H-0808.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1642**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Davis, Dent, Leavitt, Harris, Callan, Eslick, Walen, Senn, Ramel, Duerr, Gregerson, and Pollet

AN ACT Relating to addressing serious physical and behavioral health consequences of high-potency cannabis products by regulating the sale of cannabis concentrates; amending RCW 69.50.357, 69.50.375, and 69.50.325; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that high-potency cannabis products are increasingly prevalent in the market. Whereas the THC concentration of cannabis-infused edible products is limited to 10 percent by state law and the THC concentration of cannabis flower is biologically limited, there is currently no limit on the potency of cannabis concentrates such as THC-infused vape oils, shatter, and dabs. High-potency cannabis products are readily available with a THC concentration of nearly 100 percent. Prior to Washington legalizing cannabis sales, many of these extremely high-potency products did not exist or were not widely available. By 2019, sales of high-potency cannabis concentrates had grown to nearly 40 percent of total sales of cannabis products.

(2) The legislature also finds that Washington state's most prominent cannabis researchers at the University of Washington and Washington State University released a consensus statement about the health risks posed by high-potency cannabis products. That statement summarizes the best available science: "Use of cannabis with high THC concentration increases the chances of developing cannabis use disorder or addiction to cannabis, particularly among adolescents. High-potency cannabis use can have lifelong mental health consequences, which often manifest in adolescence or early adulthood. Daily cannabis use, particularly of high-potency products, increases the risk of developing a psychotic disorder, like schizophrenia, and is related to an earlier onset of symptoms compared to people who do not use cannabis."

(3) The legislature, therefore, intends to protect public health and safety by limiting the potency of cannabis concentrates.

**Sec.**  RCW 69.50.357 and 2022 c 16 s 71 are each amended to read as follows:

(1)(a) Retail outlets may not sell products or services other than cannabis concentrates, useable cannabis, cannabis-infused products, or paraphernalia intended for the storage or use of cannabis concentrates, useable cannabis, or cannabis-infused products.

(b) Except as provided in RCW 69.50.375(5), retail outlets may not sell cannabis concentrates with a THC concentration greater than 35 percent.

(c)(i) Retail outlets may receive lockable boxes, intended for the secure storage of cannabis products and paraphernalia, and related literature as a donation from another person or entity, that is not a cannabis producer, processor, or retailer, for donation to their customers.

(ii) Retail outlets may donate the lockable boxes and provide the related literature to any person eligible to purchase cannabis products under subsection (2) of this section. Retail outlets may not use the donation of lockable boxes or literature as an incentive or as a condition of a recipient's purchase of a cannabis product or paraphernalia.

(iii) Retail outlets may also purchase and sell lockable boxes, provided that the sales price is not less than the cost of acquisition.

(2) Licensed cannabis retailers may not employ persons under ((~~twenty-one~~)) 21 years of age or allow persons under ((~~twenty-one~~)) 21 years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between ((~~eighteen and twenty-one~~)) 18 and 21 years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of ((~~eighteen~~)) 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed cannabis retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of ((~~twenty-one~~)) 21, and other requirements adopted by the board to ensure that persons under the age of ((~~twenty-one~~)) 21 are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed cannabis retailers with a medical cannabis endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of ((~~eighteen and twenty-one~~)) 18 and 21 to enter the premises and purchase cannabis for their personal medical use and to permit qualifying patients who are under the age of ((~~eighteen~~)) 18 with a recognition card to enter the premises if accompanied by their designated providers.

(4) Except for the purposes of disposal as authorized by the board, no licensed cannabis retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any cannabis concentrates, useable cannabis, or cannabis-infused product on the outlet premises.

(5) The board must fine a licensee ((~~one thousand dollars~~)) $1,000 for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated cannabis account created under RCW 69.50.530.

**Sec.**  RCW 69.50.375 and 2022 c 16 s 77 are each amended to read as follows:

(1) A medical cannabis endorsement to a cannabis retail license is hereby established to permit a cannabis retailer to sell cannabis for medical use to qualifying patients and designated providers. This endorsement also permits such retailers to provide cannabis at no charge, at their discretion, to qualifying patients and designated providers.

(2) An applicant may apply for a medical cannabis endorsement concurrently with an application for a cannabis retail license.

(3) To be issued an endorsement, a cannabis retailer must:

(a) Not authorize the medical use of cannabis for qualifying patients at the retail outlet or permit health care professionals to authorize the medical use of cannabis for qualifying patients at the retail outlet;

(b) Carry cannabis concentrates and cannabis-infused products identified by the department under subsection (4) of this section;

(c) Not use labels or market cannabis concentrates, useable cannabis, or cannabis-infused products in a way that make them intentionally attractive to minors;

(d) Demonstrate the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established in RCW 69.51A.230 and issue recognition cards and agree to enter qualifying patients and designated providers into the database and issue recognition cards in compliance with department standards;

(e) Keep copies of the qualifying patient's or designated provider's recognition card, or keep equivalent records as required by rule of the board or the department of revenue to document the validity of tax exempt sales; and

(f) Meet other requirements as adopted by rule of the department or the board.

(4) The department, in conjunction with the board, must adopt rules on requirements for cannabis concentrates, useable cannabis, and cannabis-infused products that may be sold, or provided at no charge, to qualifying patients or designated providers at a retail outlet holding a medical cannabis endorsement. These rules must include:

(a) THC concentration, CBD concentration, or low THC, high CBD ratios appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients or designated providers;

(b) Labeling requirements including that the labels attached to cannabis concentrates, useable cannabis, or cannabis-infused products contain THC concentration, CBD concentration, and THC to CBD ratios;

(c) Other product requirements, including any additional mold, fungus, or pesticide testing requirements, or limitations to the types of solvents that may be used in cannabis processing that the department deems necessary to address the medical needs of qualifying patients;

(d) Safe handling requirements for cannabis concentrates, useable cannabis, or cannabis-infused products; and

(e) Training requirements for employees.

(5) Only cannabis retailers who hold a medical cannabis endorsement issued under this section may sell cannabis concentrates with a THC concentration greater than 35 percent. Cannabis concentrates with a THC concentration greater than 35 percent may be sold only to qualifying patients and designated providers who are entered into the medical cannabis authorization database and who hold a valid recognition card.

(6) A cannabis retailer holding an endorsement to sell cannabis to qualifying patients or designated providers must train its employees on:

(a) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical cannabis authorization database;

(b) Recognition of valid recognition cards; and

(c) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of cannabis concentrates, useable cannabis, and cannabis-infused products, available for sale when assisting qualifying patients and designated providers at the retail outlet.

**Sec.**  RCW 69.50.325 and 2022 c 16 s 54 are each amended to read as follows:

(1) There shall be a cannabis producer's license regulated by the board and subject to annual renewal. The licensee is authorized to produce: (a) Cannabis for sale at wholesale to cannabis processors and other cannabis producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of cannabis in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed cannabis producer, shall not be a criminal or civil offense under Washington state law. Every cannabis producer's license shall be issued in the name of the applicant, shall specify the location at which the cannabis producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a cannabis producer's license shall be ((~~two hundred fifty dollars~~)) $250. The annual fee for issuance and renewal of a cannabis producer's license shall be ((~~one thousand three hundred eighty-one dollars~~)) $1,381. A separate license shall be required for each location at which a cannabis producer intends to produce cannabis.

(2) There shall be a cannabis processor's license to process, package, and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers, regulated by the board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of cannabis, useable cannabis, cannabis-infused products, and cannabis concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed cannabis processor, shall not be a criminal or civil offense under Washington state law. Every cannabis processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a cannabis processor's license shall be ((~~two hundred fifty dollars~~)) $250. The annual fee for issuance and renewal of a cannabis processor's license shall be ((~~one thousand three hundred eighty-one dollars~~)) $1,381. A separate license shall be required for each location at which a cannabis processor intends to process cannabis. A cannabis processor may process, package, possess, deliver, distribute, and sell cannabis concentrates with a THC concentration greater than 35 percent only when the cannabis concentrates are intended for sale to a cannabis retailer with a medical cannabis endorsement who will sell the products at retail as provided in RCW 69.50.375.

(3)(a) There shall be a cannabis retailer's license to sell cannabis concentrates, useable cannabis, and cannabis-infused products at retail in retail outlets, regulated by the board and subject to annual renewal. The possession, delivery, distribution, and sale of cannabis concentrates, useable cannabis, and cannabis-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed cannabis retailer, shall not be a criminal or civil offense under Washington state law. Every cannabis retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a cannabis retailer's license shall be ((~~two hundred fifty dollars~~)) $250. The annual fee for issuance and renewal of a cannabis retailer's license shall be ((~~one thousand three hundred eighty-one dollars~~)) $1,381. A separate license shall be required for each location at which a cannabis retailer intends to sell cannabis concentrates, useable cannabis, and cannabis-infused products.

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

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

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

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

(B) The board must require license forfeiture on or before ((~~twenty-four~~)) 24 calendar months of license issuance if a cannabis retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond ((~~twenty-four~~)) 24 calendar months.

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

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

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

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

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

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

**--- END ---**