
HOUSE BILL 1907

State of Washington

64th Legislature

2015 Regular Session

By Representative Klippert

Read first time 02/02/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to restricting the operation of state licensed
2 marijuana producers, marijuana processors, or marijuana retailers
3 within one thousand feet of a religious facility; amending RCW
4 69.50.101, 69.50.331, and 69.50.369; and declaring an emergency.

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

6 **Sec. 1.** RCW 69.50.101 and 2014 c 192 s 1 are each amended to
7 read as follows:

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

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

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

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

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

21 (c) "Commission" means the pharmacy quality assurance commission.

1 (d) "Controlled substance" means a drug, substance, or immediate
2 precursor included in Schedules I through V as set forth in federal
3 or state laws, or federal or commission rules.

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

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

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

17 (2) The term does not include:

18 (i) a controlled substance;

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

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

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

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

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

33 (h) "Dispense" means the interpretation of a prescription or
34 order for a controlled substance and, pursuant to that prescription
35 or order, the proper selection, measuring, compounding, labeling, or
36 packaging necessary to prepare that prescription or order for
37 delivery.

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

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

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

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

13 (m) "Drug enforcement administration" means the drug enforcement
14 administration in the United States Department of Justice, or its
15 successor agency.

16 (n) "Electronic communication of prescription information" means
17 the transmission of a prescription or refill authorization for a drug
18 of a practitioner using computer systems. The term does not include a
19 prescription or refill authorization verbally transmitted by
20 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

35 (q) "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.

39 (r) "Lot number" shall identify the licensee by business or trade
40 name and Washington state unified business identifier number, and the

1 date of harvest or processing for each lot of marijuana, useable
2 marijuana, or marijuana-infused product.

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

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

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

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

30 (u) "Marijuana concentrates" means products consisting wholly or
31 in part of the resin extracted from any part of the plant Cannabis
32 and having a THC concentration greater than sixty percent.

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

1 (w) "Marijuana producer" means a person licensed by the state
2 liquor control board to produce and sell marijuana at wholesale to
3 marijuana processors and other marijuana producers.

4 (x) "Marijuana-infused products" means products that contain
5 marijuana or marijuana extracts, are intended for human use, and have
6 a THC concentration greater than 0.3 percent and no greater than
7 sixty percent. The term "marijuana-infused products" does not include
8 either useable marijuana or marijuana concentrates.

9 (y) "Marijuana retailer" means a person licensed by the state
10 liquor control board to sell useable marijuana and marijuana-infused
11 products in a retail outlet.

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

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

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

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

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

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

31 (6) Cocaine base.

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

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

36 (aa) "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 (bb) "Opium poppy" means the plant of the species *Papaver*
6 *somniferum* L., except its seeds.

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

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

13 (ee) "Practitioner" means:

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

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

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

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

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

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

13 (hh) "Religious facility" means a facility that operates as an
14 organized place of religious prayer, veneration, or worship and is
15 authorized to do so by governing zoning and permit laws or ordinances
16 including, but not limited to, a church or cathedral, synagogue,
17 mosque, temple, stake, shrine, mandir, or meeting hall.

18 (ii) "Retail outlet" means a location licensed by the state
19 liquor control board for the retail sale of useable marijuana and
20 marijuana-infused products.

21 ((+ii)) (jj) "Secretary" means the secretary of health or the
22 secretary's designee.

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

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

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

38 ((+mm)) (nn) "Useable marijuana" means dried marijuana flowers.
39 The term "useable marijuana" does not include either marijuana-
40 infused products or marijuana concentrates.

1 **Sec. 2.** RCW 69.50.331 and 2013 c 3 s 6 are each amended to read
2 as follows:

3 (1) For the purpose of considering any application for a license
4 to produce, process, or sell marijuana, or for the renewal of a
5 license to produce, process, or sell marijuana, the state liquor
6 control board may cause an inspection of the premises to be made, and
7 may inquire into all matters in connection with the construction and
8 operation of the premises. For the purpose of reviewing any
9 application for a license and for considering the denial, suspension,
10 revocation, or renewal or denial thereof, of any license, the state
11 liquor control board may consider any prior criminal conduct of the
12 applicant including an administrative violation history record with
13 the state liquor control board and a criminal history record
14 information check. The state liquor control board may submit the
15 criminal history record information check to the Washington state
16 patrol and to the identification division of the federal bureau of
17 investigation in order that these agencies may search their records
18 for prior arrests and convictions of the individual or individuals
19 who filled out the forms. The state liquor control board shall
20 require fingerprinting of any applicant whose criminal history record
21 information check is submitted to the federal bureau of
22 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
23 RCW shall not apply to these cases. Subject to the provisions of this
24 section, the state liquor control board may, in its discretion, grant
25 or deny the renewal or license applied for. Denial may be based on,
26 without limitation, the existence of chronic illegal activity
27 documented in objections submitted pursuant to subsections (7)(c) and
28 (9) of this section. Authority to approve an uncontested or unopposed
29 license may be granted by the state liquor control board to any staff
30 member the board designates in writing. Conditions for granting this
31 authority shall be adopted by rule. No license of any kind may be
32 issued to:

33 (a) A person under the age of twenty-one years;

34 (b) A person doing business as a sole proprietor who has not
35 lawfully resided in the state for at least three months prior to
36 applying to receive a license;

37 (c) A partnership, employee cooperative, association, nonprofit
38 corporation, or corporation unless formed under the laws of this
39 state, and unless all of the members thereof are qualified to obtain
40 a license as provided in this section; or

1 (d) A person whose place of business is conducted by a manager or
2 agent, unless the manager or agent possesses the same qualifications
3 required of the licensee.

4 (2)(a) The state liquor control board may, in its discretion,
5 subject to the provisions of RCW 69.50.334, suspend or cancel any
6 license; and all protections of the licensee from criminal or civil
7 sanctions under state law for producing, processing, or selling
8 marijuana, useable marijuana, or marijuana-infused products
9 thereunder shall be suspended or terminated, as the case may be.

10 (b) The state liquor control board shall immediately suspend the
11 license of a person who has been certified pursuant to RCW 74.20A.320
12 by the department of social and health services as a person who is
13 not in compliance with a support order. If the person has continued
14 to meet all other requirements for reinstatement during the
15 suspension, reissuance of the license shall be automatic upon the
16 state liquor control board's receipt of a release issued by the
17 department of social and health services stating that the licensee is
18 in compliance with the order.

19 (c) The state liquor control board may request the appointment of
20 administrative law judges under chapter 34.12 RCW who shall have
21 power to administer oaths, issue subpoenas for the attendance of
22 witnesses and the production of papers, books, accounts, documents,
23 and testimony, examine witnesses, and to receive testimony in any
24 inquiry, investigation, hearing, or proceeding in any part of the
25 state, under rules and regulations the state liquor control board may
26 adopt.

27 (d) Witnesses shall be allowed fees and mileage each way to and
28 from any inquiry, investigation, hearing, or proceeding at the rate
29 authorized by RCW 34.05.446. Fees need not be paid in advance of
30 appearance of witnesses to testify or to produce books, records, or
31 other legal evidence.

32 (e) In case of disobedience of any person to comply with the
33 order of the state liquor control board or a subpoena issued by the
34 state liquor control board, or any of its members, or administrative
35 law judges, or on the refusal of a witness to testify to any matter
36 regarding which he or she may be lawfully interrogated, the judge of
37 the superior court of the county in which the person resides, on
38 application of any member of the board or administrative law judge,
39 shall compel obedience by contempt proceedings, as in the case of

1 disobedience of the requirements of a subpoena issued from said court
2 or a refusal to testify therein.

3 (3) Upon receipt of notice of the suspension or cancellation of a
4 license, the licensee shall forthwith deliver up the license to the
5 state liquor control board. Where the license has been suspended
6 only, the state liquor control board shall return the license to the
7 licensee at the expiration or termination of the period of
8 suspension. The state liquor control board shall notify all other
9 licensees in the county where the subject licensee has its premises
10 of the suspension or cancellation of the license; and no other
11 licensee or employee of another licensee may allow or cause any
12 marijuana, useable marijuana, or marijuana-infused products to be
13 delivered to or for any person at the premises of the subject
14 licensee.

15 (4) Every license issued under chapter 3, Laws of 2013 shall be
16 subject to all conditions and restrictions imposed by chapter 3, Laws
17 of 2013 or by rules adopted by the state liquor control board to
18 implement and enforce chapter 3, Laws of 2013. All conditions and
19 restrictions imposed by the state liquor control board in the
20 issuance of an individual license shall be listed on the face of the
21 individual license along with the trade name, address, and expiration
22 date.

23 (5) Every licensee shall post and keep posted its license, or
24 licenses, in a conspicuous place on the premises.

25 (6) No licensee shall employ any person under the age of twenty-
26 one years.

27 (7)(a) Before the state liquor control board issues a new or
28 renewed license to an applicant it shall give notice of the
29 application to the chief executive officer of the incorporated city
30 or town, if the application is for a license within an incorporated
31 city or town, or to the county legislative authority, if the
32 application is for a license outside the boundaries of incorporated
33 cities or towns.

34 (b) The incorporated city or town through the official or
35 employee selected by it, or the county legislative authority or the
36 official or employee selected by it, shall have the right to file
37 with the state liquor control board within twenty days after the date
38 of transmittal of the notice for applications, or at least thirty
39 days prior to the expiration date for renewals, written objections
40 against the applicant or against the premises for which the new or

1 renewed license is asked. The state liquor control board may extend
2 the time period for submitting written objections.

3 (c) The written objections shall include a statement of all facts
4 upon which the objections are based, and in case written objections
5 are filed, the city or town or county legislative authority may
6 request, and the state liquor control board may in its discretion
7 hold, a hearing subject to the applicable provisions of Title 34 RCW.
8 If the state liquor control board makes an initial decision to deny a
9 license or renewal based on the written objections of an incorporated
10 city or town or county legislative authority, the applicant may
11 request a hearing subject to the applicable provisions of Title 34
12 RCW. If a hearing is held at the request of the applicant, state
13 liquor control board representatives shall present and defend the
14 state liquor control board's initial decision to deny a license or
15 renewal.

16 (d) Upon the granting of a license under this title the state
17 liquor control board shall send written notification to the chief
18 executive officer of the incorporated city or town in which the
19 license is granted, or to the county legislative authority if the
20 license is granted outside the boundaries of incorporated cities or
21 towns.

22 (8) The state liquor control board shall not issue a license for
23 any premises within one thousand feet of the perimeter of the grounds
24 of any elementary or secondary school, playground, recreation center
25 or facility, child care center, public park, public transit center,
26 religious facility, or library, or any game arcade admission to which
27 is not restricted to persons aged twenty-one years or older. However,
28 the limitation in regard to issuance of a license for any premises
29 within one thousand feet of a religious facility does not apply if a
30 governing body or authorized representative of a proximate religious
31 facility consents in writing to the location of the licensed
32 premises.

33 (9) In determining whether to grant or deny a license or renewal
34 of any license, the state liquor control board shall give substantial
35 weight to objections from an incorporated city or town or county
36 legislative authority based upon chronic illegal activity associated
37 with the applicant's operations of the premises proposed to be
38 licensed or the applicant's operation of any other licensed premises,
39 or the conduct of the applicant's patrons inside or outside the
40 licensed premises. "Chronic illegal activity" means (a) a pervasive

1 pattern of activity that threatens the public health, safety, and
2 welfare of the city, town, or county including, but not limited to,
3 open container violations, assaults, disturbances, disorderly
4 conduct, or other criminal law violations, or as documented in crime
5 statistics, police reports, emergency medical response data, calls
6 for service, field data, or similar records of a law enforcement
7 agency for the city, town, county, or any other municipal corporation
8 or any state agency; or (b) an unreasonably high number of citations
9 for violations of RCW 46.61.502 associated with the applicant's or
10 licensee's operation of any licensed premises as indicated by the
11 reported statements given to law enforcement upon arrest.

12 **Sec. 3.** RCW 69.50.369 and 2013 c 3 s 18 are each amended to read
13 as follows:

14 (1) No licensed marijuana producer, processor, or retailer shall
15 place or maintain, or cause to be placed or maintained, an
16 advertisement of marijuana, useable marijuana, or a marijuana-infused
17 product in any form or through any medium whatsoever:

18 (a) Within one thousand feet of the perimeter of a school
19 grounds, playground, recreation center or facility, child care
20 center, public park, religious facility, or library, or any game
21 arcade admission to which is not restricted to persons aged twenty-
22 one years or older;

23 (b) On or in a public transit vehicle or public transit shelter;
24 or

25 (c) On or in a publicly owned or operated property.

26 (2) Merchandising within a retail outlet is not advertising for
27 the purposes of this section.

28 (3) This section does not apply to a noncommercial message.

29 (4) The state liquor control board shall fine a licensee one
30 thousand dollars for each violation of subsection (1) of this
31 section. Fines collected under this subsection must be deposited into
32 the dedicated marijuana fund created under RCW 69.50.530.

33 (5) The limitation set forth in subsection (1)(a) of this section
34 in relation to a religious facility does not apply if a governing
35 body or authorized representative of a proximate religious facility
36 consents in writing to the location of the licensed premises.

37 NEW SECTION. **Sec. 4.** If any provision of this act or its
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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

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