 marijuana, marijuana concentrates, or marijuana-infused products to a  
10 federally recognized Indian tribe as permitted under an agreement  
11 between the state and the tribe entered into under RCW 43.06.490.

12       NEW SECTION.   **Sec. 8.** This act takes effect July 1, 2022.

--- END ---