
HOUSE BILL 2494

State of Washington

64th Legislature

2016 Regular Session

By Representatives Tarleton, Santos, and Gregerson

Read first time 01/14/16. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to penalties for marijuana offenses; amending RCW
2 69.50.4013, 69.50.401, and 69.50.4014; reenacting and amending RCW
3 69.50.101; and prescribing penalties.

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

5 **Sec. 1.** RCW 69.50.4013 and 2015 2nd sp.s. c 4 s 503 are each
6 amended to read as follows:

7 (1) It is unlawful for any person to possess a controlled
8 substance unless the substance was obtained directly from, or
9 pursuant to, a valid prescription or order of a practitioner while
10 acting in the course of his or her professional practice, or except
11 as otherwise authorized by this chapter.

12 (2) Except as provided in RCW 69.50.4014, any person who violates
13 this section is guilty of a class C felony punishable under chapter
14 9A.20 RCW.

15 (3) ~~((a) The possession, by a person twenty-one years of age or~~
16 ~~older, of useable marijuana, marijuana concentrates, or marijuana-~~
17 ~~infused products in amounts that do not exceed those set forth in RCW~~
18 ~~69.50.360(3) is not a)) None of the following acts in (a) through (d)
19 of this subsection are a violation of this section, this chapter, or
20 any other provision of Washington state law((-)):~~

1 ~~((b))~~ (a) The possession, by a person twenty-one years of age
2 or older, of any combination of the following amounts of useable
3 marijuana, marijuana-infused products, or marijuana concentrates:

4 (i) One ounce of useable marijuana;

5 (ii) Sixteen ounces of marijuana-infused product in solid form;

6 (iii) Seventy-two ounces of marijuana-infused product in liquid
7 form; or

8 (iv) Seven grams of marijuana concentrates that were purchased
9 from a marijuana retailer and accompanied by packaging showing that
10 the marijuana concentrates were purchased from a marijuana retailer;

11 (b) The delivery, during a twenty-four hour period, for
12 noncommercial purposes and not dependent or conditioned upon or done
13 in connection with the provision or receipt of financial
14 consideration, of:

15 (i) One-half ounce of useable marijuana;

16 (ii) Eight ounces of marijuana-infused product in solid form; or

17 (iii) Thirty-six ounces of marijuana-infused product in liquid
18 form
19 by a person twenty-one years of age or older to one or more other
20 persons twenty-one years of age or older;

21 (c) The delivery, during a twenty-four hour period, for
22 noncommercial purposes and not dependent or conditioned upon or done
23 in connection with the provision or receipt of financial
24 consideration, of three and one-half grams of marijuana concentrates
25 that were purchased from a marijuana retailer and are accompanied by
26 packaging showing that the marijuana concentrates were purchased from
27 a marijuana retailer, by a person twenty-one years of age or older to
28 one or more other persons twenty-one years of age or older; and

29 (d) The possession of marijuana, useable marijuana, marijuana
30 concentrates, and marijuana-infused products being physically
31 transported or delivered within the state, in amounts not exceeding
32 those that may be established under RCW 69.50.385(3), by a licensed
33 employee of a common carrier when performing the duties authorized in
34 accordance with RCW 69.50.382 and 69.50.385(~~, is not a violation of~~
35 this section, this chapter, or any other provision of Washington
36 state law)).

37 (4) No person under twenty-one years of age may possess,
38 manufacture, sell, or distribute marijuana, marijuana-infused
39 products, or marijuana concentrates, regardless of THC concentration.
40 This does not include qualifying patients with a valid authorization.

1 (5) The possession by a qualifying patient or designated provider
2 of marijuana concentrates, useable marijuana, marijuana-infused
3 products, or plants in accordance with chapter 69.51A RCW is not a
4 violation of this section, this chapter, or any other provision of
5 Washington state law.

6 **Sec. 2.** RCW 69.50.401 and 2015 c 265 s 34 are each amended to
7 read as follows:

8 (1) Except as authorized by this chapter, it is unlawful for any
9 person to manufacture, deliver, or possess with intent to manufacture
10 or deliver, a controlled substance.

11 (2) Any person who violates this section with respect to:

12 (a) A controlled substance classified in Schedule I or II which
13 is a narcotic drug or flunitrazepam, including its salts, isomers,
14 and salts of isomers, classified in Schedule IV, is guilty of a class
15 B felony and upon conviction may be imprisoned for not more than ten
16 years, or (i) fined not more than twenty-five thousand dollars if the
17 crime involved less than two kilograms of the drug, or both such
18 imprisonment and fine; or (ii) if the crime involved two or more
19 kilograms of the drug, then fined not more than one hundred thousand
20 dollars for the first two kilograms and not more than fifty dollars
21 for each gram in excess of two kilograms, or both such imprisonment
22 and fine;

23 (b) Amphetamine, including its salts, isomers, and salts of
24 isomers, or methamphetamine, including its salts, isomers, and salts
25 of isomers, is guilty of a class B felony and upon conviction may be
26 imprisoned for not more than ten years, or (i) fined not more than
27 twenty-five thousand dollars if the crime involved less than two
28 kilograms of the drug, or both such imprisonment and fine; or (ii) if
29 the crime involved two or more kilograms of the drug, then fined not
30 more than one hundred thousand dollars for the first two kilograms
31 and not more than fifty dollars for each gram in excess of two
32 kilograms, or both such imprisonment and fine. Three thousand dollars
33 of the fine may not be suspended. As collected, the first three
34 thousand dollars of the fine must be deposited with the law
35 enforcement agency having responsibility for cleanup of laboratories,
36 sites, or substances used in the manufacture of the methamphetamine,
37 including its salts, isomers, and salts of isomers. The fine moneys
38 deposited with that law enforcement agency must be used for such
39 clean-up cost;

1 (c) Any other controlled substance classified in Schedule I, II,
2 or III, is guilty of a class C felony punishable according to chapter
3 9A.20 RCW, except as specifically provided in subsection (4) of this
4 section;

5 (d) A substance classified in Schedule IV, except flunitrazepam,
6 including its salts, isomers, and salts of isomers, is guilty of a
7 class C felony punishable according to chapter 9A.20 RCW; or

8 (e) A substance classified in Schedule V, is guilty of a class C
9 felony punishable according to chapter 9A.20 RCW.

10 (3) The production, manufacture, processing, packaging, delivery,
11 distribution, sale, or possession of marijuana in compliance with the
12 terms set forth in RCW 69.50.360, 69.50.363, ~~((or))~~ 69.50.366
13 ~~((shall))~~, or 69.50.4013(3) is not ((constitute)) a violation of this
14 section, this chapter, or any other provision of Washington state
15 law.

16 (4) Any person who violates this section with respect to:

17 (a) The delivery or possession with intent to deliver, during a
18 twenty-four hour period, for commercial purposes, of not more than:

19 (i) One-half ounce of useable marijuana;

20 (ii) Eight ounces of marijuana-infused product in solid form;

21 (iii) Thirty-six ounces of marijuana-infused product in liquid
22 form; or

23 (iv) Three and one-half grams of marijuana concentrates that were
24 purchased from a marijuana retailer and are accompanied by packaging
25 showing that the marijuana concentrates were purchased from a
26 marijuana retailer

27 to a person age twenty-one or over, is guilty of a gross misdemeanor
28 punishable according to chapter 9A.20 RCW; and

29 (b) The delivery or possession with intent to deliver, during a
30 twenty-four hour period, for noncommercial purposes and not dependent
31 or conditioned upon or done in connection with the provision or
32 receipt of financial consideration, of not more than three and one-
33 half grams of marijuana concentrates that were not purchased from a
34 marijuana retailer or are not accompanied by packaging showing that
35 the marijuana concentrates were purchased from a marijuana retailer,
36 is guilty of a gross misdemeanor punishable according to chapter
37 9A.20 RCW.

38 (5) The fines in this section apply to adult offenders only.

1 **Sec. 3.** RCW 69.50.4014 and 2015 2nd sp.s. c 4 s 505 are each
2 amended to read as follows:

3 Except as provided in RCW 69.50.401(2)(c) and 69.50.401(4), or as
4 otherwise authorized by this chapter or chapter 69.51A RCW, ~~((any))~~ a
5 person in possession of the following amounts of marijuana, useable
6 marijuana, marijuana-infused products, or marijuana concentrates is
7 guilty of the following crimes or infractions:

8 (1) A person ~~((found guilty of))~~ in possession of ~~((forty grams~~
9 ~~or less of))~~ marijuana, useable marijuana, marijuana-infused
10 products, or marijuana concentrates in excess of the possession
11 limits in RCW 69.50.4013(3)(a), but not in excess of two times the
12 possession limit in RCW 69.50.4013(3)(a), is guilty of a misdemeanor
13 punishable according to chapter 9A.20 RCW;

14 (2) A person in possession of not more than fifteen marijuana
15 plants is guilty of a misdemeanor punishable according to chapter
16 9A.20 RCW;

17 (3) A person under the age of twenty-one in possession of
18 marijuana, useable marijuana, marijuana-infused products, or
19 marijuana concentrates not in excess of the possession limits in RCW
20 69.50.4013(3)(a) is guilty of a misdemeanor punishable according to
21 chapter 9A.20 RCW; and

22 (4) A person in possession of marijuana concentrates that were
23 not purchased from a marijuana retailer or are not accompanied by
24 packaging showing that they were purchased from a marijuana retailer:

25 (a) Commits a class 2 civil infraction under chapter 7.80 RCW if
26 the person is in possession of not more than seven grams of marijuana
27 concentrates;

28 (b) Is guilty of a misdemeanor punishable according to chapter
29 9A.20 RCW if the person is in possession of more than seven grams but
30 not more than fourteen grams of marijuana concentrates; or

31 (c) Is guilty of a class C felony as is provided in RCW
32 69.50.4013(2) if the person is in possession of more than fourteen
33 grams of marijuana concentrates and does not have a license issued by
34 the state liquor and cannabis board permitting the person to possess
35 more than fourteen grams of marijuana concentrates.

36 **Sec. 4.** RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each
37 reenacted and amended to read as follows:

38 The definitions in this section apply throughout this chapter
39 unless the context clearly requires otherwise.

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

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

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

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

12 (c) "CBD concentration" has the meaning provided in RCW
13 69.51A.010.

14 (d) "Commission" means the pharmacy quality assurance commission.

15 (e) "Controlled substance" means a drug, substance, or immediate
16 precursor included in Schedules I through V as set forth in federal
17 or state laws, or federal or commission rules.

18 (f)(1) "Controlled substance analog" means a substance the
19 chemical structure of which is substantially similar to the chemical
20 structure of a controlled substance in Schedule I or II and:

21 (i) that has a stimulant, depressant, or hallucinogenic effect on
22 the central nervous system substantially similar to the stimulant,
23 depressant, or hallucinogenic effect on the central nervous system of
24 a controlled substance included in Schedule I or II; or

25 (ii) with respect to a particular individual, that the individual
26 represents or intends to have a stimulant, depressant, or
27 hallucinogenic effect on the central nervous system substantially
28 similar to the stimulant, depressant, or hallucinogenic effect on the
29 central nervous system of a controlled substance included in Schedule
30 I or II.

31 (2) The term does not include:

32 (i) a controlled substance;

33 (ii) a substance for which there is an approved new drug
34 application;

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

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

4 (g) "Deliver" or "delivery((τ))" means the actual or constructive
5 transfer from one person to another of a substance, whether or not
6 there is an agency relationship.

7 (h) "Department" means the department of health.

8 (i) "Designated provider" has the meaning provided in RCW
9 69.51A.010.

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

15 (k) "Dispenser" means a practitioner who dispenses.

16 (l) "Distribute" means to deliver other than by administering or
17 dispensing a controlled substance.

18 (m) "Distributor" means a person who distributes.

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

30 (o) "Drug enforcement administration" means the drug enforcement
31 administration in the United States Department of Justice, or its
32 successor agency.

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

38 (q) "Immediate precursor" means a substance:

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

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

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

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

14 (s) "Lot" means a definite quantity of marijuana, marijuana
15 concentrates, useable marijuana, or marijuana-infused product
16 identified by a lot number, every portion or package of which is
17 uniform within recognized tolerances for the factors that appear in
18 the labeling.

19 (t) "Lot number" must identify the licensee by business or trade
20 name and Washington state unified business identifier number, and the
21 date of harvest or processing for each lot of marijuana, marijuana
22 concentrates, useable marijuana, or marijuana-infused product.

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

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

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

39 (v) "Marijuana" or "marihuana" means all parts of the plant
40 *Cannabis*, whether growing or not, with a THC concentration greater

1 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
2 extracted from any part of the plant; and every compound,
3 manufacture, salt, derivative, mixture, or preparation of the plant,
4 its seeds or resin. The term does not include the mature stalks of
5 the plant, fiber produced from the stalks, oil or cake made from the
6 seeds of the plant, any other compound, manufacture, salt,
7 derivative, mixture, or preparation of the mature stalks (except the
8 resin extracted therefrom), fiber, oil, or cake, or the sterilized
9 seed of the plant which is incapable of germination.

10 (w) "Marijuana concentrates" means products consisting wholly or
11 in part of the resin extracted from any part of the plant *Cannabis*
12 and having a THC concentration greater than ten percent.

13 (x) "Marijuana processor" means a person licensed by the state
14 liquor and cannabis board to process marijuana into marijuana
15 concentrates, useable marijuana, and marijuana-infused products,
16 package and label marijuana concentrates, useable marijuana, and
17 marijuana-infused products for sale in retail outlets, and sell
18 marijuana concentrates, useable marijuana, and marijuana-infused
19 products at wholesale to marijuana retailers.

20 (y) "Marijuana producer" means a person licensed by the state
21 liquor and cannabis board to produce and sell marijuana at wholesale
22 to marijuana processors and other marijuana producers.

23 (z) "Marijuana products" means useable marijuana, marijuana
24 concentrates, and marijuana-infused products as defined in this
25 section.

26 (aa) "Marijuana researcher" means a person licensed by the state
27 liquor and cannabis board to produce, process, and possess marijuana
28 for the purposes of conducting research on marijuana and marijuana-
29 derived drug products.

30 (bb) "Marijuana retailer" means a person licensed by the state
31 liquor and cannabis board to sell marijuana concentrates, useable
32 marijuana, and marijuana-infused products in a retail outlet.

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

39 (dd) "Narcotic drug" means any of the following, whether produced
40 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a
2 combination of extraction and chemical synthesis:

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

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

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

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

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

18 (6) Cocaine base.

19 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
20 thereof.

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

23 (ee) "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 (ff) "Opium poppy" means the plant of the species *Papaver*
33 *somniferum* L., except its seeds.

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

38 (hh) "Plant" has the meaning provided in RCW 69.51A.010.

39 (ii) "Poppy straw" means all parts, except the seeds, of the
40 opium poppy, after mowing.

1 (jj) "Practitioner" means:

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

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

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

35 (kk) "Prescription" means an order for controlled substances
36 issued by a practitioner duly authorized by law or rule in the state
37 of Washington to prescribe controlled substances within the scope of
38 his or her professional practice for a legitimate medical purpose.

39 (ll) "Production" includes the manufacturing, planting,
40 cultivating, growing, or harvesting of a controlled substance.

1 (mm) "Qualifying patient" has the meaning provided in RCW
2 69.51A.010.

3 (nn) "Recognition card" has the meaning provided in RCW
4 69.51A.010.

5 (oo) "Retail outlet" means a location licensed by the state
6 liquor and cannabis board for the retail sale of marijuana
7 concentrates, useable marijuana, and marijuana-infused products.

8 (pp) "Secretary" means the secretary of health or the secretary's
9 designee.

10 (qq) "State," unless the context otherwise requires, means a
11 state of the United States, the District of Columbia, the
12 Commonwealth of Puerto Rico, or a territory or insular possession
13 subject to the jurisdiction of the United States.

14 (rr) "THC concentration" means percent of delta-9
15 tetrahydrocannabinol content per dry weight of any part of the plant
16 *Cannabis*, or per volume or weight of marijuana product, or the
17 combined percent of delta-9 tetrahydrocannabinol and
18 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
19 regardless of moisture content.

20 (ss) "Ultimate user" means an individual who lawfully possesses a
21 controlled substance for the individual's own use or for the use of a
22 member of the individual's household or for administering to an
23 animal owned by the individual or by a member of the individual's
24 household.

25 (tt) "Useable marijuana" means dried marijuana flowers. The term
26 "useable marijuana" does not include either marijuana-infused
27 products or marijuana concentrates.

28 (uu) "Financial consideration" means value that is given or
29 received directly or indirectly through a sale, barter, trade, fee,
30 charge, due, contribution, or donation.

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