
SUBSTITUTE HOUSE BILL 1065

State of Washington **65th Legislature** **2017 Regular Session**

By House Commerce & Gaming (originally sponsored by Representatives Kirby and Gregerson)

READ FIRST TIME 02/06/17.

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;

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

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

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

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

17 (iv) Three and one-half grams of marijuana concentrates by a
18 person twenty-one years of age or older to one or more other persons
19 twenty-one years of age or older; and

20 (c) The possession of marijuana, useable marijuana, marijuana
21 concentrates, and marijuana-infused products being physically
22 transported or delivered within the state, in amounts not exceeding
23 those that may be established under RCW 69.50.385(3), by a licensed
24 employee of a common carrier when performing the duties authorized in
25 accordance with RCW 69.50.382 and 69.50.385(~~, is not a violation of~~
26 this section, this chapter, or any other provision of Washington
27 state law)).

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

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

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

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

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

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

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

33 (c) Any other controlled substance classified in Schedule I, II,
34 or III, is guilty of a class C felony punishable according to chapter
35 9A.20 RCW, except as specifically provided in subsection (4) of this
36 section;

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

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

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

9 (4) Any person who violates this section with respect to the
10 delivery or possession with intent to deliver, during a twenty-four
11 hour period, for commercial purposes, of not more than:

12 (a) One-half ounce of useable marijuana;

13 (b) Eight ounces of marijuana-infused product in solid form;

14 (c) Thirty-six ounces of marijuana-infused product in liquid
15 form; or

16 (d) Three and one-half grams of marijuana concentrates, is guilty
17 of a gross misdemeanor punishable according to chapter 9A.20 RCW.

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

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

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

26 (1) A person ((found guilty of)) in possession of ((forty grams
27 or less of)) marijuana, useable marijuana, marijuana-infused
28 products, or marijuana concentrates in excess of the possession
29 limits in RCW 69.50.4013(3)(a), but not in excess of two times the
30 possession limit in RCW 69.50.4013(3)(a), is guilty of a misdemeanor
31 punishable according to chapter 9A.20 RCW;

32 (2) A person in possession of not more than fifteen marijuana
33 plants is guilty of a misdemeanor punishable according to chapter
34 9A.20 RCW; and

35 (3) A person under the age of twenty-one in possession of
36 marijuana, useable marijuana, marijuana-infused products, or
37 marijuana concentrates not in excess of the possession limits in RCW
38 69.50.4013(3)(a) is guilty of a misdemeanor punishable according to
39 chapter 9A.20 RCW.

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

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

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

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

16 (c) "CBD concentration" has the meaning provided in RCW
17 69.51A.010.

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

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

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

25 (i) that has a stimulant, depressant, or hallucinogenic effect on
26 the central nervous system substantially similar to the stimulant,
27 depressant, or hallucinogenic effect on the central nervous system of
28 a controlled substance included in Schedule I or II; or

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

35 (2) The term does not include:

36 (i) a controlled substance;

37 (ii) a substance for which there is an approved new drug
38 application;

39 (iii) a substance with respect to which an exemption is in effect
40 for investigational use by a particular person under Section 505 of

1 the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the
2 extent conduct with respect to the substance is pursuant to the
3 exemption; or

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

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

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

11 (i) "Designated provider" has the meaning provided in RCW
12 69.51A.010.

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

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

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

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

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

33 (o) "Drug enforcement administration" means the drug enforcement
34 administration in the United States Department of Justice, or its
35 successor agency.

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

1 (q) "Immediate precursor" means a substance:
2 (1) that the commission has found to be and by rule designates as
3 being the principal compound commonly used, or produced primarily for
4 use, in the manufacture of a controlled substance;
5 (2) that is an immediate chemical intermediary used or likely to
6 be used in the manufacture of a controlled substance; and
7 (3) the control of which is necessary to prevent, curtail, or
8 limit the manufacture of the controlled substance.
9 (r) "Isomer" means an optical isomer, but in subsection (dd)(5)
10 of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4),
11 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and
12 (42), and 69.50.210(c) the term includes any positional isomer; and
13 in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term
14 includes any positional or geometric isomer.
15 (s) "Lot" means a definite quantity of marijuana, marijuana
16 concentrates, useable marijuana, or marijuana-infused product
17 identified by a lot number, every portion or package of which is
18 uniform within recognized tolerances for the factors that appear in
19 the labeling.
20 (t) "Lot number" must identify the licensee by business or trade
21 name and Washington state unified business identifier number, and the
22 date of harvest or processing for each lot of marijuana, marijuana
23 concentrates, useable marijuana, or marijuana-infused product.
24 (u) "Manufacture" means the production, preparation, propagation,
25 compounding, conversion, or processing of a controlled substance,
26 either directly or indirectly or by extraction from substances of
27 natural origin, or independently by means of chemical synthesis, or
28 by a combination of extraction and chemical synthesis, and includes
29 any packaging or repackaging of the substance or labeling or
30 relabeling of its container. The term does not include the
31 preparation, compounding, packaging, repackaging, labeling, or
32 relabeling of a controlled substance:
33 (1) by a practitioner as an incident to the practitioner's
34 administering or dispensing of a controlled substance in the course
35 of the practitioner's professional practice; or
36 (2) by a practitioner, or by the practitioner's authorized agent
37 under the practitioner's supervision, for the purpose of, or as an
38 incident to, research, teaching, or chemical analysis and not for
39 sale.

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

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

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

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

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

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

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

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

1 (dd) "Narcotic drug" means any of the following, whether produced
2 directly or indirectly by extraction from substances of vegetable
3 origin, or independently by means of chemical synthesis, or by a
4 combination of extraction and chemical synthesis:

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

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

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

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

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

20 (6) Cocaine base.

21 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
22 thereof.

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

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

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

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

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

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

3 (jj) "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 quality assurance commission or equivalent
33 and his or her supervising physician, an advanced registered nurse
34 practitioner licensed to prescribe controlled substances, or a
35 veterinarian licensed to practice veterinary medicine in any state of
36 the United States.

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

1 (ll) "Production" includes the manufacturing, planting,
2 cultivating, growing, or harvesting of a controlled substance.
3 (mm) "Qualifying patient" has the meaning provided in RCW
4 69.51A.010.
5 (nn) "Recognition card" has the meaning provided in RCW
6 69.51A.010.
7 (oo) "Retail outlet" means a location licensed by the state
8 liquor and cannabis board for the retail sale of marijuana
9 concentrates, useable marijuana, and marijuana-infused products.
10 (pp) "Secretary" means the secretary of health or the secretary's
11 designee.
12 (qq) "State," unless the context otherwise requires, means a
13 state of the United States, the District of Columbia, the
14 Commonwealth of Puerto Rico, or a territory or insular possession
15 subject to the jurisdiction of the United States.
16 (rr) "THC concentration" means percent of delta-9
17 tetrahydrocannabinol content per dry weight of any part of the plant
18 *Cannabis*, or per volume or weight of marijuana product, or the
19 combined percent of delta-9 tetrahydrocannabinol and
20 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
21 regardless of moisture content.
22 (ss) "Ultimate user" means an individual who lawfully possesses a
23 controlled substance for the individual's own use or for the use of a
24 member of the individual's household or for administering to an
25 animal owned by the individual or by a member of the individual's
26 household.
27 (tt) "Useable marijuana" means dried marijuana flowers. The term
28 "useable marijuana" does not include either marijuana-infused
29 products or marijuana concentrates.
30 (uu) "Financial consideration" means value that is given or
31 received directly or indirectly through a sale, barter, trade, fee,
32 charge, due, contribution, or donation.

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