

SHB 1668 - H COMM AMD
By Committee on Appropriations

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** Since the inception of the legal,
4 regulated marketplace for cannabis in Washington state, the industry
5 across the United States continues to innovate and evolve. The
6 legislature finds that while the legal, regulated industry has
7 striven to provide safe products to consumers, the illicit market has
8 continued to find ways to avoid regulation, resulting in unregulated,
9 untested, and potentially unsafe products available outside of the
10 regulated market. Due to this and the evolving nature of new
11 cannabinoids identified in the *Cannabis sativa L.* plant, the
12 legislature finds there is a need to provide consumers legal access
13 to safe products in the regulated cannabis market. The legislature
14 further finds there is a need to ensure appropriate labeling, serving
15 size, and disclosure standards for any regulated cannabinoid. The
16 legislature intends to create a robust regulatory framework for
17 naturally occurring cannabinoids found in the *Cannabis sativa L.*
18 plant while allowing continued innovation in the regulated market.

19 **Sec. 2.** RCW 69.50.101 and 2020 c 133 s 2 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (a) "11-hydroxy-delta-9-tetrahydrocannabinol" means
24 (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-
25 benzo[c]chromen-1-ol, chemical abstracts service number 36557-05-8.

26 (b) "Administer" means to apply a controlled substance, whether
27 by injection, inhalation, ingestion, or any other means, directly to
28 the body of a patient or research subject by:

29 (1) a practitioner authorized to prescribe (or, by the
30 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))~~ (c) "Agent" means an authorized person who acts on behalf
4 of or at the direction of a manufacturer, distributor, or dispenser.
5 It does not include a common or contract carrier, public
6 warehouseperson, or employee of the carrier or warehouseperson.

7 ~~((e))~~ (d) "Artificial cannabinoid" means a cannabinoid that
8 possesses either a similar chemical structure to any naturally
9 occurring cannabinoid or exhibits agonist activity at one or more
10 cannabinoid receptors and is not found in nature.

11 (e) "Board" means the Washington state liquor and cannabis board.

12 ~~((d))~~ (f) "Cannabinoid" means any of the chemical compounds
13 that are the active constituents of the plant Cannabis including, but
14 not limited to, tetrahydrocannabinol, tetrahydrocannabinolic acid,
15 cannabidiol, cannabidiolic acid, cannabinol, cannabigerol,
16 cannabichromence, cannabicyclol, cannabivarin,
17 tetrahydrocannabivarin, cannabidivarin, cannabichromevarin,
18 cannabigerovarin, cannabigerol monomethyl ether, cannabielsoin, and
19 cannabicitran. Cannabinoids do not include artificial cannabinoids,
20 as that term is defined in this section and in Schedules I through V
21 of the Washington state controlled substances act.

22 (g) "CBD concentration" has the meaning provided in RCW
23 69.51A.010.

24 ~~((e))~~ (h) "CBD product" means any product containing or
25 consisting of cannabidiol.

26 ~~((f))~~ (i) "Commission" means the pharmacy quality assurance
27 commission.

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

32 ~~((h))~~ (k) (1) "Controlled substance analog" means a substance
33 the chemical structure of which is substantially similar to the
34 chemical structure of a controlled substance in Schedule I or II and:

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

39 (ii) with respect to a particular individual, that the individual
40 represents or intends to have a stimulant, depressant, or

1 hallucinogenic effect on the central nervous system substantially
2 similar to the stimulant, depressant, or hallucinogenic effect on the
3 central nervous system of a controlled substance included in Schedule
4 I or II.

5 (2) The term does not include:

6 (i) a controlled substance;

7 (ii) a substance for which there is an approved new drug
8 application;

9 (iii) a substance with respect to which an exemption is in effect
10 for investigational use by a particular person under Section 505 of
11 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or
12 chapter 69.77 RCW to the extent conduct with respect to the substance
13 is pursuant to the exemption; or

14 (iv) any substance to the extent not intended for human
15 consumption before an exemption takes effect with respect to the
16 substance.

17 ~~((i))~~ (l) "Deliver" or "delivery" means the actual or
18 constructive transfer from one person to another of a substance,
19 whether or not there is an agency relationship.

20 ~~((j))~~ (m) "Delta-7-tetrahydrocannabinol" means
21 (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,9,10,10a-tetrahydro-6H-
22 benzo[c]chromen-1-ol, chemical abstracts service number 162678-94-6.

23 (n) "Delta-8-tetrahydrocannabinol" has the meaning provided in
24 RCW 69.50.204(c)(30)(i)(B).

25 (o) "Delta-9-tetrahydrocannabinol" has the meaning provided in
26 RCW 69.50.204(c)(30)(i)(A).

27 (p) "Delta-9-tetrahydrocannabinolic acid" means (6aR,10aR)-1-
28 hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-
29 benzo[c]chromene-2-carboxylic acid, chemical abstracts service number
30 23978-85-0 or (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-
31 pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-4-carboxylic acid.

32 (q) "Delta-9-tetrahydrocannabiphorol" means (6aR,10aR)-6,6,9-
33 trimethyl-3-heptyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol,
34 chemical abstracts service number 54763-99-4.

35 (r) "Delta-10-tetrahydrocannabinol" means (6aR)-6,6,9-
36 trimethyl-3-pentyl-6a,7,8,9-tetrahydro-6H-benzo[c]chromen-1-ol,
37 chemical abstracts service number 95543-62-7.

38 (s) "Department" means the department of health.

39 ~~((k))~~ (t) "Designated provider" has the meaning provided in RCW
40 69.51A.010.

1 (~~(l)~~) (u) "Dispense" means the interpretation of a prescription
2 or order for a controlled substance and, pursuant to that
3 prescription or order, the proper selection, measuring, compounding,
4 labeling, or packaging necessary to prepare that prescription or
5 order for delivery.

6 (~~(m)~~) (v) "Dispenser" means a practitioner who dispenses.

7 (~~(n)~~) (w) "Distribute" means to deliver other than by
8 administering or dispensing a controlled substance.

9 (~~(o)~~) (x) "Distributor" means a person who distributes.

10 (~~(p)~~) (y) "Drug" means (1) a controlled substance recognized as
11 a drug in the official United States pharmacopoeia/national formulary
12 or the official homeopathic pharmacopoeia of the United States, or
13 any supplement to them; (2) controlled substances intended for use in
14 the diagnosis, cure, mitigation, treatment, or prevention of disease
15 in individuals or animals; (3) controlled substances (other than
16 food) intended to affect the structure or any function of the body of
17 individuals or animals; and (4) controlled substances intended for
18 use as a component of any article specified in (1), (2), or (3) of
19 this subsection. The term does not include devices or their
20 components, parts, or accessories.

21 (~~(q)~~) (z) "Drug enforcement administration" means the drug
22 enforcement administration in the United States Department of
23 Justice, or its successor agency.

24 (~~(r)~~) (aa) "Electronic communication of prescription
25 information" means the transmission of a prescription or refill
26 authorization for a drug of a practitioner using computer systems.
27 The term does not include a prescription or refill authorization
28 verbally transmitted by telephone nor a facsimile manually signed by
29 the practitioner.

30 (~~(s)~~) (bb) "Immature plant or clone" means a plant or clone
31 that has no flowers, is less than twelve inches in height, and is
32 less than twelve inches in diameter.

33 (~~(t)~~) (cc) "Immediate precursor" means a substance:

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

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

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

1 ~~((u))~~ (dd) "Impairing cannabinoid" means a substance that meets
2 each of the following structural and functional criteria:

3 (1) Exhibits the structural backbone of tetrahydrocannabinols and
4 tetrahydrocannabinol-like molecules that include the interconnected
5 three-ring system of either a six-carbon aromatic ring, a pyran ring,
6 or a cyclohexene ring. Known compounds that fit this description
7 include:

8 (i) Tetrahydrocannabinols. A single double-bond in the C ring,
9 such as delta-10 tetrahydrocannabinol and isomers, delta-9
10 tetrahydrocannabinol and isomers, delta-8-tetrahydrocannabinol and
11 isomers, delta-7-tetrahydrocannabinol and isomers, delta-6a
12 tetrahydrocannabinol and isomers, and delta-10a tetrahydrocannabinol
13 and isomers;

14 (ii) Carboxylates (C-2 and C-4) of tetrahydrocannabinols, such as
15 delta-9-tetrahydrocannabinolic acid, similar carboxylates of delta-9-
16 tetrahydrocannabinolic acid for tetrahydrocannabinols such as in
17 (1)(i) of this subsection, and carboxylate esters of
18 tetrahydrocannabinols in (1)(i) of this subsection;

19 (iii) Alkyl analogues (C-3) of tetrahydrocannabinols, such as
20 delta-9-tetrahydrocannabiphorol and n-alkyl analogues, and similar
21 alkylated analogues of delta-9-tetrahydrocannabinol for
22 tetrahydrocannabinols in (1)(i) of this subsection; and

23 (iv) Hydroxylated analogues of tetrahydrocannabinols, such as 11-
24 hydroxy-delta-9-tetrahydrocannabinol and 8- and 10-hydroxy analogues,
25 and similar hydroxylated analogues of delta-9 tetrahydrocannabinol
26 for tetrahydrocannabinols in (1)(i) of this subsection;

27 (2) Possesses significant CB1 agonist activity as demonstrated by
28 binding affinity (K_i) to the CB1 receptors at less than 200 nM; and

29 (3) Results in positive effects for all four components of the
30 tetrad test in rodents or reliably causes functional impairment in
31 humans as assayed by a method possessing scientific consensus.

32 (ee) "Isomer" means an optical isomer, but in subsection ~~((gg))~~
33 (qq) (5) of this section, RCW 69.50.204(a) (12) and (34), and
34 69.50.206(b) (4), the term includes any geometrical isomer; in RCW
35 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
36 positional isomer; and in RCW 69.50.204(a) (35), 69.50.204(c), and
37 69.50.208(a) the term includes any positional or geometric isomer.

38 ~~((v))~~ (ff) "Lot" means a definite quantity of marijuana,
39 marijuana concentrates, useable marijuana, or marijuana-infused
40 product identified by a lot number, every portion or package of which

1 is uniform within recognized tolerances for the factors that appear
2 in the labeling.

3 ~~((w))~~ (gg) "Lot number" must identify the licensee by business
4 or trade name and Washington state unified business identifier
5 number, and the date of harvest or processing for each lot of
6 marijuana, marijuana concentrates, useable marijuana, or marijuana-
7 infused product.

8 ~~((x))~~ (hh) "Manufacture" means the production, preparation,
9 propagation, compounding, conversion, or processing of a controlled
10 substance, either directly or indirectly or by extraction from
11 substances of natural origin, or independently by means of chemical
12 synthesis, or by a combination of extraction and chemical synthesis,
13 and includes any packaging or repackaging of the substance or
14 labeling or relabeling of its container. The term does not include
15 the preparation, compounding, packaging, repackaging, labeling, or
16 relabeling of a controlled substance:

17 (1) ~~((by))~~ By a practitioner as an incident to the practitioner's
18 administering or dispensing of a controlled substance in the course
19 of the practitioner's professional practice; ~~((e))~~

20 (2) ~~((by))~~ By a practitioner, or by the practitioner's authorized
21 agent under the practitioner's supervision, for the purpose of, or as
22 an incident to, research, teaching, or chemical analysis and not for
23 sale(~~(-~~

24 ~~(y))~~); or

25 (3) By a marijuana processor licensed under RCW 69.50.325 and
26 operating within the privileges granted to marijuana processors under
27 RCW 69.50.326.

28 (ii) "Marijuana" or "marihuana" means all parts of the plant
29 *Cannabis*, whether growing or not, with a THC concentration greater
30 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
31 extracted from any part of the plant; and every compound,
32 manufacture, salt, derivative, mixture, or preparation of the plant,
33 its seeds or resin. The term does not include:

34 (1) The mature stalks of the plant, fiber produced from the
35 stalks, oil or cake made from the seeds of the plant, any other
36 compound, manufacture, salt, derivative, mixture, or preparation of
37 the mature stalks (except the resin extracted therefrom), fiber, oil,
38 or cake, or the sterilized seed of the plant which is incapable of
39 germination; or

1 (2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds
2 used for licensed hemp production under chapter 15.140 RCW.

3 ~~((z))~~ (jj) "Marijuana concentrates" means products consisting
4 wholly or in part of the resin extracted from any part of the plant
5 *Cannabis* and having a THC concentration greater than ten percent.

6 ~~((aa))~~ (kk) "Marijuana processor" means a person licensed by
7 the board to ~~(process)~~:

8 (1) Process marijuana into marijuana concentrates, useable
9 marijuana, and marijuana-infused products~~((package))~~;

10 (2) Convert cannabinoids derived from the plant *Cannabis* into
11 naturally occurring cannabinoids;

12 (3) Package and label marijuana concentrates, useable marijuana,
13 and marijuana-infused products for sale in retail outlets~~((and~~
14 ~~sell))~~; and

15 (4) Sell marijuana concentrates, useable marijuana, and
16 marijuana-infused products at wholesale to marijuana retailers.

17 ~~((bb))~~ (ll) "Marijuana producer" means a person licensed by the
18 board to produce and sell marijuana at wholesale to marijuana
19 processors and other marijuana producers.

20 ~~((ee))~~ (mm) "Marijuana products" means useable marijuana,
21 marijuana concentrates, and marijuana-infused products as defined in
22 this section.

23 ~~((dd))~~ (nn) "Marijuana researcher" means a person licensed by
24 the board to produce, process, and possess marijuana for the purposes
25 of conducting research on marijuana and marijuana-derived drug
26 products.

27 ~~((ee))~~ (oo) "Marijuana retailer" means a person licensed by the
28 board to sell marijuana concentrates, useable marijuana, and
29 marijuana-infused products in a retail outlet.

30 ~~((ff))~~ (pp) "Marijuana-infused products" means products that
31 contain marijuana or marijuana extracts, are intended for human use,
32 are derived from marijuana ~~((as defined in subsection (y) of this~~
33 ~~section))~~, and have a THC concentration no greater than ten percent.
34 The term "marijuana-infused products" does not include either useable
35 marijuana or marijuana concentrates.

36 ~~((gg))~~ (qq) "Narcotic drug" means any of the following, whether
37 produced directly or indirectly by extraction from substances of
38 vegetable origin, or independently by means of chemical synthesis, or
39 by a combination of extraction and chemical synthesis:

1 (1) Opium, opium derivative, and any derivative of opium or opium
2 derivative, including their salts, isomers, and salts of isomers,
3 whenever the existence of the salts, isomers, and salts of isomers is
4 possible within the specific chemical designation. The term does not
5 include the isoquinoline alkaloids of opium.

6 (2) Synthetic opiate and any derivative of synthetic opiate,
7 including their isomers, esters, ethers, salts, and salts of isomers,
8 esters, and ethers, whenever the existence of the isomers, esters,
9 ethers, and salts is possible within the specific chemical
10 designation.

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

12 (4) Coca leaves, except coca leaves and extracts of coca leaves
13 from which cocaine, ecgonine, and derivatives or ecgonine or their
14 salts have been removed.

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

16 (6) Cocaine base.

17 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
18 thereof.

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

21 ~~((hh))~~ (rr) Naturally occurring cannabinoid means a cannabinoid
22 found in the plant *Cannabis*.

23 (ss) "Opiate" means any substance having an addiction-forming or
24 addiction-sustaining liability similar to morphine or being capable
25 of conversion into a drug having addiction-forming or addiction-
26 sustaining liability. The term includes opium, substances derived
27 from opium (opium derivatives), and synthetic opiates. The term does
28 not include, unless specifically designated as controlled under RCW
29 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
30 and its salts (dextromethorphan). The term includes the racemic and
31 levorotatory forms of dextromethorphan.

32 ~~((ii))~~ (tt) "Opium poppy" means the plant of the species
33 *Papaver somniferum* L., except its seeds.

34 ~~((jj))~~ (uu) "Person" means individual, corporation, business
35 trust, estate, trust, partnership, association, joint venture,
36 government, governmental subdivision or agency, or any other legal or
37 commercial entity.

38 ~~((kk))~~ (vv) "Plant" has the meaning provided in RCW 69.51A.010.

39 ~~((ll))~~ (ww) "Plant *Cannabis*" means all plants of the genus
40 *Cannabis*, including marijuana, and hemp as defined in RCW 15.140.020.

1 ~~(xx)~~ "Poppy straw" means all parts, except the seeds, of the
2 opium poppy, after mowing.

3 ~~((mm))~~ (yy) "Practitioner" means:

4 (1) A physician under chapter 18.71 RCW; a physician assistant
5 under chapter 18.71A RCW; an osteopathic physician and surgeon under
6 chapter 18.57 RCW; an osteopathic physician assistant under chapter
7 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
8 limitations in RCW 18.57A.040; an optometrist licensed under chapter
9 18.53 RCW who is certified by the optometry board under RCW 18.53.010
10 subject to any limitations in RCW 18.53.010; a dentist under chapter
11 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
12 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
13 registered nurse practitioner, or licensed practical nurse under
14 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
15 who is licensed under RCW 18.36A.030 subject to any limitations in
16 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
17 investigator under this chapter, licensed, registered or otherwise
18 permitted insofar as is consistent with those licensing laws to
19 distribute, dispense, conduct research with respect to or administer
20 a controlled substance in the course of their professional practice
21 or research in this state.

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

26 (3) A physician licensed to practice medicine and surgery, a
27 physician licensed to practice osteopathic medicine and surgery, a
28 dentist licensed to practice dentistry, a podiatric physician and
29 surgeon licensed to practice podiatric medicine and surgery, a
30 licensed physician assistant or a licensed osteopathic physician
31 assistant specifically approved to prescribe controlled substances by
32 his or her state's medical commission or equivalent and his or her
33 supervising physician, an advanced registered nurse practitioner
34 licensed to prescribe controlled substances, or a veterinarian
35 licensed to practice veterinary medicine in any state of the United
36 States.

37 ~~((nn))~~ (zz) "Prescription" means an order for controlled
38 substances issued by a practitioner duly authorized by law or rule in
39 the state of Washington to prescribe controlled substances within the

1 scope of his or her professional practice for a legitimate medical
2 purpose.

3 ~~((+aa))~~ (aaa) "Production" includes the manufacturing, planting,
4 cultivating, growing, or harvesting of a controlled substance.

5 ~~((+pp))~~ (bbb) "Qualifying patient" has the meaning provided in
6 RCW 69.51A.010.

7 ~~((+qq))~~ (ccc) "Recognition card" has the meaning provided in RCW
8 69.51A.010.

9 ~~((+rr))~~ (ddd) "Retail outlet" means a location licensed by the
10 board for the retail sale of marijuana concentrates, useable
11 marijuana, and marijuana-infused products.

12 ~~((+ss))~~ (eee) "Secretary" means the secretary of health or the
13 secretary's designee.

14 ~~((+tt))~~ (fff) "State," unless the context otherwise requires,
15 means a state of the United States, the District of Columbia, the
16 Commonwealth of Puerto Rico, or a territory or insular possession
17 subject to the jurisdiction of the United States.

18 ~~((+uu))~~ (ggg) "THC concentration" means percent of delta-9
19 tetrahydrocannabinol content per dry weight of any part of the plant
20 *Cannabis*, or per volume or weight of marijuana product, or the
21 combined percent of delta-9 tetrahydrocannabinol and
22 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
23 regardless of moisture content.

24 ~~((+vv))~~ (hhh) "Ultimate user" means an individual who lawfully
25 possesses a controlled substance for the individual's own use or for
26 the use of a member of the individual's household or for
27 administering to an animal owned by the individual or by a member of
28 the individual's household.

29 ~~((+ww))~~ (iii) "Useable marijuana" means dried marijuana flowers.
30 The term "useable marijuana" does not include either marijuana-
31 infused products or marijuana concentrates.

32 ~~((+xx))~~ (jjj) "Youth access" means the level of interest persons
33 under the age of twenty-one may have in a vapor product, as well as
34 the degree to which the product is available or appealing to such
35 persons, and the likelihood of initiation, use, or addiction by
36 adolescents and young adults.

37 **Sec. 3.** RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are
38 each reenacted and amended to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (a) "11-hydroxy-delta-9-tetrahydrocannabinol" means
4 (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-
5 benzo[c]chromen-1-ol, chemical abstracts service number 36557-05-8.

6 (b) "Administer" means to apply a controlled substance, whether
7 by injection, inhalation, ingestion, or any other means, directly to
8 the body of a patient or research subject by:

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

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

13 ~~((b))~~ (c) "Agent" means an authorized person who acts on behalf
14 of or at the direction of a manufacturer, distributor, or dispenser.
15 It does not include a common or contract carrier, public
16 warehouseperson, or employee of the carrier or warehouseperson.

17 ~~((e))~~ (d) "Artificial cannabinoid" means a cannabinoid that
18 possesses either a similar chemical structure to any naturally
19 occurring cannabinoid or exhibits agonist activity at one or more
20 cannabinoid receptors and is not found in nature.

21 (e) "Board" means the Washington state liquor and cannabis board.

22 ~~((d))~~ (f) "Cannabinoid" means any of the chemical compounds
23 that are the active constituents of the plant Cannabis including, but
24 not limited to, tetrahydrocannabinol, tetrahydrocannabinolic acid,
25 cannabidiol, cannabidiolic acid, cannabinol, cannabigerol,
26 cannabichromene, cannabicyclol, cannabivarin,
27 tetrahydrocannabivarin, cannabidivarin, cannabichromevarin,
28 cannabigerovarin, cannabigerol monomethyl ether, cannabielsoin, and
29 cannabicitran. Cannabinoids do not include artificial cannabinoids,
30 as that term is defined in this section and in Schedules I through V
31 of the Washington state controlled substances act.

32 (g) "CBD concentration" has the meaning provided in RCW
33 69.51A.010.

34 ~~((e))~~ (h) "CBD product" means any product containing or
35 consisting of cannabidiol.

36 ~~((f))~~ (i) "Commission" means the pharmacy quality assurance
37 commission.

38 ~~((g))~~ (j) "Controlled substance" means a drug, substance, or
39 immediate precursor included in Schedules I through V as set forth in

1 federal or state laws, or federal or commission rules, but does not
2 include hemp or industrial hemp as defined in RCW 15.140.020.

3 ~~((h))~~ (k) (1) "Controlled substance analog" means a substance
4 the chemical structure of which is substantially similar to the
5 chemical structure of a controlled substance in Schedule I or II and:

6 (i) that has a stimulant, depressant, or hallucinogenic effect on
7 the central nervous system substantially similar to the stimulant,
8 depressant, or hallucinogenic effect on the central nervous system of
9 a controlled substance included in Schedule I or II; or

10 (ii) with respect to a particular individual, that the individual
11 represents or intends to have a stimulant, depressant, or
12 hallucinogenic effect on the central nervous system substantially
13 similar to the stimulant, depressant, or hallucinogenic effect on the
14 central nervous system of a controlled substance included in Schedule
15 I or II.

16 (2) The term does not include:

17 (i) a controlled substance;

18 (ii) a substance for which there is an approved new drug
19 application;

20 (iii) a substance with respect to which an exemption is in effect
21 for investigational use by a particular person under Section 505 of
22 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or
23 chapter 69.77 RCW to the extent conduct with respect to the substance
24 is pursuant to the exemption; or

25 (iv) any substance to the extent not intended for human
26 consumption before an exemption takes effect with respect to the
27 substance.

28 ~~((i))~~ (l) "Deliver" or "delivery" means the actual or
29 constructive transfer from one person to another of a substance,
30 whether or not there is an agency relationship.

31 ~~((j))~~ (m) "Delta-7-tetrahydrocannabinol" means
32 (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,9,10,10a-tetrahydro-6H-
33 benzo[c]chromen-1-ol, chemical abstracts service number 162678-94-6.

34 (n) "Delta-8-tetrahydrocannabinol" has the meaning provided in
35 RCW 69.50.204(c) (30) (i) (B).

36 (o) "Delta-9-tetrahydrocannabinol" has the meaning provided in
37 RCW 69.50.204(c) (30) (i) (A).

38 (p) "Delta-9-tetrahydrocannabinolic acid" means (6aR,10aR)-1-
39 hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-
40 benzo[c]chromene-2-carboxylic acid, chemical abstracts service number

1 23978-85-0 or (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-
2 pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-4-carboxylic acid.

3 (g) "Delta-9-tetrahydrocannabiphorol" means (6aR,10aR)-6,6,9-
4 trimethyl-3-heptyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol,
5 chemical abstracts service number 54763-99-4.

6 (r) "Delta-10-tetrahydrocannabinol" means (6aR)-6,6,9-
7 trimethyl-3-pentyl-6a,7,8,9-tetrahydro-6H-benzo[c]chromen-1-ol,
8 chemical abstracts service number 95543-62-7.

9 (s) "Department" means the department of health.

10 ~~((k))~~ (t) "Designated provider" has the meaning provided in RCW
11 69.51A.010.

12 ~~((l))~~ (u) "Dispense" means the interpretation of a prescription
13 or order for a controlled substance and, pursuant to that
14 prescription or order, the proper selection, measuring, compounding,
15 labeling, or packaging necessary to prepare that prescription or
16 order for delivery.

17 ~~((m))~~ (v) "Dispenser" means a practitioner who dispenses.

18 ~~((n))~~ (w) "Distribute" means to deliver other than by
19 administering or dispensing a controlled substance.

20 ~~((o))~~ (x) "Distributor" means a person who distributes.

21 ~~((p))~~ (y) "Drug" means (1) a controlled substance recognized as
22 a drug in the official United States pharmacopoeia/national formulary
23 or the official homeopathic pharmacopoeia of the United States, or
24 any supplement to them; (2) controlled substances intended for use in
25 the diagnosis, cure, mitigation, treatment, or prevention of disease
26 in individuals or animals; (3) controlled substances (other than
27 food) intended to affect the structure or any function of the body of
28 individuals or animals; and (4) controlled substances intended for
29 use as a component of any article specified in (1), (2), or (3) of
30 this subsection. The term does not include devices or their
31 components, parts, or accessories.

32 ~~((q))~~ (z) "Drug enforcement administration" means the drug
33 enforcement administration in the United States Department of
34 Justice, or its successor agency.

35 ~~((r))~~ (aa) "Electronic communication of prescription
36 information" means the transmission of a prescription or refill
37 authorization for a drug of a practitioner using computer systems.
38 The term does not include a prescription or refill authorization
39 verbally transmitted by telephone nor a facsimile manually signed by
40 the practitioner.

1 ~~((s))~~ (bb) "Immature plant or clone" means a plant or clone
2 that has no flowers, is less than twelve inches in height, and is
3 less than twelve inches in diameter.

4 ~~((t))~~ (cc) "Immediate precursor" means a substance:

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

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

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

12 ~~((u))~~ (dd) "Impairing cannabinoid" means a substance that meets
13 each of the following structural and functional criteria:

14 (1) Exhibits the structural backbone of tetrahydrocannabinols and
15 tetrahydrocannabinol-like molecules that include the interconnected
16 three-ring system of either a six-carbon aromatic ring, a pyran ring,
17 or a cyclohexene ring. Known compounds that fit this description
18 include:

19 (i) Tetrahydrocannabinols. A single double-bond in the C ring,
20 such as delta-10 tetrahydrocannabinol and isomers, delta-9
21 tetrahydrocannabinol and isomers, delta-8-tetrahydrocannabinol and
22 isomers, delta-7-tetrahydrocannabinol and isomers, delta-6a
23 tetrahydrocannabinol and isomers, and delta-10a tetrahydrocannabinol
24 and isomers;

25 (ii) Carboxylates (C-2 and C-4) of tetrahydrocannabinols, such as
26 delta-9-tetrahydrocannabinolic acid, similar carboxylates of delta-9-
27 tetrahydrocannabinolic acid for tetrahydrocannabinols such as in
28 (1)(i) of this subsection, and carboxylate esters of
29 tetrahydrocannabinols in (1)(i) of this subsection;

30 (iii) Alkyl analogues (C-3) of tetrahydrocannabinols, such as
31 delta-9-tetrahydrocannabiphorol and n-alkyl analogues, and similar
32 alkylated analogues of delta-9-tetrahydrocannabinol for
33 tetrahydrocannabinols in (1)(i) of this subsection; and

34 (iv) Hydroxylated analogues of tetrahydrocannabinols, such as 11-
35 hydroxy-delta-9-tetrahydrocannabinol and 8- and 10-hydroxy analogues,
36 and similar hydroxylated analogues of delta-9 tetrahydrocannabinol
37 for tetrahydrocannabinols in (1)(i) of this subsection;

38 (2) Possesses significant CB1 agonist activity as demonstrated by
39 binding affinity (K_i) to the CB1 receptors at less than 200 nM; and

1 (3) Results in positive effects for all four components of the
2 tetrad test in rodents or reliably causes functional impairment in
3 humans as assayed by a method possessing scientific consensus.

4 (ee) "Isomer" means an optical isomer, but in subsection ~~((gg))~~
5 (gg) (5) of this section, RCW 69.50.204(a) (12) and (34), and
6 69.50.206(b) (4), the term includes any geometrical isomer; in RCW
7 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
8 positional isomer; and in RCW 69.50.204(a) (35), 69.50.204(c), and
9 69.50.208(a) the term includes any positional or geometric isomer.

10 ~~((v))~~ (ff) "Lot" means a definite quantity of marijuana,
11 marijuana concentrates, useable marijuana, or marijuana-infused
12 product identified by a lot number, every portion or package of which
13 is uniform within recognized tolerances for the factors that appear
14 in the labeling.

15 ~~((w))~~ (gg) "Lot number" must identify the licensee by business
16 or trade name and Washington state unified business identifier
17 number, and the date of harvest or processing for each lot of
18 marijuana, marijuana concentrates, useable marijuana, or marijuana-
19 infused product.

20 ~~((x))~~ (hh) "Manufacture" means the production, preparation,
21 propagation, compounding, conversion, or processing of a controlled
22 substance, either directly or indirectly or by extraction from
23 substances of natural origin, or independently by means of chemical
24 synthesis, or by a combination of extraction and chemical synthesis,
25 and includes any packaging or repackaging of the substance or
26 labeling or relabeling of its container. The term does not include
27 the preparation, compounding, packaging, repackaging, labeling, or
28 relabeling of a controlled substance:

29 (1) ~~((by))~~ By a practitioner as an incident to the practitioner's
30 administering or dispensing of a controlled substance in the course
31 of the practitioner's professional practice; ~~((e))~~

32 (2) ~~((by))~~ By a practitioner, or by the practitioner's authorized
33 agent under the practitioner's supervision, for the purpose of, or as
34 an incident to, research, teaching, or chemical analysis and not for
35 sale(~~(-~~

36 ~~(y))~~); or

37 (3) By a marijuana processor licensed under RCW 69.50.325 and
38 operating within the privileges granted to marijuana processors under
39 RCW 69.50.326.

1 (ii) "Marijuana" or "marihuana" means all parts of the plant
2 *Cannabis*, whether growing or not, with a THC concentration greater
3 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
4 extracted from any part of the plant; and every compound,
5 manufacture, salt, derivative, mixture, or preparation of the plant,
6 its seeds or resin. The term does not include:

7 (1) The mature stalks of the plant, fiber produced from the
8 stalks, oil or cake made from the seeds of the plant, any other
9 compound, manufacture, salt, derivative, mixture, or preparation of
10 the mature stalks (except the resin extracted therefrom), fiber, oil,
11 or cake, or the sterilized seed of the plant which is incapable of
12 germination; or

13 (2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds
14 used for licensed hemp production under chapter 15.140 RCW.

15 ~~((z))~~ (jj) "Marijuana concentrates" means products consisting
16 wholly or in part of the resin extracted from any part of the plant
17 *Cannabis* and having a THC concentration greater than ten percent.

18 ~~((aa))~~ (kk) "Marijuana processor" means a person licensed by
19 the board to ~~((process))~~:

20 (1) Process marijuana into marijuana concentrates, useable
21 marijuana, and marijuana-infused products ~~((, package))~~;

22 (2) Convert cannabinoids derived from the plant *Cannabis* into
23 naturally occurring cannabinoids;

24 (3) Package and label marijuana concentrates, useable marijuana,
25 and marijuana-infused products for sale in retail outlets ~~((, and~~
26 ~~sell))~~; and

27 (4) Sell marijuana concentrates, useable marijuana, and
28 marijuana-infused products at wholesale to marijuana retailers.

29 ~~((b))~~ (ll) "Marijuana producer" means a person licensed by the
30 board to produce and sell marijuana at wholesale to marijuana
31 processors and other marijuana producers.

32 ~~((ee))~~ (mm) "Marijuana products" means useable marijuana,
33 marijuana concentrates, and marijuana-infused products as defined in
34 this section.

35 ~~((dd))~~ (nn) "Marijuana researcher" means a person licensed by
36 the board to produce, process, and possess marijuana for the purposes
37 of conducting research on marijuana and marijuana-derived drug
38 products.

1 (~~(ee)~~) (oo) "Marijuana retailer" means a person licensed by the
2 board to sell marijuana concentrates, useable marijuana, and
3 marijuana-infused products in a retail outlet.

4 (~~(ff)~~) (pp) "Marijuana-infused products" means products that
5 contain marijuana or marijuana extracts, are intended for human use,
6 are derived from marijuana (~~(as defined in subsection (y) of this~~
7 ~~section)~~), and have a THC concentration no greater than ten percent.
8 The term "marijuana-infused products" does not include either useable
9 marijuana or marijuana concentrates.

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

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

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

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

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

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

29 (6) Cocaine base.

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

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

34 (~~(hh)~~) (rr) Naturally occurring cannabinoid means a cannabinoid
35 found in the plant *Cannabis*.

36 (ss) "Opiate" means any substance having an addiction-forming or
37 addiction-sustaining liability similar to morphine or being capable
38 of conversion into a drug having addiction-forming or addiction-
39 sustaining liability. The term includes opium, substances derived
40 from opium (opium derivatives), and synthetic opiates. The term does

1 not include, unless specifically designated as controlled under RCW
2 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
3 and its salts (dextromethorphan). The term includes the racemic and
4 levorotatory forms of dextromethorphan.

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

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

11 ~~((+kk))~~ (vv) "Plant" has the meaning provided in RCW 69.51A.010.

12 ~~((+ll))~~ (ww) "Plant Cannabis" means all plants of the genus
13 *Cannabis*, including marijuana, and hemp as defined in RCW 15.140.020.

14 (xx) "Poppy straw" means all parts, except the seeds, of the
15 opium poppy, after mowing.

16 ~~((+mm))~~ (yy) "Practitioner" means:

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

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

37 (3) A physician licensed to practice medicine and surgery, a
38 physician licensed to practice osteopathic medicine and surgery, a
39 dentist licensed to practice dentistry, a podiatric physician and
40 surgeon licensed to practice podiatric medicine and surgery, a

1 licensed physician assistant or a licensed osteopathic physician
2 assistant specifically approved to prescribe controlled substances by
3 his or her state's medical commission or equivalent and his or her
4 supervising physician, an advanced registered nurse practitioner
5 licensed to prescribe controlled substances, or a veterinarian
6 licensed to practice veterinary medicine in any state of the United
7 States.

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

13 ~~((oo))~~ (aaa) "Production" includes the manufacturing, planting,
14 cultivating, growing, or harvesting of a controlled substance.

15 ~~((pp))~~ (bbb) "Qualifying patient" has the meaning provided in
16 RCW 69.51A.010.

17 ~~((qq))~~ (ccc) "Recognition card" has the meaning provided in RCW
18 69.51A.010.

19 ~~((rr))~~ (ddd) "Retail outlet" means a location licensed by the
20 board for the retail sale of marijuana concentrates, useable
21 marijuana, and marijuana-infused products.

22 ~~((ss))~~ (eee) "Secretary" means the secretary of health or the
23 secretary's designee.

24 ~~((tt))~~ (fff) "State," unless the context otherwise requires,
25 means a state of the United States, the District of Columbia, the
26 Commonwealth of Puerto Rico, or a territory or insular possession
27 subject to the jurisdiction of the United States.

28 ~~((uu))~~ (ggg) "THC concentration" means percent of delta-9
29 tetrahydrocannabinol content per dry weight of any part of the plant
30 *Cannabis*, or per volume or weight of marijuana product, or the
31 combined percent of delta-9 tetrahydrocannabinol and
32 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
33 regardless of moisture content.

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

1 including the processing and use of cannabinoids in accordance with
2 RCW 69.50.326, in accordance with the provisions of this chapter and
3 chapter 69.51A RCW and the rules adopted to implement and enforce
4 these chapters, by a validly licensed marijuana processor, shall not
5 be a criminal or civil offense under Washington state law. Every
6 marijuana processor's license shall be issued in the name of the
7 applicant, shall specify the location at which the licensee intends
8 to operate, which must be within the state of Washington, and the
9 holder thereof shall not allow any other person to use the license.
10 The application fee for a marijuana processor's license shall be two
11 hundred fifty dollars. The annual fee for issuance and renewal of a
12 marijuana processor's license shall be one thousand three hundred
13 eighty-one dollars. A separate license shall be required for each
14 location at which a marijuana processor intends to process marijuana.

15 (3) (a) There shall be a marijuana retailer's license to sell
16 marijuana concentrates, useable marijuana, and marijuana-infused
17 products at retail in retail outlets, regulated by the board and
18 subject to annual renewal. The possession, delivery, distribution,
19 and sale of marijuana concentrates, useable marijuana, and marijuana-
20 infused products in accordance with the provisions of this chapter
21 and the rules adopted to implement and enforce it, by a validly
22 licensed marijuana retailer, shall not be a criminal or civil offense
23 under Washington state law. Every marijuana retailer's license shall
24 be issued in the name of the applicant, shall specify the location of
25 the retail outlet the licensee intends to operate, which must be
26 within the state of Washington, and the holder thereof shall not
27 allow any other person to use the license. The application fee for a
28 marijuana retailer's license shall be two hundred fifty dollars. The
29 annual fee for issuance and renewal of a marijuana retailer's license
30 shall be one thousand three hundred eighty-one dollars. A separate
31 license shall be required for each location at which a marijuana
32 retailer intends to sell marijuana concentrates, useable marijuana,
33 and marijuana-infused products.

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

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

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

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

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

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

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

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

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

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

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

36 **Sec. 5.** RCW 69.50.326 and 2018 c 132 s 1 are each amended to
37 read as follows:

38 (1) Licensed marijuana (~~producers and licensed marijuana~~
39 ~~processors may use a CBD product as an additive for the purpose of~~

1 ~~enhancing the cannabidiol concentration of any product authorized for~~
2 ~~production, processing, and sale under this chapter. Except as~~
3 ~~otherwise provided in subsection (2) of this section, such CBD~~
4 ~~product additives must be lawfully produced by, or purchased from, a~~
5 ~~producer or processor licensed)~~ processors may use and process hemp
6 and hemp derivatives obtained in accordance with this section to use
7 or derive cannabinoids to add to any marijuana product authorized for
8 production, processing, and sale under this chapter.

9 (2) Subject to the requirements set forth in (a) ~~((and (b)))~~
10 through (c) of this subsection, ~~((and for the purpose of enhancing~~
11 ~~the cannabidiol concentration of any product authorized for~~
12 ~~production, processing, or sale under this chapter, licensed~~
13 ~~marijuana producers and))~~ licensed marijuana processors may use ~~((a~~
14 ~~CBD product))~~ hemp and hemp derivatives obtained from a source not
15 licensed under this chapter, provided the ~~((CBD product))~~ hemp and
16 hemp derivatives:

17 (a) ~~((Has))~~ Have a THC ~~((level))~~ concentration of 0.3 percent or
18 less on a dry weight basis, excluding in-process hemp; ~~((and))~~

19 (b) ~~((Has been))~~ Are tested ~~((for contaminants and toxins by a~~
20 ~~testing laboratory accredited under this chapter and))~~ in accordance
21 with ~~((testing standards established under this chapter and the))~~
22 applicable administrative rules and are accompanied by a certificate
23 of analysis; and

24 (c) Were produced by a licensed hemp producer, handler, or
25 processor in a state or country with a legal status and product
26 safety protocols or any other plan or program authorized by the
27 department of agriculture or by a federally recognized Indian tribe
28 with an approved United States department of agriculture hemp plan or
29 pilot program. A producer or supplier in compliance with any future
30 federal or state hemp program or in compliance with the laws and
31 regulations on the manufacture or importation of food in the United
32 States is acceptable.

33 (3) ~~((Subject to the requirements of this subsection (3), the~~
34 ~~liquor and cannabis board may enact rules necessary to implement the~~
35 ~~requirements of this section. Such rule making is limited to~~
36 ~~regulations pertaining to laboratory testing and product safety~~
37 ~~standards for those cannabidiol products used by licensed producers~~
38 ~~and processors in the manufacture of marijuana products marketed by~~
39 ~~licensed retailers under chapter 69.50 RCW. The purpose of such rule~~
40 ~~making must be to ensure the safety and purity of cannabidiol~~

1 products used by marijuana producers and processors licensed under
2 chapter 69.50 RCW and incorporated into products sold by licensed
3 recreational marijuana retailers. This rule-making authority does not
4 include the authority to enact rules regarding either the production
5 or processing practices of the industrial hemp industry or any
6 cannabidiol products that are sold or marketed outside of the
7 regulatory framework established under chapter 69.50 RCW.) Any
8 marijuana products containing hemp or hemp derivatives processed in
9 accordance with this section must be accompanied by a disclosure
10 statement declaring and identifying the product has been derived from
11 hemp and the processor must make available, upon request, a compliant
12 certificate of analysis and the name of the licensed hemp producer.

13 (4) Artificial cannabinoids may not be used, processed, or sold
14 by any person.

15 (5) Subject to the requirements of this subsection, the board may
16 adopt rules necessary to implement this section. Rule making is
17 limited to rules pertaining to laboratory testing, product safety
18 standards, and labeling for those hemp and hemp derivatives used by
19 licensed processors in the manufacture of marijuana products marketed
20 by marijuana retailers under this chapter. Rule making must ensure
21 the safety and purity of hemp, hemp derivatives, and impairing
22 cannabinoids used by marijuana processors licensed under this chapter
23 and incorporated into products sold by marijuana retailers. This rule
24 making authority does not include the authority to enact rules
25 regarding either the production or processing practices of the
26 industrial hemp industry or any cannabidiol products sold or marketed
27 outside of the regulatory framework established under this chapter.

28 **Sec. 6.** RCW 69.50.363 and 2015 c 207 s 7 are each amended to
29 read as follows:

30 The following acts, when performed by a validly licensed
31 marijuana processor or employee of a validly licensed marijuana
32 processor in compliance with rules adopted by the (~~state liquor~~
33 ~~control~~) board to implement and enforce chapter 3, Laws of 2013, do
34 not constitute criminal or civil offenses under Washington state law:

35 (1) Purchase and receipt of marijuana that has been properly
36 packaged and labeled from a marijuana producer validly licensed under
37 chapter 3, Laws of 2013;

38 (2) Possession, processing, packaging, and labeling of quantities
39 of marijuana, useable marijuana, and marijuana-infused products that

1 do not exceed the maximum amounts established by the (~~state liquor~~
2 ~~control~~) board under RCW 69.50.345(4);

3 (3) Delivery, distribution, and sale of useable marijuana or
4 marijuana-infused products to a marijuana retailer validly licensed
5 under chapter 3, Laws of 2013; (~~and~~)

6 (4) Delivery, distribution, and sale of useable marijuana,
7 marijuana concentrates, or marijuana-infused products to a federally
8 recognized Indian tribe as permitted under an agreement between the
9 state and the tribe entered into under RCW 43.06.490; and

10 (5) Use, possession, processing, packaging, labeling, delivery,
11 distribution, and sale of hemp and hemp derivatives in accordance
12 with RCW 69.50.326.

13 NEW SECTION. Sec. 7. A new section is added to chapter 69.50
14 RCW to read as follows:

15 (1) All marijuana producers, processors, certified labs, and
16 certified lab employees must comply with the testing requirements
17 described in this section.

18 (2) The following fields of testing are only required for samples
19 of marijuana flower that have not been previously tested, or that
20 have failed previous quality control testing:

21 (a) Potency analysis.

22 (i) Certified labs must test and report the following
23 cannabinoids to the board when testing for potency:

24 (A) THCA;

25 (B) THC;

26 (C) Total THC, which must be calculated as follows, where M is
27 the mass or mass fraction of delta-9 THC or delta-9 THCA: $M \text{ total}$
28 $\text{delta-9 THC} = M \text{ delta-9 THC} + (0.877 \text{ multiplied by } M \text{ delta-9 THCA})$;

29 (D) CBDA;

30 (E) CBD; and

31 (F) Total CBD, which must be calculated as follows, where M is
32 the mass or mass fraction of CBD and CBDA: $M \text{ total CBD} = M \text{ CBD} +$
33 $(0.877 \text{ multiplied by } M \text{ CBDA})$.

34 (ii) Any impairing cannabinoids intentionally added to the
35 formula of a product must be tested for potency including, but not
36 limited to, delta-8 tetrahydrocannabinol.

37 (iii) Regardless of analytical equipment or methodology,
38 certified labs must accurately measure and report the acidic, THCA
39 and CBDA, and neutral, THC and CBD, forms of the cannabinoids.

1 (b) Potency analysis for flower lots.

2 (i) Certified labs must test and report the results of the
3 required flower lot samples for the following cannabinoids including,
4 but not limited to:

5 (A) THCA;

6 (B) THC;

7 (C) Total THC, which must be calculated as follows, where M is
8 the mass or mass fraction of delta-9 tetrahydrocannabinol or delta-9
9 tetrahydrocannabinolic acid: $M \text{ total delta-9 tetrahydrocannabinol} = M \text{ delta-9 tetrahydrocannabinol} + (0.877 \text{ multiplied by } M \text{ delta-9 tetrahydrocannabinolic acid})$;

10
11

12 (D) CBDA;

13 (E) CBD; and

14 (F) Total CBD, which must be calculated as follows, where M is
15 the mass or mass fraction of CBD and CBDA: $M \text{ total CBD} = M \text{ CBD} +$
16 $(0.877 \text{ multiplied by } M \text{ CBDA})$.

17 (ii) Certified labs must test each flower lot identified in rule
18 by the board for the following:

19 (A) Moisture analysis. The sample and related lot or batch fails
20 quality control testing for moisture analysis if the results exceed
21 the following limits:

22 (I) Water activity rate greater than 0.65; or
23 (II) Moisture content greater than 15 percent.

24 (B) Foreign matter screening. The sample and related lot or batch
25 fail quality control testing for foreign matter screening if the
26 results exceed the following limits:

27 (I) Five percent of stems three millimeters or more in diameter;
28 (II) Two percent of seeds or other foreign matter; or
29 (III) One insect fragment, one hair, or one mammalian excreta per
30 sample.

31 (C) Microbiological screening. The sample and related lot or
32 batch fail quality control testing for microbiological screening if
33 the results for unprocessed plant material or extracted or processed
34 botanical products exceed the following limits:

35 (I) For enterobacteria, bile-tolerant gram-negative bacteria, 10
36 grams; and
37 (II) For *E.Coli*, pathogenic strains, and *Salmonella spp.*, not
38 detective in one gram.

39 (D) Mycotoxin screening. For the purposes of mycotoxin screening,
40 a sample passes quality control testing if it contains less than 20

1 micrograms of medication per kilogram of body weight for the
2 following:

3 (I) A total of aflatoxin B1, aflatoxin B2, aflatoxin G1, and
4 aflatoxin G2; or

5 (II) Ochratoxin A.

6 (c) Residual solvent screening. Except as otherwise provided in
7 this subsection (2)(c), a sample and related lot or batch fail
8 quality control testing for residual solvents if the results exceed
9 the limits provided in this subsection (2)(c). Residual solvent
10 results greater than 5,000 parts per million for class three
11 solvents, 50 parts per million for class two solvents, and two parts
12 per million for class one solvents as defined in *United States*
13 *Pharmacopeia, USP 30 Chemical Tests / <467> - Residual Solvents* and
14 not listed in (c)(i) through (viii) of this subsection fail quality
15 control testing. When residual solvent screening is required,
16 certified labs must test, at minimum, for the following solvents and
17 fail those solvents that exceed the following limits:

18 (i) Acetone, butanes, ethyl acetate, heptanes, isopropanol,
19 pentanes, and propane, 5,000 parts per million;

20 (ii) Cyclohexane, 3,880 parts per million;

21 (iii) Methanol, 3,000 parts per million;

22 (iv) Xylene, 2,170 parts per million;

23 (v) Toulene, 890 parts per million;

24 (vi) Dichloromethane, 600 parts per million;

25 (vii) Benzene and Chloroform, two parts per million; and

26 (viii) Hexanes, zero parts per million.

27 (d) Heavy metal screening. A sample and related lot or batch fail
28 quality control testing for heavy metals if the results exceed the
29 following limits:

30 (i) Lead, 0.5 parts per million;

31 (ii) Arsenic and cadmium, 0.2 parts per million; and

32 (iii) Mercury, 0.1 parts per million.

33 (e) Pesticide screening. For the purposes of pesticide screening,
34 a sample passes quality control testing if it meets the standards
35 described in rule by the board regarding pesticide action levels and
36 any rules adopted by the department of agriculture under chapter
37 17.21 RCW.

38 (3) The following quality control tests are required for each of
39 the marijuana products described below. Licensees and certified labs
40 may opt to perform additional quality control tests on the same lot.

1 (a) Marijuana flower lots. Marijuana flower lots or other
2 material that will not be extracted require the following quality
3 control tests:

- 4 (i) Moisture analysis;
- 5 (ii) Potency analysis;
- 6 (iii) Foreign matter screening;
- 7 (iv) Microbiological screening;
- 8 (v) Mycotoxin screening;
- 9 (vi) Pesticide screening; and
- 10 (vii) Heavy metals screening.

11 (b) (i) Intermediate products. Intermediate products must meet the
12 following requirements related to quality control testing or be
13 tested as end products:

14 (A) All intermediate products must be homogenized before quality
15 control testing;

16 (B) A batch of marijuana mix may not exceed 10 pounds, must be
17 chopped or ground, and no particles may be greater than three
18 millimeters; and

19 (C) All batches of intermediate products require the following
20 quality control tests:

21 (I) For marijuana mix: Moisture analysis, potency analysis,
22 foreign matter screening, microbiological screening, mycotoxin
23 screening, pesticide screening, and heavy metals screening;

24 (II) For concentrate or extract, except as provided in
25 (b) (i) (C) (III) of this subsection: Potency analysis, mycotoxin
26 screening if using marijuana flower lots that have not passed quality
27 assurance testing, residual solvent test, pesticide screening, and
28 heavy metals screening; and

29 (III) For concentrate or extract nonsolvent including kief, hash,
30 rosin, or bubble hash: Potency analysis, microbiological screening,
31 mycotoxin screening, pesticide screening, and heavy metals screening.

32 (ii) For the purposes of this subsection (3) (b), batch means a
33 single extraction or infusion process.

34 (c) End products. All marijuana, marijuana-infused products, and
35 marijuana concentrates sold from a marijuana processor to a marijuana
36 retailer require potency analysis for the following:

- 37 (i) Infused solid edible;
- 38 (ii) Infused liquid;
- 39 (iii) Packaged marijuana mix, loose or rolled;
- 40 (iv) Infused marijuana mix, loose or rolled;

- (v) Concentrate or marijuana-infused product for inhalation; and
- (vi) Other products provided in rule adopted by the board.

(d) End products consisting of only one intermediate product that has not been changed in any way are not subject to potency analysis.

(e) End products consisting of intermediate products that have not been tested for residual solvents, heavy metals, pesticides, and microbials must be tested for these items.

(4) Usable marijuana, marijuana concentrates, and marijuana-infused products may not be sold or transported until the required quality control testing is completed and passed, except:

(a) Business entities with multiple locations licensed under the same unified business identifier number may transfer marijuana products between the licensed locations; and

(b) Licensees may sell at wholesale and transfer:

(i) Marijuana flower lots or other material that will be extracted and marijuana mix and nonsolvent extracts for the purpose of further extraction before completing and passing the required quality control testing; and

(ii) Failed marijuana lots or batches to be extracted under this section, unless the marijuana lots or batches failed tests that require immediate destruction.

(5) The board must adopt rules regarding statistical sampling procedures consistent with 7 C.F.R. Sec. 52.38 and the United States department of agriculture sampling manual, as it existed in January 2019. The board must adopt rules providing a remediation process for licensees when their marijuana products fail one or more of the required quality control tests contained in this section.

(6) For the purposes of this section:

(a) "CBD" means cannabidiol;

(b) "CBDA" means cannabidiolic acid;

(c) "THC" means tetrahydrocannabinol; and

(d) "THCA" means tetrahydrocannabinolic acid.

NEW SECTION. **Sec. 8.** Sections 1, 2, and 4 through 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 9.** Section 2 of this act expires July 1, 2022.

1 NEW SECTION. **Sec. 10.** Section 3 of this act takes effect July
2 1, 2022."

3 Correct the title.

EFFECT: (1) Strikes all provisions of the substitute bill. Adds provisions establishing an alternative approach to regulating cannabinoids with the following components:

(a) Defines "Impairing cannabinoid" as a substance that meets specific structural and functional criteria;

(b) Adds 12 definitions to the Uniform Controlled Substances Act including definitions for "Artificial cannabinoid," "Cannabinoid," "Delta-7-tetrahydrocannabinol," "Delta-8-tetrahydrocannabinol," "Delta-9-tetrahydrocannabinol," "Delta-10-tetrahydrocannabinol," "Naturally occurring cannabinoid," and other terms;

(c) Prohibits artificial cannabinoids from being used, processed, or sold by any person;

(d) Changes provisions about cannabidiol additives in regulated cannabis products and authorizes cannabis processors to use and process hemp and hemp derivatives to use or derive cannabinoids to add to any cannabis product. Requires cannabis products containing hemp or hemp derivatives to be accompanied by a disclosure statement identifying the product as hemp derived;

(e) Authorizes Liquor and Cannabis Board (LCB) rulemaking on cannabinoid additives related to testing, product safety standards, and labeling for hemp and hemp derivatives used by processors in making cannabis products. Requires rules to ensure the safety and purity of hemp, hemp derivatives, and impairing cannabinoids used by cannabis processors and incorporated into cannabis products sold by retailers; and

(f) Extends existing criminal and civil liability protections for licensed cannabis processors and their employees to also provide protection for activities related to hemp and hemp derivatives as allowed under the bill.

(2) Adds requirements on laboratory testing of cannabis and cannabis products, including establishing required fields of testing and establishing standards for determining failure of quality control tests. Requires rules by the LCB related to statistical sampling procedures as well as a remediation process for licensees when products fail quality control tests.

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