

HOUSE BILL REPORT

2SHB 2320

As Passed House:

February 9, 2024

Title: An act relating to reducing the public health harms associated with high THC cannabis products by raising awareness, implementing and studying health interventions, and increasing the minimum legal age of sale of high THC cannabis products to prevent psychosis.

Brief Description: Concerning high THC cannabis products.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Davis, Eslick, Bergquist, Callan, Dent, Dye, Senn, Leavitt, Harris, Ryu, Walen, Peterson, Pollet and Ramel).

Brief History:

Committee Activity:

Regulated Substances & Gaming: 1/16/24, 1/29/24 [DPS];

Appropriations: 2/3/24, 2/5/24 [DP2S(w/o sub RSG)].

Floor Activity:

Passed House: 2/9/24, 92-5.

Brief Summary of Second Substitute Bill

- Requires the Department of Health to develop optional training for retail cannabis staff as well as a notice that cannabis retailers must conspicuously post at the point of sale for consumers, related to possible health risks and impacts of high-tetrahydrocannabinol (THC) cannabis and available resources.
- Requires the Health Care Authority to contract to develop and implement guidance and health interventions for health care providers, certain patients, and for other uses, with reports and subject to funding.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON REGULATED SUBSTANCES & GAMING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Caldier, Morgan, Orwall, Reeves and Waters.

Minority Report: Without recommendation. Signed by 2 members: Representatives Robertson, Assistant Ranking Minority Member; Cheney.

Staff: Peter Clodfelter (786-7127).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Regulated Substances & Gaming. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Lily Smith (786-7175).

Background:

Cannabis retailers may sell certain quantities of cannabis products to adults age 21 and over and to qualifying patients who are at least age 18 if they are entered in the Medical Cannabis Authorization Database (Database) and hold a valid recognition card. Cannabis retailers may sell to a purchaser any combination of the following types and amounts of cannabis products: (1) 1 ounce of useable cannabis; (2) 16 ounces of cannabis-infused product in solid form; (3) 72 ounces of cannabis-infused product in liquid form; and (4) 7 grams of cannabis concentrate. Qualifying patients and designated providers in the Database with a valid recognition card may purchase three times those limits from a cannabis retailer.

The cannabis product types are defined in statute as follows:

- "Useable cannabis" is defined as dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.
- "Cannabis-infused product" is defined as products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis, and have a tetrahydrocannabinol (THC) concentration no greater than 10 percent. "Cannabis-infused product" does not include either useable cannabis or cannabis concentrates.
- "Cannabis concentrate" is defined as products consisting wholly or in part of the resin

extracted from any part of the plant *Cannabis* and having a THC concentration greater than 10 percent.

Pursuant to the 2021-23 Operating Budget, the Health Care Authority contracted with the University of Washington Addictions, Drug & Alcohol Institute (ADAI) to develop policy solutions in response to public health challenges of high-THC potency cannabis. A final report was submitted to the Legislature in 2022 making recommendations for policy changes to reduce negative impacts of high-THC cannabis.

Summary of Second Substitute Bill:

Legislative Intent.

Legislative intent is provided regarding high-THC cannabis.

Optional Training for Staff of Cannabis Retailers.

By July 1, 2025, the Department of Health (DOH) must develop an optional training that cannabis retail staff may complete to better understand the health and safety impacts of high-THC cannabis products. In developing the optional training, the DOH must consult with cannabis retail staff, cannabis consumers, persons who have been harmed by high-THC products, health care providers, prevention professionals, researchers with relevant expertise, behavioral health providers, and representatives of licensed cannabis businesses.

Conspicuous Point of Sale Notice.

By December 31, 2024, licensed cannabis retailers must post a conspicuous notice at the point of sale in retail outlets, to be developed by the DOH, including, at a minimum, the following information:

- the potential health risks and adverse health impacts that may be associated with the consumption of high-THC cannabis;
- the potentially much higher risks that may be present for younger persons under age 25 as well as for persons who have or are at risk for developing certain mental health conditions or psychotic disorders; and
- where to find help in case of negative effects and resources for quitting or reducing cannabis consumption.

After developing the notice, the DOH must make it available to licensed cannabis retailers. The notice a retailer posts must be the same or substantially the same as the notice developed by the DOH.

Health Care Authority Contract Related to Guidance and Health Interventions.

Subject to amounts appropriated, the Health Care Authority (HCA) must issue a request for proposal to contract with an entity to develop, implement, test, and evaluate guidance and health interventions for health care providers and patients at risk for developing serious complications due to cannabis consumption who are seeking care in emergency departments, primary care settings, behavioral health settings, other health care facilities,

and for use by state poison control and recovery hotlines to promote cannabis use reduction and cessation for the following populations:

- youth and adults at high risk of adverse mental health impacts from use of high-THC cannabis;
- youth and adults who have experienced a cannabis-induced first episode psychosis but do not have a diagnosis of a psychotic disorder; and
- youth and adults who have a diagnosed psychotic disorder and use cannabis.

The scope of work must also include data gathering on adverse health impacts occurring in Washington associated with consumption of high-THC cannabis, and data gathered must be included in the reports submitted to the Legislature. The HCA must submit the following three reports to the Legislature:

- a preliminary report, by December 1, 2025, summarizing the progress toward developing and testing health interventions and recruiting patients and health care facilities to participate;
- a progress report, by July 1, 2027, on initial outcomes of the health interventions for participating patients and health care facilities; and
- a final report, by December 1, 2028, summarizing the results of the interventions and any recommendations for implementation of health interventions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Regulated Substances & Gaming):

(In support) The cannabis sold today is an entirely different drug than the cannabis plant voters legalized with Initiative Measure 502 (2012). Potency of cannabis was closer to 10 percent at that time, today it is up to 99 percent THC. With a different drug comes different health impacts, particularly with a tenfold potency increase, and a different policy response is needed. There are physical health impacts like cannabis hyperemesis syndrome, which caused the death of a young man, as well as mental health issues including psychosis and psychotic disorders, and cannabis use disorder and addiction. Ten years ago there were not as many of these diagnoses. Recent data shows a 50 percent increase in cannabis-related diagnoses between 2019 and 2023 related to high-potency products. Adolescents and young adults are particularly susceptible, and this is often dismissed by saying it is illegal for persons under age 21 to purchase cannabis. But adolescents and young adults do obtain cannabis originating from the legal market. Government should learn from failures to act early with the opioid epidemic; action is needed now on high-THC cannabis before a response is too late and there is a new epidemic of schizophrenia. The health and safety of the most vulnerable communities across the state will benefit from this bill. Potency caps

are gaining traction across the country. Other states are acting because of the serious and significant mental health issues as well as road safety, homelessness, and crime that have been associated with high-potency cannabis. The brain develops until about age 25, which is why the original bill uses that age as the new minimum age of sale of high-potency cannabis. Studies show cannabis use among eighth and tenth graders increased following legalization in Washington, and that legalization is correlated with likelihood for youth to consume cannabis and alcohol. Survey data show 32 percent of Washington cannabis consumers were harmed by their cannabis use, reporting panic attacks, fainting, vomiting, hallucinations, psychosis, and flashbacks, and about 20 percent of that group sought emergency room assistance or called a poison control number. This is the reality when widely available products contain between 60 and 90 percent THC. Washingtonians need to be aware that high-THC products are harmful and should not be consumed by people under age 25. We also need programs and clinical guidelines to prevent psychosis in consumers. Health care providers are seeing more patients using and being affected by high-THC products. Providers need science-based information to help patients. Washington did the right thing legalizing cannabis; however, since then, very high potency cannabis has been developed and the law needs adjusting to protect consumers. There is tremendous support for the bill by those who work in the health care field and with young persons.

(Opposed) There are multiple demonstrably false assertions on which this legislation is predicated. Concentrated cannabis at these percentages has existed as long as humans have consumed cannabis. All of these products were available on the legacy market decades prior to passage of I-502. The assertion that cannabis causes schizophrenia is a false causality as at most there is a correlation. A recent medical journal article refutes these claims after an extensive study was conducted over 15 years across the United States. The study found no statistically significant increase in psychosis related diagnoses in states where cannabis is legal compared to states that prohibit cannabis. Opponents support more public education work. The fundamental aspect of I-502 was that cannabis prohibition does not work. That is why there is fundamental disagreement with capping the THC content of cannabis products, because it will spill into the illicit market. Focus on helping young people make good decisions. Instead of this bill, the Legislature is encouraged to continue looking at revisiting the tax code to look at three levels of taxation for products with low, medium, and high levels of THC. There have been decades of failed drug policies, and those failed policies are not the answer to real policy concerns. This bill would exacerbate problems the state has with the availability of synthetic THC products. There is room for conversation and agreement on different policies to move forward. If the potency is capped at 35 percent, processors must use an additive for the remaining percentage. The vape crisis in 2019 shows that additives are not safe. There were thousands of hospitalizations and dozens of deaths related to lung injuries. Putting a potency cap on concentrates will result in consumers using more product to achieve the same effect or turning to the illicit market. This would be a step back for consumers to shift to consuming untested and unregulated products.

Staff Summary of Public Testimony (Appropriations):

(In support) When the state legalized cannabis, the prevalent forms were much lower potency than they are now. Impacts from high-THC cannabis can be varied and severe, ranging from psychosis to addiction. This bill has been tailored to focus on enabling informed decisions and providing information on the health impacts of those decisions.

(Opposed) None.

Persons Testifying (Regulated Substances & Gaming): (In support) Representative Lauren Davis, prime sponsor; Beatriz Carlini, University of Washington Addictions, Drug, and Alcohol Institute; Beth Ebel, Washington Chapter of the American Academy of Pediatrics; Mary Lou Dickerson; Denise Walker, University of Washington Innovative Programs Research Group; Linda Thompson, Washington Association for Substance Misuse And Violence Prevention; John Daviau and Jordan Davidson, Smart Approaches to Marijuana; David Coffey, Recovery Cafe; and Ryan Orrison, Bridges—Seattle Alternative Peer Group.

(Opposed) Lukas Hunter, Harmony Farms; Caitlein Ryan, The Cannabis Alliance; Ezra Eickmeyer, Producers Northwest; Becca Burghardi, Northwest Cannabis Solutions; Bailey Hirschburg, National Organization For the Reform of Marijuana Laws - Washington Chapter ; Vicki Christophersen, Washington CannaBusiness Association; and Micah Sherman, Washington Sun and Craft Growers Association.

Persons Testifying (Appropriations): Representative Lauren Davis, prime sponsor.

Persons Signed In To Testify But Not Testifying (Regulated Substances & Gaming): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.