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ENGROSSED HOUSE BILL 2056

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Hurst and Condotta

Read first time 04/24/13. Referred to Committee on Government  
Accountability & Oversight.

1 AN ACT Relating to correcting the definition of THC concentration  
2 as adopted by Initiative Measure No. 502 to avoid an implication that  
3 conversion, by combustion, of tetrahydrocannabinol acid into delta-9  
4 tetrahydrocannabinol is not part of the THC content that differentiates  
5 marijuana from hemp; amending RCW 69.50.101; and declaring an  
6 emergency.

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

8 **Sec. 1.** RCW 69.50.101 and 2013 c 12 s 2 are each amended to read  
9 as follows:

10 Unless the context clearly requires otherwise, definitions of terms  
11 shall be as indicated where used in this chapter:

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

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

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

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

5 (c) "Board" means the state board of pharmacy.

6 (d) "Controlled substance" means a drug, substance, or immediate  
7 precursor included in Schedules I through V as set forth in federal or  
8 state laws, or federal or board rules.

9 (e)(1) "Controlled substance analog" means a substance the chemical  
10 structure of which is substantially similar to the chemical structure  
11 of a controlled substance in Schedule I or II and:

12 (i) that has a stimulant, depressant, or hallucinogenic effect on  
13 the central nervous system substantially similar to the stimulant,  
14 depressant, or hallucinogenic effect on the central nervous system of  
15 a controlled substance included in Schedule I or II; or

16 (ii) with respect to a particular individual, that the individual  
17 represents or intends to have a stimulant, depressant, or  
18 hallucinogenic effect on the central nervous system substantially  
19 similar to the stimulant, depressant, or hallucinogenic effect on the  
20 central nervous system of a controlled substance included in Schedule  
21 I or II.

22 (2) The term does not include:

23 (i) a controlled substance;

24 (ii) a substance for which there is an approved new drug  
25 application;

26 (iii) a substance with respect to which an exemption is in effect  
27 for investigational use by a particular person under Section 505 of the  
28 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent  
29 conduct with respect to the substance is pursuant to the exemption; or

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

32 (f) "Deliver" or "delivery," means the actual or constructive  
33 transfer from one person to another of a substance, whether or not  
34 there is an agency relationship.

35 (g) "Department" means the department of health.

36 (h) "Dispense" means the interpretation of a prescription or order  
37 for a controlled substance and, pursuant to that prescription or order,

1 the proper selection, measuring, compounding, labeling, or packaging  
2 necessary to prepare that prescription or order for delivery.

3 (i) "Dispenser" means a practitioner who dispenses.

4 (j) "Distribute" means to deliver other than by administering or  
5 dispensing a controlled substance.

6 (k) "Distributor" means a person who distributes.

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

18 (m) "Drug enforcement administration" means the drug enforcement  
19 administration in the United States Department of Justice, or its  
20 successor agency.

21 (n) "Immediate precursor" means a substance:

22 (1) that the state board of pharmacy has found to be and by rule  
23 designates as being the principal compound commonly used, or produced  
24 primarily for use, in the manufacture of a controlled substance;

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

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

29 (o) "Isomer" means an optical isomer, but in subsection (x)(5) of  
30 this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the  
31 term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42),  
32 and 69.50.210(c) the term includes any positional isomer; and in RCW  
33 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any  
34 positional or geometric isomer.

35 (p) "Lot" means a definite quantity of marijuana, useable  
36 marijuana, or marijuana-infused product identified by a lot number,  
37 every portion or package of which is uniform within recognized  
38 tolerances for the factors that appear in the labeling.

1 (q) "Lot number" shall identify the licensee by business or trade  
2 name and Washington state unified business identifier number, and the  
3 date of harvest or processing for each lot of marijuana, useable  
4 marijuana, or marijuana-infused product.

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

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

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

20 (s) "Marijuana" or "marihuana" means all parts of the plant  
21 Cannabis, whether growing or not, with a THC concentration greater than  
22 0.3 percent on a dry weight basis; the seeds thereof; the resin  
23 extracted from any part of the plant; and every compound, manufacture,  
24 salt, derivative, mixture, or preparation of the plant, its seeds or  
25 resin. The term does not include the mature stalks of the plant, fiber  
26 produced from the stalks, oil or cake made from the seeds of the plant,  
27 any other compound, manufacture, salt, derivative, mixture, or  
28 preparation of the mature stalks (except the resin extracted  
29 therefrom), fiber, oil, or cake, or the sterilized seed of the plant  
30 which is incapable of germination.

31 (t) "Marijuana processor" means a person licensed by the state  
32 liquor control board to process marijuana into useable marijuana and  
33 marijuana-infused products, package and label useable marijuana and  
34 marijuana-infused products for sale in retail outlets, and sell useable  
35 marijuana and marijuana-infused products at wholesale to marijuana  
36 retailers.

37 (u) "Marijuana producer" means a person licensed by the state

1 liquor control board to produce and sell marijuana at wholesale to  
2 marijuana processors and other marijuana producers.

3 (v) "Marijuana-infused products" means products that contain  
4 marijuana or marijuana extracts and are intended for human use. The  
5 term "marijuana-infused products" does not include useable marijuana.

6 (w) "Marijuana retailer" means a person licensed by the state  
7 liquor control board to sell useable marijuana and marijuana-infused  
8 products in a retail outlet.

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

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

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

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

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

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

27 (6) Cocaine base.

28 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
29 thereof.

30 (8) Any compound, mixture, or preparation containing any quantity  
31 of any substance referred to in subparagraphs (1) through (7).

32 (y) "Opiate" means any substance having an addiction-forming or  
33 addiction-sustaining liability similar to morphine or being capable of  
34 conversion into a drug having addiction-forming or addiction-sustaining  
35 liability. The term includes opium, substances derived from opium  
36 (opium derivatives), and synthetic opiates. The term does not include,  
37 unless specifically designated as controlled under RCW 69.50.201, the

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

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

6 (aa) "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 (bb) "Poppy straw" means all parts, except the seeds, of the opium  
11 poppy, after mowing.

12 (cc) "Practitioner" means:

13 (1) A physician under chapter 18.71 RCW; a physician assistant  
14 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
15 chapter 18.57 RCW; an osteopathic physician assistant under chapter  
16 18.57A RCW who is licensed under RCW 18.57A.020 subject to any  
17 limitations in RCW 18.57A.040; an optometrist licensed under chapter  
18 18.53 RCW who is certified by the optometry board under RCW 18.53.010  
19 subject to any limitations in RCW 18.53.010; a dentist under chapter  
20 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;  
21 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
22 registered nurse practitioner, or licensed practical nurse under  
23 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW  
24 who is licensed under RCW 18.36A.030 subject to any limitations in RCW  
25 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific  
26 investigator under this chapter, licensed, registered or otherwise  
27 permitted insofar as is consistent with those licensing laws to  
28 distribute, dispense, conduct research with respect to or administer a  
29 controlled substance in the course of their professional practice or  
30 research in this state.

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

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

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

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

11 (ee) "Production" includes the manufacturing, planting,  
12 cultivating, growing, or harvesting of a controlled substance.

13 (ff) "Retail outlet" means a location licensed by the state liquor  
14 control board for the retail sale of useable marijuana and marijuana-  
15 infused products.

16 (gg) "Secretary" means the secretary of health or the secretary's  
17 designee.

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

22 (ii) "THC concentration" means percent of delta-9  
23 tetrahydrocannabinol content per dry weight of any part of the plant  
24 *Cannabis*, or per volume or weight of marijuana product, or the combined  
25 percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid  
26 in any part of the plant *Cannabis* regardless of moisture content.

27 (jj) "Ultimate user" means an individual who lawfully possesses a  
28 controlled substance for the individual's own use or for the use of a  
29 member of the individual's household or for administering to an animal  
30 owned by the individual or by a member of the individual's household.

31 (kk) "Useable marijuana" means dried marijuana flowers. The term  
32 "useable marijuana" does not include marijuana-infused products.

33 (ll) "Electronic communication of prescription information" means  
34 the communication of prescription information by computer, or the  
35 transmission of an exact visual image of a prescription by facsimile,  
36 or other electronic means for original prescription information or  
37 prescription refill information for a Schedule III-V controlled

1 substance between an authorized practitioner and a pharmacy or the  
2 transfer of prescription information for a controlled substance from  
3 one pharmacy to another pharmacy.

4 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 immediately.

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