

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5372

Chapter 104, Laws of 2021

67th Legislature
2021 Regular Session

HEMP PROCESSORS—REGISTRATION AND HEMP EXTRACT CERTIFICATION

EFFECTIVE DATE: July 25, 2021

Passed by the Senate March 9, 2021
Yeas 49 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 6, 2021
Yeas 96 Nays 2

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved April 16, 2021 10:59 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5372** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

April 16, 2021

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5372

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senators Stanford, Warnick, Conway, Hasegawa, Saldaña, and Wilson, J.

Read first time 01/28/21. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to hemp processor registration and a hemp extract
2 certification; amending RCW 15.140.020, 15.140.060, 15.140.120, and
3 69.07.020; reenacting and amending RCW 69.07.010; adding a new
4 section to chapter 69.07 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to authorize and
7 establish hemp processor registration and hemp extract certification
8 necessary for entrance and compliance with interstate and
9 international commerce and business requirements or stipulations in
10 regard to hemp processing. A voluntary processor registration or hemp
11 extract certification in lieu of a hemp processor license will allow
12 persons or companies to ship transitional or final hemp products to
13 states and countries that require a hemp processor license or
14 registration.

15 **Sec. 2.** RCW 15.140.020 and 2019 c 158 s 2 are each amended to
16 read as follows:

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

1 (1) "Agriculture improvement act of 2018" means sections 7605,
2 10113, 10114, and 12619 of the agriculture improvement act of 2018,
3 P.L. 115-334.

4 (2) "Crop" means hemp grown as an agricultural commodity.

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

7 (4) "Department" means the Washington state department of
8 agriculture.

9 (5) "Food" has the same meaning as defined in RCW 69.07.010.

10 (6) "Hemp" means the plant *Cannabis sativa L.* and any part of
11 that plant, including the seeds thereof and all derivatives,
12 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
13 whether growing or not, with a delta-9 tetrahydrocannabinol
14 concentration of not more than 0.3 percent on a dry weight basis.

15 ~~((6))~~ (7) "Hemp processor" means a person who takes possession
16 of raw hemp material with the intent to modify, package, or sell a
17 transitional or finished hemp product.

18 (8)(a) "Industrial hemp" means all parts and varieties of the
19 genera *Cannabis*, cultivated or possessed by a grower, whether growing
20 or not, that contain a tetrahydrocannabinol concentration of 0.3
21 percent or less by dry weight that was grown under the industrial
22 hemp research program as it existed on December 31, 2019.

23 (b) "Industrial hemp" does not include plants of the genera
24 *Cannabis* that meet the definition of "marijuana" as defined in RCW
25 69.50.101.

26 ~~((7))~~ (9) "Postharvest test" means a test of delta-9
27 tetrahydrocannabinol concentration levels of hemp after being
28 harvested based on:

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

30 (b) Other approved testing methods.

31 ~~((8))~~ (10) "Process" means the processing, compounding, or
32 conversion of hemp into hemp commodities or products.

33 ~~((9))~~ (11) "Produce" or "production" means the planting,
34 cultivation, growing, or harvesting of hemp including hemp seed.

35 **Sec. 3.** RCW 15.140.060 and 2019 c 158 s 6 are each amended to
36 read as follows:

37 (1) The department must issue hemp producer licenses to
38 applicants qualified under this chapter and the agriculture
39 improvement act of 2018. The department may adopt rules pursuant to

1 this chapter and chapter 34.05 RCW as necessary to license persons to
2 grow hemp under a commercial hemp program. The department may adopt
3 rules pursuant to this chapter and chapter 34.05 RCW as necessary to
4 register hemp processors.

5 (2) A hemp processor that processes hemp for commercial use or
6 sale may register with the department. The registration application
7 must include the physical address of all locations where hemp is
8 processed or stored, a registration fee as set in rule, and any other
9 information required by the department by rule. A registered hemp
10 processor is not required to obtain a hemp producer license. A
11 registered hemp processor must be a registered business entity in
12 Washington state or a foreign entity compliant with state laws.

13 (3) The plan must identify qualifications for license applicants,
14 to include adults and corporate persons and to exclude persons with
15 felony convictions as required under the agriculture improvement act
16 of 2018.

17 ((+3)) (4) The department must establish license fees in an
18 amount that will fund the implementation of this chapter and sustain
19 the hemp program. The department may adopt rules establishing fees
20 for tetrahydrocannabinol testing, inspections, and additional
21 services required by the United States department of agriculture.
22 License fees and any money received by the department under this
23 chapter must be deposited in the hemp regulatory account created in
24 RCW 15.140.080.

25 **Sec. 4.** RCW 15.140.120 and 2019 c 158 s 16 are each amended to
26 read as follows:

27 Beginning on April 26, 2019:

28 (1) No law or rule related to certified or interstate hemp seeds
29 applies to or may be enforced against a person with a license to
30 produce or process hemp issued under this chapter (~~or chapter 15.120~~
31 ~~RCW~~); and

32 (2) No department or other state agency rule may establish or
33 enforce a buffer zone or distance requirement between a person with a
34 license or authorization to produce or process hemp under this
35 chapter (~~or chapter 15.120 RCW~~) and a person with a license to
36 produce or process marijuana issued under chapter 69.50 RCW. The
37 department may not adopt rules without the evaluation of sufficient
38 data showing impacts to either crop as a result of cross-pollination.

1 (3) Notwithstanding the rule-making provisions of RCW
2 15.140.030(2), if a marijuana producer or marijuana processor
3 licensed by the liquor and cannabis board under chapter 69.50 RCW is
4 engaged in producing or processing hemp at the same location for
5 which they are licensed to produce or process marijuana, the liquor
6 and cannabis board may test samples represented as hemp that are
7 obtained from a location licensed for marijuana production or
8 marijuana processing for the sole purpose of validating THC content
9 of products represented as hemp. Any product with a delta-9
10 tetrahydrocannabinol concentration exceeding 0.3 percent on a dry
11 weight basis is considered marijuana and is subject to the provisions
12 of chapter 69.50 RCW.

13 **Sec. 5.** RCW 69.07.010 and 2017 c 138 s 1 are each reenacted and
14 amended to read as follows:

15 ~~((For the purposes of this chapter:))~~ The definitions in this
16 section apply throughout this chapter unless the context clearly
17 requires otherwise.

18 (1) "Board" means the state liquor and cannabis board;

19 (2) "Department" means the department of agriculture of the state
20 of Washington;

21 (3) "Director" means the director of the department;

22 (4) "Food" means any substance used for food or drink by any
23 person, including ice, bottled water, and any ingredient used for
24 components of any such substance regardless of the quantity of such
25 component;

26 (5) "Food processing" means the handling or processing of any
27 food in any manner in preparation for sale for human consumption:
28 PROVIDED, That it shall not include fresh fruit or vegetables merely
29 washed or trimmed while being prepared or packaged for sale in their
30 natural state;

31 (6) "Food processing plant" includes but is not limited to any
32 premises, plant, establishment, building, room, area, facilities and
33 the appurtenances thereto, in whole or in part, where food is
34 prepared, handled or processed in any manner for distribution or sale
35 for resale by retail outlets, restaurants, and any such other
36 facility selling or distributing to the ultimate consumer: PROVIDED,
37 That, as set forth herein, establishments processing foods in any
38 manner for resale shall be considered a food processing plant as to
39 such processing;

1 (7) "Food service establishment" shall mean any fixed or mobile
2 restaurant, coffee shop, cafeteria, short order cafe, luncheonette,
3 grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail
4 lounge, night club, roadside stand, industrial-feeding establishment,
5 retail grocery, retail food market, retail meat market, retail
6 bakery, private, public, or nonprofit organization routinely serving
7 food, catering kitchen, commissary or similar place in which food or
8 drink is prepared for sale or for service on the premises or
9 elsewhere, and any other eating or drinking establishment or
10 operation where food is served or provided for the public with or
11 without charge.

12 For the purpose of this chapter any custom cannery or processing
13 plant where raw food products, food, or food products are processed
14 for the owner thereof, or the food processing facilities are made
15 available to the owners or persons in control of raw food products or
16 food or food products for processing in any manner, shall be
17 considered to be food processing plants;

18 (8) "Hemp extract" means a substance or compound intended for
19 human ingestion that is derived from, or made by, processing hemp.
20 The term does not include hemp seeds or hemp seed-derived ingredients
21 that are generally recognized as safe by the United States food and
22 drug administration.

23 (9) "Hemp extract certification" means a certification issued by
24 the department to a hemp processor manufacturing hemp extract for
25 export to other states, which certifies the hemp processor's
26 compliance with Washington state's inspection and sanitation
27 requirements.

28 (10) "Hemp processor" has same meaning as defined in RCW
29 15.140.020.

30 (11) "Marijuana" has the definition in RCW 69.50.101;

31 ((+9)) (12) "Marijuana-infused edible" has the same meaning as
32 "marijuana-infused products" as defined in RCW 69.50.101, but limited
33 to products intended for oral consumption;

34 ((+10)) (13) "Marijuana-infused edible processing" means
35 processing, packaging, or making marijuana-infused edibles using
36 marijuana, marijuana extract, or marijuana concentrates as an
37 ingredient. The term does not include preparation of marijuana as an
38 ingredient including, but not limited to, processing marijuana
39 extracts or marijuana concentrates;

1 (~~(11)~~) (14) "Marijuana processor" has the definition in RCW
2 69.50.101;

3 (~~(12)~~) (15) "Person" means an individual, partnership,
4 corporation, or association;

5 (~~(13)~~) (16) "Sale" means selling, offering for sale, holding
6 for sale, preparing for sale, trading, bartering, offering a gift as
7 an inducement for sale of, and advertising for sale in any media.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 69.07
9 RCW to read as follows:

10 (1) Until such time as hemp extract is federally authorized for
11 use as a food ingredient, hemp extract is not an approved food
12 ingredient in Washington state. A hemp processor who wishes to engage
13 in the production of hemp extract for use as a food ingredient in
14 another state that allows its use as a food ingredient may apply for
15 a hemp extract certification to certify the hemp processor's
16 compliance with Washington's inspection and good manufacturing
17 practices requirements. The department shall regulate hemp extract
18 processing the same as other food processing under chapters 15.130,
19 69.07, and 69.22 RCW with the exceptions contained in subsections (2)
20 through (6) of this section.

21 (2) The department's oversight is limited to certifying a hemp
22 processor's compliance with applicable inspection and good
23 manufacturing practices requirements as adopted by the department
24 under chapter 15.130 RCW.

25 (3) The department must issue a hemp extract certification in
26 lieu of a food processing license under RCW 69.07.040 to a hemp
27 processor who meets the application requirements described in
28 subsection (4) of this section. A hemp processor holding a hemp
29 extract certification must apply for renewal of the certification
30 annually.

31 (4) The application, initial certification, and renewal fees must
32 be in an amount established by the department. Applicants for
33 certification otherwise must meet the same requirements as applicants
34 for a food processing license under chapter 69.07 RCW including, but
35 not limited to, successful completion of an inspection by the
36 department.

37 (5) The department may deny, suspend, or revoke a hemp extract
38 certification on the same grounds as the department may deny,
39 suspend, or revoke a food processor's license under this chapter.

1 (6) At such time as federal authorization of hemp extracts as a
2 food ingredient occurs, the department must cease issuance of
3 certifications under this chapter. At renewal, hemp processors
4 certified under this section must apply for a food processor license
5 in accordance with RCW 69.07.040.

6 **Sec. 7.** RCW 69.07.020 and 2017 c 138 s 2 are each amended to
7 read as follows:

8 (1) The department shall enforce and carry out the provisions of
9 this chapter, and may adopt the necessary rules to carry out its
10 purposes.

11 (2) Such rules may include:

12 (a) Standards for temperature controls in the storage of foods,
13 so as to provide proper refrigeration.

14 (b) Standards for temperatures at which low acid foods must be
15 processed and the length of time such temperatures must be applied
16 and at what pressure in the processing of such low acid foods.

17 (c) Standards and types of recording devices that must be used in
18 providing records of the processing of low acid foods, and how they
19 shall be made available to the department of agriculture for
20 inspection.

21 (d) Requirements for the keeping of records of the temperatures,
22 times and pressures at which foods were processed, or for the
23 temperatures at which refrigerated products were stored by the
24 licensee and the furnishing of such records to the department.

25 (e) Standards that must be used to establish the temperature and
26 purity of water used in the processing of foods.

27 (3) The department may adopt rules specific to marijuana-infused
28 edibles. Such rules must be written and interpreted to be consistent
29 with rules adopted by the board and the department of health.

30 (4) The department may adopt rules specific to hemp extract
31 certification to implement section 6 of this act.

Passed by the Senate March 9, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

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