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SENATE BILL 5451

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State of Washington

65th Legislature

2017 Regular Session

By Senators Rivers, Palumbo, and Mullet

Read first time 01/25/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to transfer of immature marijuana plants and  
2 marijuana seeds between licensed marijuana researchers and licensed  
3 marijuana producers; amending RCW 69.50.366, 69.50.372, and  
4 69.50.382; and reenacting and amending RCW 69.50.101.

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

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

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

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.

1 (c) "CBD concentration" has the meaning provided in RCW  
2 69.51A.010.

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

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

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

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

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

20 (2) The term does not include:

21 (i) a controlled substance;

22 (ii) a substance for which there is an approved new drug  
23 application;

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

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

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

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

36 (i) "Designated provider" has the meaning provided in RCW  
37 69.51A.010.

38 (j) "Dispense" means the interpretation of a prescription or  
39 order for a controlled substance and, pursuant to that prescription  
40 or order, the proper selection, measuring, compounding, labeling, or

1 packaging necessary to prepare that prescription or order for  
2 delivery.

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

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

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

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

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

21 (p) "Electronic communication of prescription information" means  
22 the transmission of a prescription or refill authorization for a drug  
23 of a practitioner using computer systems. The term does not include a  
24 prescription or refill authorization verbally transmitted by  
25 telephone nor a facsimile manually signed by the practitioner.

26 (q) "Immature plant" means a plant that has no flowers, is less  
27 than twelve inches in height, and is less than twelve inches in  
28 diameter.

29 (r) "Immediate precursor" means a substance:

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

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

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

37 (~~(r)~~) (s) "Isomer" means an optical isomer, but in subsection  
38 (~~(d)~~) (ee)(5) of this section, RCW 69.50.204(a) (12) and (34), and  
39 69.50.206(b)(4), the term includes any geometrical isomer; in RCW  
40 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any

1 positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and  
2 69.50.208(a) the term includes any positional or geometric isomer.

3 ~~((s))~~ (t) "Lot" means a definite quantity of marijuana,  
4 marijuana concentrates, useable marijuana, or marijuana-infused  
5 product identified by a lot number, every portion or package of which  
6 is uniform within recognized tolerances for the factors that appear  
7 in the labeling.

8 ~~((t))~~ (u) "Lot number" must identify the licensee by business  
9 or trade name and Washington state unified business identifier  
10 number, and the date of harvest or processing for each lot of  
11 marijuana, marijuana concentrates, useable marijuana, or marijuana-  
12 infused product.

13 ~~((u))~~ (v) "Manufacture" means the production, preparation,  
14 propagation, compounding, conversion, or processing of a controlled  
15 substance, either directly or indirectly or by extraction from  
16 substances of natural origin, or independently by means of chemical  
17 synthesis, or by a combination of extraction and chemical synthesis,  
18 and includes any packaging or repackaging of the substance or  
19 labeling or relabeling of its container. The term does not include  
20 the preparation, compounding, packaging, repackaging, labeling, or  
21 relabeling of a controlled substance:

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

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

29 ~~((v))~~ (w) "Marijuana" or "marihuana" means all parts of the  
30 plant *Cannabis*, whether growing or not, with a THC concentration  
31 greater than 0.3 percent on a dry weight basis; the seeds thereof;  
32 the resin extracted from any part of the plant; and every compound,  
33 manufacture, salt, derivative, mixture, or preparation of the plant,  
34 its seeds or resin. The term does not include the mature stalks of  
35 the plant, fiber produced from the stalks, oil or cake made from the  
36 seeds of the plant, any other compound, manufacture, salt,  
37 derivative, mixture, or preparation of the mature stalks (except the  
38 resin extracted therefrom), fiber, oil, or cake, or the sterilized  
39 seed of the plant which is incapable of germination.

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

4       ~~((x))~~ (y) "Marijuana processor" means a person licensed by the  
5 state liquor and cannabis board to process marijuana into marijuana  
6 concentrates, useable marijuana, and marijuana-infused products,  
7 package and label marijuana concentrates, useable marijuana, and  
8 marijuana-infused products for sale in retail outlets, and sell  
9 marijuana concentrates, useable marijuana, and marijuana-infused  
10 products at wholesale to marijuana retailers.

11       ~~((y))~~ (z) "Marijuana producer" means a person licensed by the  
12 state liquor and cannabis board to produce and sell marijuana at  
13 wholesale to marijuana processors and other marijuana producers.

14       ~~((z))~~ (aa) "Marijuana products" means useable marijuana,  
15 marijuana concentrates, and marijuana-infused products as defined in  
16 this section.

17       ~~((aa))~~ (bb) "Marijuana researcher" means a person licensed by  
18 the state liquor and cannabis board to produce, process, and possess  
19 marijuana for the purposes of conducting research on marijuana and  
20 marijuana-derived drug products.

21       ~~((bb))~~ (cc) "Marijuana retailer" means a person licensed by the  
22 state liquor and cannabis board to sell marijuana concentrates,  
23 useable marijuana, and marijuana-infused products in a retail outlet.

24       ~~((ee))~~ (dd) "Marijuana-infused products" means products that  
25 contain marijuana or marijuana extracts, are intended for human use,  
26 are derived from marijuana as defined in subsection ~~((v))~~ (w) of  
27 this section, and have a THC concentration no greater than ten  
28 percent. The term "marijuana-infused products" does not include  
29 either useable marijuana or marijuana concentrates.

30       ~~((dd))~~ (ee) "Narcotic drug" means any of the following, whether  
31 produced directly or indirectly by extraction from substances of  
32 vegetable origin, or independently by means of chemical synthesis, or  
33 by a combination of extraction and chemical synthesis:

34       (1) Opium, opium derivative, and any derivative of opium or opium  
35 derivative, including their salts, isomers, and salts of isomers,  
36 whenever the existence of the salts, isomers, and salts of isomers is  
37 possible within the specific chemical designation. The term does not  
38 include the isoquinoline alkaloids of opium.

39       (2) Synthetic opiate and any derivative of synthetic opiate,  
40 including their isomers, esters, ethers, salts, and salts of isomers,

1 esters, and ethers, whenever the existence of the isomers, esters,  
2 ethers, and salts is possible within the specific chemical  
3 designation.

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

5 (4) Coca leaves, except coca leaves and extracts of coca leaves  
6 from which cocaine, ecgonine, and derivatives or ecgonine or their  
7 salts have been removed.

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

9 (6) Cocaine base.

10 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
11 thereof.

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

14 ~~((ee))~~ (ff) "Opiate" means any substance having an addiction-  
15 forming or addiction-sustaining liability similar to morphine or  
16 being capable of conversion into a drug having addiction-forming or  
17 addiction-sustaining liability. The term includes opium, substances  
18 derived from opium (opium derivatives), and synthetic opiates. The  
19 term does not include, unless specifically designated as controlled  
20 under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-  
21 methylmorphinan and its salts (dextromethorphan). The term includes  
22 the racemic and levorotatory forms of dextromethorphan.

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

25 ~~((gg))~~ (hh) "Person" means individual, corporation, business  
26 trust, estate, trust, partnership, association, joint venture,  
27 government, governmental subdivision or agency, or any other legal or  
28 commercial entity.

29 ~~((hh))~~ (ii) "Plant" has the meaning provided in RCW 69.51A.010.

30 ~~((ii))~~ (jj) "Poppy straw" means all parts, except the seeds, of  
31 the opium poppy, after mowing.

32 ~~((jj))~~ (kk) "Practitioner" means:

33 (1) A physician under chapter 18.71 RCW; a physician assistant  
34 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
35 chapter 18.57 RCW; an osteopathic physician assistant under chapter  
36 18.57A RCW who is licensed under RCW 18.57A.020 subject to any  
37 limitations in RCW 18.57A.040; an optometrist licensed under chapter  
38 18.53 RCW who is certified by the optometry board under RCW 18.53.010  
39 subject to any limitations in RCW 18.53.010; a dentist under chapter  
40 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;

1 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
2 registered nurse practitioner, or licensed practical nurse under  
3 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW  
4 who is licensed under RCW 18.36A.030 subject to any limitations in  
5 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific  
6 investigator under this chapter, licensed, registered or otherwise  
7 permitted insofar as is consistent with those licensing laws to  
8 distribute, dispense, conduct research with respect to or administer  
9 a controlled substance in the course of their professional practice  
10 or research in this state.

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

15 (3) A physician licensed to practice medicine and surgery, a  
16 physician licensed to practice osteopathic medicine and surgery, a  
17 dentist licensed to practice dentistry, a podiatric physician and  
18 surgeon licensed to practice podiatric medicine and surgery, a  
19 licensed physician assistant or a licensed osteopathic physician  
20 assistant specifically approved to prescribe controlled substances by  
21 his or her state's medical quality assurance commission or equivalent  
22 and his or her supervising physician, an advanced registered nurse  
23 practitioner licensed to prescribe controlled substances, or a  
24 veterinarian licensed to practice veterinary medicine in any state of  
25 the United States.

26 (~~(kk)~~) (ll) "Prescription" means an order for controlled  
27 substances issued by a practitioner duly authorized by law or rule in  
28 the state of Washington to prescribe controlled substances within the  
29 scope of his or her professional practice for a legitimate medical  
30 purpose.

31 (~~(ll)~~) (mm) "Production" includes the manufacturing, planting,  
32 cultivating, growing, or harvesting of a controlled substance.

33 (~~(mm)~~) (nn) "Qualifying patient" has the meaning provided in  
34 RCW 69.51A.010.

35 (~~(nn)~~) (oo) "Recognition card" has the meaning provided in RCW  
36 69.51A.010.

37 (~~(oo)~~) (pp) "Retail outlet" means a location licensed by the  
38 state liquor and cannabis board for the retail sale of marijuana  
39 concentrates, useable marijuana, and marijuana-infused products.

1       (~~(pp)~~) (qq) "Secretary" means the secretary of health or the  
2 secretary's designee.

3       (~~(qq)~~) (rr) "State," unless the context otherwise requires,  
4 means a state of the United States, the District of Columbia, the  
5 Commonwealth of Puerto Rico, or a territory or insular possession  
6 subject to the jurisdiction of the United States.

7       (~~(rr)~~) (ss) "THC concentration" means percent of delta-9  
8 tetrahydrocannabinol content per dry weight of any part of the plant  
9 *Cannabis*, or per volume or weight of marijuana product, or the  
10 combined percent of delta-9 tetrahydrocannabinol and  
11 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
12 regardless of moisture content.

13       (~~(ss)~~) (tt) "Ultimate user" means an individual who lawfully  
14 possesses a controlled substance for the individual's own use or for  
15 the use of a member of the individual's household or for  
16 administering to an animal owned by the individual or by a member of  
17 the individual's household.

18       (~~(tt)~~) (uu) "Useable marijuana" means dried marijuana flowers.  
19 The term "useable marijuana" does not include either marijuana-  
20 infused products or marijuana concentrates.

21       **Sec. 2.** RCW 69.50.366 and 2015 c 207 s 8 are each amended to  
22 read as follows:

23       The following acts, when performed by a validly licensed  
24 marijuana producer or employee of a validly licensed marijuana  
25 producer in compliance with rules adopted by the state liquor  
26 (~~(control)~~) and cannabis board to implement and enforce this chapter  
27 (~~(3, Laws of 2013)~~), do not constitute criminal or civil offenses  
28 under Washington state law:

29       (1) Production or possession of quantities of marijuana that do  
30 not exceed the maximum amounts established by the state liquor  
31 (~~(control)~~) and cannabis board under RCW 69.50.345(3);

32       (2) Delivery, distribution, and sale of marijuana to a marijuana  
33 processor or another marijuana producer validly licensed under this  
34 chapter (~~(3, Laws of 2013)~~); (~~(and)~~)

35       (3) Delivery, distribution, and sale of immature marijuana plants  
36 and marijuana seeds to a licensed marijuana researcher, and to  
37 receive or purchase immature plants and seeds from a licensed  
38 marijuana researcher; and



1       (4) Delivery, distribution, and sale of marijuana or useable  
2 marijuana to a federally recognized Indian tribe as permitted under  
3 an agreement between the state and the tribe entered into under RCW  
4 43.06.490.

5       **Sec. 3.** RCW 69.50.372 and 2016 sp.s. c 9 s 1 are each amended to  
6 read as follows:

7       (1) A marijuana research license is established that permits a  
8 licensee to produce, process, and possess marijuana for the following  
9 limited research purposes:

10       (a) To test chemical potency and composition levels;

11       (b) To conduct clinical investigations of marijuana-derived drug  
12 products;

13       (c) To conduct research on the efficacy and safety of  
14 administering marijuana as part of medical treatment; and

15       (d) To conduct genomic or agricultural research.

16       (2) As part of the application process for a marijuana research  
17 license, an applicant must submit to the liquor and cannabis board's  
18 designated scientific reviewer a description of the research that is  
19 intended to be conducted. The liquor and cannabis board must select a  
20 scientific reviewer to review an applicant's research project and  
21 determine that it meets the requirements of subsection (1) of this  
22 section, as well as assess the following:

23       (a) Project quality, study design, value, or impact;

24       (b) Whether applicants have the appropriate personnel, expertise,  
25 facilities/infrastructure, funding, and human/animal/other federal  
26 approvals in place to successfully conduct the project; and

27       (c) Whether the amount of marijuana to be grown by the applicant  
28 is consistent with the project's scope and goals.

29       If the scientific reviewer determines that the research project  
30 does not meet the requirements of subsection (1) of this section, the  
31 application must be denied.

32       (3) A marijuana research licensee may only sell marijuana grown  
33 or within its operation to other marijuana research licensees. The  
34 liquor and cannabis board may revoke a marijuana research license for  
35 violations of this subsection.

36       (4) A marijuana research licensee may contract with the  
37 University of Washington or Washington State University to perform  
38 research in conjunction with the university. All research projects,  
39 not including those projects conducted pursuant to a contract entered

1 into under RCW 28B.20.502(3), must be approved by the scientific  
2 reviewer and meet the requirements of subsection (1) of this section.

3 (5) In establishing a marijuana research license, the liquor and  
4 cannabis board may adopt rules on the following:

5 (a) Application requirements;

6 (b) Marijuana research license renewal requirements, including  
7 whether additional research projects may be added or considered;

8 (c) Conditions for license revocation;

9 (d) Security measures to ensure marijuana is not diverted to  
10 purposes other than research;

11 (e) Amount of plants, useable marijuana, marijuana concentrates,  
12 or marijuana-infused products a licensee may have on its premises;

13 (f) Licensee reporting requirements;

14 (g) Conditions under which marijuana grown by marijuana  
15 processors may be donated to marijuana research licensees; and

16 (h) Additional requirements deemed necessary by the liquor and  
17 cannabis board.

18 (6) The production, processing, possession, delivery, donation,  
19 and sale of marijuana, including immature marijuana plants and  
20 marijuana seeds, in accordance with this section, RCW 69.50.366(3),  
21 and the rules adopted to implement and enforce (~~it~~) this section  
22 and RCW 69.50.366(3), by a validly licensed marijuana researcher,  
23 shall not be a criminal or civil offense under Washington state law.  
24 Every marijuana research license must be issued in the name of the  
25 applicant, must specify the location at which the marijuana  
26 researcher intends to operate, which must be within the state of  
27 Washington, and the holder thereof may not allow any other person to  
28 use the license.

29 (7) The application fee for a marijuana research license is two  
30 hundred fifty dollars. The annual fee for issuance and renewal of a  
31 marijuana research license is one thousand dollars. The applicant  
32 must pay the cost of the review process directly to the scientific  
33 reviewer as designated by the liquor and cannabis board.

34 (8) The scientific reviewer shall review any reports made by  
35 marijuana research licensees under liquor and cannabis board rule and  
36 provide the liquor and cannabis board with its determination on  
37 whether the research project continues to meet research  
38 qualifications under this section.

39 (9) For the purposes of this section, "scientific reviewer" means  
40 an organization that convenes or contracts with persons who have the

1 training and experience in research practice and research methodology  
2 to determine whether a project meets the criteria for a marijuana  
3 research license under this section and to review any reports  
4 submitted by marijuana research licensees under liquor and cannabis  
5 board rule. "Scientific reviewers" include, but are not limited to,  
6 educational institutions, research institutions, peer review bodies,  
7 or such other organizations that are focused on science or research  
8 in its day-to-day activities.

9       **Sec. 4.** RCW 69.50.382 and 2015 2nd sp.s. c 4 s 501 are each  
10 amended to read as follows:

11       (1) A licensed marijuana producer, marijuana processor, marijuana  
12 researcher, or marijuana retailer, or their employees, in accordance  
13 with the requirements of this chapter and the administrative rules  
14 adopted thereunder, may use the services of a common carrier subject  
15 to regulation under chapters 81.28 and 81.29 RCW and licensed in  
16 compliance with the regulations established under RCW 69.50.385, to  
17 physically transport or deliver, as authorized under this chapter,  
18 marijuana, useable marijuana, marijuana concentrates, immature  
19 marijuana plants, marijuana seeds, and marijuana-infused products  
20 between licensed marijuana businesses located within the state.

21       (2) An employee of a common carrier engaged in marijuana-related  
22 transportation or delivery services authorized under subsection (1)  
23 of this section is prohibited from carrying or using a firearm during  
24 the course of providing such services, unless:

25       (a) Pursuant to RCW 69.50.385, the state liquor and cannabis  
26 board explicitly authorizes the carrying or use of firearms by such  
27 employee while engaged in the transportation or delivery services;

28       (b) The employee has an armed private security guard license  
29 issued pursuant to RCW 18.170.040; and

30       (c) The employee is in full compliance with the regulations  
31 established by the state liquor and cannabis board under RCW  
32 69.50.385.

33       (3) A common carrier licensed under RCW 69.50.385 may, for the  
34 purpose of transporting and delivering marijuana, useable marijuana,  
35 marijuana concentrates, and marijuana-infused products, utilize  
36 Washington state ferry routes for such transportation and delivery.

37       (4) The possession of marijuana, useable marijuana, marijuana  
38 concentrates, and marijuana-infused products being physically  
39 transported or delivered within the state, in amounts not exceeding

1 those that may be established under RCW 69.50.385(3), by a licensed  
2 employee of a common carrier when performing the duties authorized  
3 under, and in accordance with, this section and RCW 69.50.385, is not  
4 a violation of this section, this chapter, or any other provision of  
5 Washington state law.

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