
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

Read first time 01/27/23. Referred to Committee on Regulated Substances & Gaming.

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

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

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

18 (2) The legislature also finds that Washington state's most
19 prominent cannabis researchers at the University of Washington and
20 Washington State University released a consensus statement about the
21 health risks posed by high-potency cannabis products. That statement

1 summarizes the best available science: "Use of cannabis with high THC
2 concentration increases the chances of developing cannabis use
3 disorder or addiction to cannabis, particularly among adolescents.
4 High-potency cannabis use can have lifelong mental health
5 consequences, which often manifest in adolescence or early adulthood.
6 Daily cannabis use, particularly of high-potency products, increases
7 the risk of developing a psychotic disorder, like schizophrenia, and
8 is related to an earlier onset of symptoms compared to people who do
9 not use cannabis."

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

12 **Sec. 2.** RCW 69.50.357 and 2022 c 16 s 71 are each amended to
13 read as follows:

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

19 (b) Except as provided in RCW 69.50.375(5), retail outlets may
20 not sell cannabis concentrates with a THC concentration greater than
21 35 percent.

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

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

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

36 (2) Licensed cannabis retailers may not employ persons under
37 (~~twenty-one~~) 21 years of age or allow persons under (~~twenty-one~~)
38 21 years of age to enter or remain on the premises of a retail
39 outlet. However, qualifying patients between (~~eighteen and twenty-~~

1 ~~one~~) 18 and 21 years of age with a recognition card may enter and
2 remain on the premises of a retail outlet holding a medical cannabis
3 endorsement and may purchase products for their personal medical use.
4 Qualifying patients who are under the age of (~~eighteen~~) 18 with a
5 recognition card and who accompany their designated providers may
6 enter and remain on the premises of a retail outlet holding a medical
7 cannabis endorsement, but may not purchase products for their
8 personal medical use.

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

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

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

30 (5) The board must fine a licensee (~~one thousand dollars~~)
31 \$1,000 for each violation of any subsection of this section. Fines
32 collected under this section must be deposited into the dedicated
33 cannabis account created under RCW 69.50.530.

34 **Sec. 3.** RCW 69.50.375 and 2022 c 16 s 77 are each amended to
35 read as follows:

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

1 charge, at their discretion, to qualifying patients and designated
2 providers.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (e) Training requirements for employees.

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

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

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

22 (b) Recognition of valid recognition cards; and

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

28 **Sec. 4.** RCW 69.50.325 and 2022 c 16 s 54 are each amended to
29 read as follows:

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

1 producer, shall not be a criminal or civil offense under Washington
2 state law. Every cannabis producer's license shall be issued in the
3 name of the applicant, shall specify the location at which the
4 cannabis producer intends to operate, which must be within the state
5 of Washington, and the holder thereof shall not allow any other
6 person to use the license. The application fee for a cannabis
7 producer's license shall be (~~two hundred fifty dollars~~) \$250. The
8 annual fee for issuance and renewal of a cannabis producer's license
9 shall be (~~one thousand three hundred eighty-one dollars~~) \$1,381. A
10 separate license shall be required for each location at which a
11 cannabis producer intends to produce cannabis.

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

37 (3) (a) There shall be a cannabis retailer's license to sell
38 cannabis concentrates, useable cannabis, and cannabis-infused
39 products at retail in retail outlets, regulated by the board and
40 subject to annual renewal. The possession, delivery, distribution,

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

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

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

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

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

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

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

38 (iv) This subsection (3) (c) applies to cannabis retailer's
39 licenses issued before and after July 23, 2017. However, no license
40 of a cannabis retailer that otherwise meets the conditions for

1 license forfeiture established pursuant to this subsection (3)(c) may
2 be subject to forfeiture within the first nine calendar months of
3 July 23, 2017.

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

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

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

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

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