
SUBSTITUTE SENATE BILL 5035

State of Washington

65th Legislature

2017 Regular Session

By Senate Health Care (originally sponsored by Senators Pedersen, Rivers, Cleveland, Becker, Keiser, Walsh, Conway, Bailey, O'Ban, Mullet, Kuderer, Darneille, and Wellman)

READ FIRST TIME 02/03/17.

1 AN ACT Relating to patients' access to investigational medical
2 products; amending RCW 69.04.570; reenacting and amending RCW
3 69.50.101; and adding a new chapter to Title 69 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the process for
6 approval of investigational drugs, biological products, and devices
7 in the United States protects future patients from premature,
8 ineffective, and unsafe medications and treatments over time, but the
9 process often takes many years. Patients who have a terminal illness
10 do not have the luxury of waiting until an investigational drug,
11 biological product, or device receives final approval from the United
12 States food and drug administration. The legislature further finds
13 that patients who have a terminal illness should be permitted to
14 pursue the preservation of their own lives by accessing available
15 investigational drugs, biological products, and devices. The use of
16 available investigational drugs, biological products, and devices is
17 a decision that should be made by the patient with a terminal illness
18 in consultation with the patient's health care provider so that the
19 decision to use an investigational drug, biological product, or
20 device is made with full awareness of the potential risks, benefits,
21 and consequences to the patient and the patient's family.

1 The legislature, therefore, intends to allow terminally ill
2 patients to use potentially lifesaving investigational drugs,
3 biological products, and devices.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Eligible patient" means an individual who meets the
8 requirements of section 4 of this act.

9 (2) "Health care facility" means a clinic, nursing home,
10 laboratory, office, or similar place where a health care provider
11 provides health care to patients.

12 (3) "Hospital" means a health care institution licensed under
13 chapter 70.41, 71.12, or 72.23 RCW.

14 (4) "Investigational product" means a drug, biological product,
15 or device that has successfully completed phase one and is currently
16 in a subsequent phase of a clinical trial approved by the United
17 States food and drug administration assessing the safety of the drug,
18 biological product, or device under section 505 of the federal food,
19 drug, and cosmetic act, 21 U.S.C. Sec. 355.

20 (5) "Issuer" means any state purchased health care programs under
21 chapter 41.05 or 74.09 RCW, a disability insurer regulated under
22 chapter 48.20 or 48.21 RCW, a health care service contractor as
23 defined in RCW 48.44.010, or a health maintenance organization as
24 defined in RCW 48.46.020.

25 (6) "Manufacturer" means a person or other entity engaged in the
26 manufacture or distribution of drugs, biological products, or
27 devices.

28 (7) "Physician" means a physician licensed under chapter 18.71
29 RCW or an osteopathic physician and surgeon licensed under chapter
30 18.57 RCW.

31 (8) "Serious or immediately life-threatening disease or
32 condition" means a stage of disease in which there is reasonable
33 likelihood that death will occur within six months or in which
34 premature death is likely without early treatment.

35 NEW SECTION. **Sec. 3.** (1) An eligible patient and his or her
36 treating physician may request that a manufacturer make an
37 investigational product available for treatment of the patient. The
38 request must include a copy of the written informed consent form

1 described in section 5 of this act and an explanation of why the
2 treating physician believes the investigational product may help the
3 patient.

4 (2) Upon receipt of the request and the written informed consent
5 form, the manufacturer may, but is not required to, make the
6 investigational product available for treatment of the eligible
7 patient. Prior to making the investigational product available, the
8 manufacturer shall enter into an agreement with the treating
9 physician and the eligible patient providing that the manufacturer
10 will transfer the investigational product to the physician and the
11 physician will use the investigational product to treat the eligible
12 patient.

13 NEW SECTION. **Sec. 4.** A patient is eligible to request access to
14 and be treated with an investigational product if:

15 (1) The patient is eighteen years of age or older;

16 (2) The patient is a resident of this state;

17 (3) The patient's treating physician attests to the fact that the
18 patient has a serious or immediately life-threatening disease or
19 condition;

20 (4) The patient acknowledges having been informed by the treating
21 physician of all other treatment options currently approved by the
22 United States food and drug administration;

23 (5) The patient's treating physician recommends that the patient
24 be treated with an investigational product;

25 (6) The patient is unable to participate in a clinical trial for
26 the investigational product because the patient's physician has
27 contacted one or more clinical trials or researchers in the
28 physician's practice area and has determined, using the physician's
29 professional judgment, that there are no clinical trials reasonably
30 available for the patient to participate in, that the patient would
31 not qualify for a clinical trial, or that delay in waiting to join a
32 clinical trial would risk further harm to the patient; and

33 (7) In accordance with section 5 of this act, the patient has
34 provided written informed consent for the use of the investigational
35 product, or, if the patient lacks the capacity to consent, the
36 patient's legally authorized representative has provided written
37 informed consent on behalf of the patient.

1 NEW SECTION. **Sec. 5.** (1) Prior to treatment of the eligible
2 patient with an investigational product, the treating physician shall
3 obtain written informed consent, consistent with the requirements of
4 RCW 7.70.060(1), and signed by the eligible patient or, if the
5 patient lacks the capacity to consent, his or her legally authorized
6 representative.

7 (2) Information provided in order to obtain the informed consent
8 must, to the extent possible, include the following:

9 (a) That the patient has been diagnosed with a serious or
10 immediately life-threatening disease or condition and explains the
11 currently approved products and treatments for the disease or
12 condition from which the eligible patient suffers;

13 (b) That all currently approved and conventionally recognized
14 treatments are unlikely to prolong the eligible patient's life;

15 (c) Clear identification of the investigational product that the
16 eligible patient seeks to use;

17 (d) The potentially best and worst outcomes of using the
18 investigational product and a realistic description of the most
19 likely outcome. This description must include the possibility that
20 new, unanticipated, different, or worse symptoms may result and that
21 death could be hastened by the proposed treatment. The description
22 must be based on the physician's knowledge of the proposed treatment
23 in conjunction with an awareness of the eligible patient's condition;

24 (e) That the eligible patient's health benefit plan is not
25 obligated to pay for the investigational product or any harm caused
26 to the eligible patient by the investigational product, unless
27 otherwise specifically required to do so by law or contract, and that
28 in order to receive the investigational product the patient may be
29 required to pay the costs of administering the investigational
30 product; and

31 (f) That the eligible patient is liable for all expenses
32 consequent to the use of the investigational product, except as
33 otherwise provided in the eligible patient's health benefit plan or a
34 contract between the eligible patient and the manufacturer of the
35 investigational product.

36 (3) The document must be signed and dated by the eligible
37 patient's treating physician and witnessed in writing by at least one
38 adult.

1 NEW SECTION. **Sec. 6.** (1) An issuer may, but is not required to,
2 provide coverage for the cost or the administration of an
3 investigational product provided to an eligible patient pursuant to
4 this chapter.

5 (2)(a) An issuer may deny coverage to an eligible patient who is
6 treated with an investigational product for harm to the eligible
7 patient caused by the investigational product and is not required to
8 cover the costs associated with receiving the investigational product
9 or the costs demonstrated to be associated with an adverse effect
10 that is a result of receiving the investigational product.

11 (b) Except as stated in (a) of this subsection, an issuer may not
12 deny coverage to an eligible patient for: (i) The eligible patient's
13 serious or immediately life-threatening disease or condition; (ii)
14 benefits that accrued before the day on which the eligible patient
15 was treated with an investigational product; or (iii) palliative or
16 hospice care for an eligible patient who was previously treated with
17 an investigational product but who is no longer being treated with an
18 investigational product.

19 NEW SECTION. **Sec. 7.** A hospital or health care facility:

20 (1) May, but is not required to, allow a health care practitioner
21 who is privileged to practice or who is employed at the hospital or
22 health care facility to treat, administer, or provide an
23 investigational product to an eligible patient under this chapter;

24 (2) May establish a policy regarding treating, administering, or
25 providing investigational products under this chapter; and

26 (3) Is not obligated to pay for the investigational product or
27 any harm caused to the eligible patient by the product, or any care
28 that is necessary as a result of the use of the investigational
29 product, including under chapter 70.170 RCW.

30 NEW SECTION. **Sec. 8.** (1) This act does not create a private
31 right of action.

32 (2) A health care practitioner does not commit unprofessional
33 conduct under RCW 18.130.180 and does not violate the applicable
34 standard of care by:

35 (a) Obtaining an investigational product pursuant to this
36 chapter;

37 (b) Administering an investigational product to an eligible
38 patient pursuant to this chapter; or

1 (c) Treating an eligible patient with an investigational product
2 pursuant to this chapter.

3 (3) The following persons and entities are immune from civil or
4 criminal liability and administrative actions arising out of
5 treatment of an eligible patient with an investigational product,
6 other than acts or omissions constituting gross negligence or willful
7 or wanton misconduct:

8 (a) A health care practitioner who recommends or requests an
9 investigational product for an eligible patient in compliance with
10 this chapter;

11 (b) A manufacturer that provides an investigational product to a
12 health care practitioner in compliance with this chapter; and

13 (c) A hospital or health care facility where an investigational
14 product is either administered or provided to an eligible patient in
15 compliance with this chapter.

16 (4) The protections and immunities set forth in this section also
17 apply in situations in which:

18 (a) A health care practitioner denies a patient's request for a
19 treatment with an investigational product, either because the health
20 care practitioner believes there are more effective treatments
21 available or because the requested treatment is not likely to be
22 beneficial; and

23 (b) A hospital or health care facility does not allow a health
24 care practitioner to provide treatment with an investigational
25 product or enforces a policy it has adopted regarding treating,
26 administering, or providing care with an investigational product.

27 NEW SECTION. **Sec. 9.** The pharmacy quality assurance commission
28 may adopt rules necessary to implement this chapter.

29 **Sec. 10.** RCW 69.04.570 and 2012 c 117 s 338 are each amended to
30 read as follows:

31 Except as permitted by chapter 69.--- RCW (the new chapter
32 created in section 12 of this act), no person shall introduce or
33 deliver for introduction into intrastate commerce any new drug which
34 is subject to section 505 of the federal act unless an application
35 with respect to such drug has become effective thereunder. No person
36 shall introduce or deliver for introduction into intrastate commerce
37 any new drug which is not subject to section 505 of the federal act,
38 unless (1) it has been found, by appropriate tests, that such drug is

1 not unsafe for use under the conditions prescribed, recommended, or
2 suggested in the labeling thereof; and (2) an application has been
3 filed under this section of this chapter with respect to such drug:
4 PROVIDED, That the requirement of subsection (2) of this section
5 shall not apply to any drug introduced into intrastate commerce at
6 any time prior to the enactment of this chapter or introduced into
7 interstate commerce at any time prior to the enactment of the federal
8 act: PROVIDED FURTHER, That if the director finds that the
9 requirement of subsection (2) of this section as applied to any drug
10 or class of drugs, is not necessary for the protection of the public
11 health, he or she shall promulgate regulations of exemption
12 accordingly.

13 **Sec. 11.** RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each
14 reenacted and amended to read as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

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

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

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

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

28 (c) "CBD concentration" has the meaning provided in RCW
29 69.51A.010.

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

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

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

37 (i) that has a stimulant, depressant, or hallucinogenic effect on
38 the central nervous system substantially similar to the stimulant,

1 depressant, or hallucinogenic effect on the central nervous system of
2 a controlled substance included in Schedule I or II; or

3 (ii) with respect to a particular individual, that the individual
4 represents or intends to have a stimulant, depressant, or
5 hallucinogenic effect on the central nervous system substantially
6 similar to the stimulant, depressant, or hallucinogenic effect on the
7 central nervous system of a controlled substance included in Schedule
8 I or II.

9 (2) The term does not include:

10 (i) a controlled substance;

11 (ii) a substance for which there is an approved new drug
12 application;

13 (iii) a substance with respect to which an exemption is in effect
14 for investigational use by a particular person under section 505 of
15 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or
16 chapter 69.--- RCW (the new chapter created in section 12 of this
17 act) to the extent conduct with respect to the substance is pursuant
18 to the exemption; or

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

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

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

26 (i) "Designated provider" has the meaning provided in RCW
27 69.51A.010.

28 (j) "Dispense" means the interpretation of a prescription or
29 order for a controlled substance and, pursuant to that prescription
30 or order, the proper selection, measuring, compounding, labeling, or
31 packaging necessary to prepare that prescription or order for
32 delivery.

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

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

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

37 (n) "Drug" means (1) a controlled substance recognized as a drug
38 in the official United States pharmacopoeia/national formulary or the
39 official homeopathic pharmacopoeia of the United States, or any
40 supplement to them; (2) controlled substances intended for use in the

1 diagnosis, cure, mitigation, treatment, or prevention of disease in
2 individuals or animals; (3) controlled substances (other than food)
3 intended to affect the structure or any function of the body of
4 individuals or animals; and (4) controlled substances intended for
5 use as a component of any article specified in (1), (2), or (3) of
6 this subsection. The term does not include devices or their
7 components, parts, or accessories.

8 (o) "Drug enforcement administration" means the drug enforcement
9 administration in the United States Department of Justice, or its
10 successor agency.

11 (p) "Electronic communication of prescription information" means
12 the transmission of a prescription or refill authorization for a drug
13 of a practitioner using computer systems. The term does not include a
14 prescription or refill authorization verbally transmitted by
15 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

30 (s) "Lot" means a definite quantity of marijuana, marijuana
31 concentrates, useable marijuana, or marijuana-infused product
32 identified by a lot number, every portion or package of which is
33 uniform within recognized tolerances for the factors that appear in
34 the labeling.

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

39 (u) "Manufacture" means the production, preparation, propagation,
40 compounding, conversion, or processing of a controlled substance,

1 either directly or indirectly or by extraction from substances of
2 natural origin, or independently by means of chemical synthesis, or
3 by a combination of extraction and chemical synthesis, and includes
4 any packaging or repackaging of the substance or labeling or
5 relabeling of its container. The term does not include the
6 preparation, compounding, packaging, repackaging, labeling, or
7 relabeling of a controlled substance:

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

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

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

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

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

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

1 (z) "Marijuana products" means useable marijuana, marijuana
2 concentrates, and marijuana-infused products as defined in this
3 section.

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

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

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

17 (dd) "Narcotic drug" means any of the following, whether produced
18 directly or indirectly by extraction from substances of vegetable
19 origin, or independently by means of chemical synthesis, or by a
20 combination of extraction and chemical synthesis:

21 (1) Opium, opium derivative, and any derivative of opium or opium
22 derivative, including their salts, isomers, and salts of isomers,
23 whenever the existence of the salts, isomers, and salts of isomers is
24 possible within the specific chemical designation. The term does not
25 include the isoquinoline alkaloids of opium.

26 (2) Synthetic opiate and any derivative of synthetic opiate,
27 including their isomers, esters, ethers, salts, and salts of isomers,
28 esters, and ethers, whenever the existence of the isomers, esters,
29 ethers, and salts is possible within the specific chemical
30 designation.

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

32 (4) Coca leaves, except coca leaves and extracts of coca leaves
33 from which cocaine, ecgonine, and derivatives or ecgonine or their
34 salts have been removed.

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

36 (6) Cocaine base.

37 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
38 thereof.

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

1 (ee) "Opiate" means any substance having an addiction-forming or
2 addiction-sustaining liability similar to morphine or being capable
3 of conversion into a drug having addiction-forming or addiction-
4 sustaining liability. The term includes opium, substances derived
5 from opium (opium derivatives), and synthetic opiates. The term does
6 not include, unless specifically designated as controlled under RCW
7 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
8 and its salts (dextromethorphan). The term includes the racemic and
9 levorotatory forms of dextromethorphan.

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

12 (gg) "Person" means individual, corporation, business trust,
13 estate, trust, partnership, association, joint venture, government,
14 governmental subdivision or agency, or any other legal or commercial
15 entity.

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

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

19 (jj) "Practitioner" means:

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

38 (2) A pharmacy, hospital or other institution licensed,
39 registered, or otherwise permitted to distribute, dispense, conduct

1 research with respect to or to administer a controlled substance in
2 the course of professional practice or research in this state.

3 (3) A physician licensed to practice medicine and surgery, a
4 physician licensed to practice osteopathic medicine and surgery, a
5 dentist licensed to practice dentistry, a podiatric physician and
6 surgeon licensed to practice podiatric medicine and surgery, a
7 licensed physician assistant or a licensed osteopathic physician
8 assistant specifically approved to prescribe controlled substances by
9 his or her state's medical quality assurance commission or equivalent
10 and his or her supervising physician, an advanced registered nurse
11 practitioner licensed to prescribe controlled substances, or a
12 veterinarian licensed to practice veterinary medicine in any state of
13 the United States.

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

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

20 (mm) "Qualifying patient" has the meaning provided in RCW
21 69.51A.010.

22 (nn) "Recognition card" has the meaning provided in RCW
23 69.51A.010.

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

27 (pp) "Secretary" means the secretary of health or the secretary's
28 designee.

29 (qq) "State," unless the context otherwise requires, means a
30 state of the United States, the District of Columbia, the
31 Commonwealth of Puerto Rico, or a territory or insular possession
32 subject to the jurisdiction of the United States.

33 (rr) "THC concentration" means percent of delta-9
34 tetrahydrocannabinol content per dry weight of any part of the plant
35 *Cannabis*, or per volume or weight of marijuana product, or the
36 combined percent of delta-9 tetrahydrocannabinol and
37 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
38 regardless of moisture content.

39 (ss) "Ultimate user" means an individual who lawfully possesses a
40 controlled substance for the individual's own use or for the use of a

1 member of the individual's household or for administering to an
2 animal owned by the individual or by a member of the individual's
3 household.

4 (tt) "Useable marijuana" means dried marijuana flowers. The term
5 "useable marijuana" does not include either marijuana-infused
6 products or marijuana concentrates.

7 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act
8 constitute a new chapter in Title 69 RCW.

9 NEW SECTION. **Sec. 13.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

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