
HOUSE BILL 1612

State of Washington

68th Legislature

2023 Regular Session

By Representatives Kloba, Callan, Orwall, Ramel, Wylie, and Pollet;
by request of Liquor and Cannabis Board

Read first time 01/26/23. Referred to Committee on Regulated
Substances & Gaming.

1 AN ACT Relating to the regulation of products containing THC;
2 amending RCW 15.140.020, 69.50.326, and 69.50.346; reenacting and
3 amending RCW 69.50.101; and adding a new section to chapter 69.50
4 RCW.

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

6 **Sec. 1.** RCW 15.140.020 and 2022 c 16 s 19 are each amended to
7 read as follows:

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

10 (1) "Agriculture improvement act of 2018" means sections 7605,
11 10113, 10114, and 12619 of the agriculture improvement act of 2018,
12 P.L. 115-334.

13 (2) "Cannabis" has the meaning provided in RCW 69.50.101.

14 (3) "Crop" means hemp grown as an agricultural commodity.

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

17 (5) "Department" means the Washington state department of
18 agriculture.

19 (6) "Food" has the same meaning as defined in RCW 69.07.010.

20 (7) "Hemp" means the plant *Cannabis sativa L.* and any part of
21 that plant, including the seeds thereof and all derivatives,

1 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
2 whether growing or not, with a delta-9 tetrahydrocannabinol
3 concentration of not more than 0.3 percent on a dry weight basis.

4 (8) "Hemp consumable" means a product that is not a cannabis
5 product, as defined in RCW 69.50.101, and is intended to be consumed
6 or absorbed inside the body by any means, including inhalation,
7 ingestion, or insertion, that is sold or provided to another person
8 with a THC concentration of not more than:

9 (a) One milligram THC per unit, as defined in RCW 69.50.101; and

10 (b) Three milligrams THC in a package of product, as defined in
11 RCW 69.50.101.

12 (9) "Hemp processor" means a person who takes possession of raw
13 hemp material with the intent to modify, package, or sell a
14 transitional or finished hemp product.

15 ~~((9))~~ (10) (a) "Industrial hemp" means all parts and varieties
16 of the genera *Cannabis*, cultivated or possessed by a grower, whether
17 growing or not, that contain a tetrahydrocannabinol concentration of
18 0.3 percent or less by dry weight that was grown under the industrial
19 hemp research program as it existed on December 31, 2019.

20 (b) "Industrial hemp" does not include plants of the genera
21 *Cannabis* that meet the definition of "cannabis".

22 ~~((10))~~ (11) "Postharvest test" means a test of ~~((delta-9))~~
23 tetrahydrocannabinol concentration levels of hemp after being
24 harvested based on:

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

26 (b) Other approved testing methods.

27 ~~((11))~~ (12) "Process" means the processing, compounding, or
28 conversion of hemp into hemp commodities or products.

29 ~~((12))~~ (13) "Produce" or "production" means the planting,
30 cultivation, growing, or harvesting of hemp including hemp seed.

31 **Sec. 2.** RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and
32 amended to read as follows:

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

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

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

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

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

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

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

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

20 ~~(2) Hemp or industrial hemp as defined in RCW 15.140.020,))~~
21 during the growing cycle through harvest and usable cannabis.
22 "Cannabis" does not include hemp or industrial hemp as defined in RCW
23 15.140.020, or seeds used for licensed hemp production under chapter
24 15.140 RCW.

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

28 (f) "Cannabis processor" means a person licensed by the board to
29 process cannabis into cannabis concentrates, useable cannabis, and
30 cannabis-infused products, package and label cannabis concentrates,
31 useable cannabis, and cannabis-infused products for sale in retail
32 outlets, and sell cannabis concentrates, useable cannabis, and
33 cannabis-infused products at wholesale to cannabis retailers.

34 (g) "Cannabis producer" means a person licensed by the board to
35 produce and sell cannabis at wholesale to cannabis processors and
36 other cannabis producers.

37 (h) "Cannabis products" means useable cannabis, cannabis
38 concentrates, and cannabis-infused products as defined in this
39 section, including any product intended to be consumed or absorbed

1 inside the body by any means including inhalation, ingestion, or
2 insertion, with a THC concentration of more than:

- 3 (1)(i) One milligram THC per unit; and
4 (ii) Three milligrams THC in a package of product.

5 (2) The term does not include:

- 6 (i) Cannabis health and beauty aids as defined in RCW 69.50.575;
7 or
8 (ii) A hemp consumable as defined in RCW 15.140.020.

9 (i) "Cannabis researcher" means a person licensed by the board to
10 produce, process, and possess cannabis for the purposes of conducting
11 research on cannabis and cannabis-derived drug products.

12 (j) "Cannabis retailer" means a person licensed by the board to
13 sell cannabis concentrates, useable cannabis, and cannabis-infused
14 products in a retail outlet.

15 (k) "Cannabis-infused products" means products that contain
16 cannabis or cannabis extracts, are intended for human use, are
17 derived from cannabis as defined in subsection (d) of this section,
18 and have a THC concentration no greater than ten percent. The term
19 "cannabis-infused products" does not include either useable cannabis
20 or cannabis concentrates.

21 (l) "CBD concentration" has the meaning provided in RCW
22 69.51A.010.

23 (m) "CBD product" means any product containing or consisting of
24 cannabidiol.

25 (n) "Commission" means the pharmacy quality assurance commission.

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

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

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

37 (ii) with respect to a particular individual, that the individual
38 represents or intends to have a stimulant, depressant, or
39 hallucinogenic effect on the central nervous system substantially
40 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 (q) "Deliver" or "delivery" means the actual or constructive
16 transfer from one person to another of a substance, whether or not
17 there is an agency relationship.

18 (r) "Department" means the department of health.

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

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

26 (u) "Dispenser" means a practitioner who dispenses.

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

29 (w) "Distributor" means a person who distributes.

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

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

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

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

12 (bb) "Immediate precursor" means a substance:

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

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

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

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

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

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

35 (ff) "Manufacture" means the production, preparation,
36 propagation, compounding, conversion, or processing of a controlled
37 substance, either directly or indirectly or by extraction from
38 substances of natural origin, or independently by means of chemical
39 synthesis, or by a combination of extraction and chemical synthesis,
40 and includes any packaging or repackaging of the substance or

1 labeling or relabeling of its container. The term does not include
2 the preparation, compounding, packaging, repackaging, labeling, or
3 relabeling of a controlled substance:

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

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

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

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

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

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

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

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

30 (6) Cocaine base.

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

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

35 (hh) "Opiate" means any substance having an addiction-forming or
36 addiction-sustaining liability similar to morphine or being capable
37 of conversion into a drug having addiction-forming or addiction-
38 sustaining liability. The term includes opium, substances derived
39 from opium (opium derivatives), and synthetic opiates. The term does
40 not include, unless specifically designated as controlled under RCW

1 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
2 and its salts (dextromethorphan). The term includes the racemic and
3 levorotatory forms of dextromethorphan.

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

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

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

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

13 (mm) "Practitioner" means:

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

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

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

1 supervising physician, an advanced registered nurse practitioner
2 licensed to prescribe controlled substances, or a veterinarian
3 licensed to practice veterinary medicine in any state of the United
4 States.

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

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

11 (pp) "Qualifying patient" has the meaning provided in RCW
12 69.51A.010.

13 (qq) "Recognition card" has the meaning provided in RCW
14 69.51A.010.

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

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

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

24 (uu) "THC concentration" means percent of ((~~delta-9~~))
25 tetrahydrocannabinol content ((~~per dry weight~~)), including any
26 hydrogenated or structural isomer forms of THC, of any part of the
27 plant *Cannabis*, or per volume or weight of cannabis product, or the
28 combined percent of ((~~delta-9~~)) tetrahydrocannabinol and
29 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
30 regardless of moisture content.

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

36 (ww) "Useable cannabis" means dried cannabis flowers. The term
37 "useable cannabis" does not include either cannabis-infused products
38 or cannabis concentrates.

39 (xx) "Youth access" means the level of interest persons under the
40 age of twenty-one may have in a vapor product, as well as the degree

1 to which the product is available or appealing to such persons, and
2 the likelihood of initiation, use, or addiction by adolescents and
3 young adults.

4 (yy) "Package" means a container that has a single unit or group
5 of units.

6 (zz) "Unit" means an individual consumable item within a package
7 of one or more consumable items in solid, liquid, gas, or any form
8 intended for human consumption.

9 **Sec. 3.** RCW 69.50.326 and 2022 c 16 s 55 are each amended to
10 read as follows:

11 (1) Licensed cannabis producers and licensed cannabis processors
12 may use a CBD product as an additive for the purpose of enhancing the
13 cannabidiol concentration of any product authorized for production,
14 processing, and sale under this chapter. Except as otherwise provided
15 in subsection (2) of this section, such CBD product additives must be
16 lawfully produced by, or purchased from, a producer or processor
17 licensed under this chapter.

18 (2) Subject to the requirements set forth in (a) ~~((and (b)))~~
19 through (c) of this subsection, and for the purpose of enhancing the
20 cannabidiol concentration of any product authorized for production,
21 processing, or sale under this chapter, licensed cannabis producers
22 and licensed cannabis processors may use a CBD product obtained from
23 a source not licensed under this chapter, provided the CBD product:

24 ~~(a) ((Has a THC level of 0.3 percent or less on a dry weight~~
25 ~~basis; and~~

26 ~~(b))~~ Is not cannabis, or a cannabis product, as defined in this
27 chapter;

28 (b) Is not a hemp consumable as defined in RCW 15.140.020; and

29 (c) Has been tested for contaminants and toxins by a testing
30 laboratory accredited under this chapter and in accordance with
31 testing standards established under this chapter and the applicable
32 administrative rules.

33 (3) Subject to the requirements of this subsection (3), the board
34 may enact rules necessary to implement the requirements of this
35 section. Such rule making is limited to regulations pertaining to
36 laboratory testing and product safety standards for those cannabidiol
37 products used by licensed producers and processors in the manufacture
38 of cannabis products marketed by licensed retailers under this
39 chapter. The purpose of such rule making must be to ensure the safety

1 and purity of cannabidiol products used by cannabis producers and
2 processors licensed under this chapter and incorporated into products
3 sold by licensed recreational cannabis retailers. This rule-making
4 authority does not include the authority to enact rules regarding
5 either the production or processing practices of the industrial hemp
6 industry or any cannabidiol products that are sold or marketed
7 outside of the regulatory framework established under this chapter.

8 **Sec. 4.** RCW 69.50.346 and 2022 c 16 s 66 are each amended to
9 read as follows:

10 (1) The label on a cannabis product (~~(container)~~) package,
11 including cannabis concentrates, useable cannabis, or cannabis-
12 infused products, sold at retail must include:

13 (a) The business or trade name and Washington state unified
14 business identifier number of the cannabis producer and processor;

15 (b) The lot numbers of the product;

16 (c) The THC concentration and CBD concentration of the product;

17 (d) The amount of any synthetically derived CBD in the product
18 sold or provided to the ultimate user;

19 (e) Medically and scientifically accurate and reliable
20 information about the health and safety risks posed by cannabis use;

21 (~~(e)~~) (f) Language required by RCW 69.04.480; and

22 (~~(f)~~) (g) A disclaimer, subject to the following conditions:

23 (i) Where there is one statement made under subsection (2) of
24 this section, or as described in subsection (5)(b) of this section,
25 the disclaimer must state "This statement has not been evaluated by
26 the State of Washington. This product is not intended to diagnose,
27 treat, cure, or prevent any disease."; and

28 (ii) Where there is more than one statement made under subsection
29 (2) of this section, or as described in subsection (5)(b) of this
30 section, the disclaimer must state "These statements have not been
31 evaluated by the State of Washington. This product is not intended to
32 diagnose, treat, cure, or prevent any disease."

33 (2)(a) For cannabis products that have been identified by the
34 department in rules adopted under RCW 69.50.375(4) in chapter 246-70
35 WAC as being a compliant cannabis product, the product label and
36 labeling may include a structure or function claim describing the
37 intended role of a product to maintain the structure or any function
38 of the body, or characterize the documented mechanism by which the

1 product acts to maintain such structure or function, provided that
2 the claim is truthful and not misleading.

3 (b) A statement made under (a) of this subsection may not claim
4 to diagnose, mitigate, treat, cure, or prevent any disease.

5 (3) The labels and labeling may not be:

6 (a) False or misleading; or

7 (b) Especially appealing to children.

8 (4) The label is not required to include the business or trade
9 name or Washington state unified business identifier number of, or
10 any information about, the cannabis retailer selling the cannabis
11 product.

12 (5) A cannabis product is not in violation of any Washington
13 state law or rule of the board solely because its label or labeling
14 contains:

15 (a) Directions or recommended conditions of use; or

16 (b) A warning describing the psychoactive effects of the cannabis
17 product, provided that the warning is truthful and not misleading.

18 (6) This section does not create any civil liability on the part
19 of the state, the board, any other state agency, officer, employee,
20 or agent based on a cannabis licensee's description of a structure or
21 function claim or the product's intended role under subsection (2) of
22 this section.

23 (7) Nothing in this section shall apply to a drug, as defined in
24 RCW 69.50.101, or a pharmaceutical product approved by the United
25 States food and drug administration.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50
27 RCW to read as follows:

28 Except as otherwise provided in this chapter, no person may
29 manufacture, sell, or distribute cannabis, cannabis concentrates,
30 useable cannabis, or cannabis-infused products, or any cannabis
31 products without a valid license issued by the board or commission.
32 Any person performing any act requiring a license under this title,
33 without having in force an appropriate and valid license issued to
34 the person, is in violation of this chapter.

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