

SSB 5298 - S AMD 116  
By Senator Keiser

ADOPTED AS AMENDED 03/11/2019

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to allow  
4 additional information on the labels and labeling of marijuana  
5 products to assist consumers in making purchases of these products.

6 The legislature declares that labels and labeling should not make  
7 any disease claim indicating the product is intended for use in the  
8 diagnosis, treatment, cure, or prevention of any disease.

9 The legislature recognizes that it may be useful for a label or  
10 labeling to describe the intended role of a marijuana product that  
11 contains nutrients or other dietary ingredients, including herbs and  
12 other botanicals, to maintain a structure or function of the body, or  
13 characterize the documented mechanism by which the product acts to  
14 maintain such structure or function, provided that the claim is  
15 substantiated as truthful and not misleading.

16 **Sec. 2.** RCW 69.50.345 and 2018 c 43 s 2 are each amended to read  
17 as follows:

18 The state liquor and cannabis board, subject to the provisions of  
19 this chapter, must adopt rules that establish the procedures and  
20 criteria necessary to implement the following:

21 (1) Licensing of marijuana producers, marijuana processors, and  
22 marijuana retailers, including prescribing forms and establishing  
23 application, reinstatement, and renewal fees.

24 (a) Application forms for marijuana producers must request the  
25 applicant to state whether the applicant intends to produce marijuana  
26 for sale by marijuana retailers holding medical marijuana  
27 endorsements and the amount of or percentage of canopy the applicant  
28 intends to commit to growing plants determined by the department  
29 under RCW 69.50.375 to be of a THC concentration, CBD concentration,  
30 or THC to CBD ratio appropriate for marijuana concentrates, useable  
31 marijuana, or marijuana-infused products sold to qualifying patients.

1 (b) The state liquor and cannabis board must reconsider and  
2 increase limits on the amount of square feet permitted to be in  
3 production on July 24, 2015, and increase the percentage of  
4 production space for those marijuana producers who intend to grow  
5 plants for marijuana retailers holding medical marijuana endorsements  
6 if the marijuana producer designates the increased production space  
7 to plants determined by the department under RCW 69.50.375 to be of a  
8 THC concentration, CBD concentration, or THC to CBD ratio appropriate  
9 for marijuana concentrates, useable marijuana, or marijuana-infused  
10 products to be sold to qualifying patients. If current marijuana  
11 producers do not use all the increased production space, the state  
12 liquor and cannabis board may reopen the license period for new  
13 marijuana producer license applicants but only to those marijuana  
14 producers who agree to grow plants for marijuana retailers holding  
15 medical marijuana endorsements. Priority in licensing must be given  
16 to marijuana producer license applicants who have an application  
17 pending on July 24, 2015, but who are not yet licensed and then to  
18 new marijuana producer license applicants. After January 1, 2017, any  
19 reconsideration of the limits on the amount of square feet permitted  
20 to be in production to meet the medical needs of qualifying patients  
21 must consider information contained in the medical marijuana  
22 authorization database established in RCW 69.51A.230;

23 (2) Determining, in consultation with the office of financial  
24 management, the maximum number of retail outlets that may be licensed  
25 in each county, taking into consideration:

26 (a) Population distribution;

27 (b) Security and safety issues;

28 (c) The provision of adequate access to licensed sources of  
29 marijuana concentrates, useable marijuana, and marijuana-infused  
30 products to discourage purchases from the illegal market; and

31 (d) The number of retail outlets holding medical marijuana  
32 endorsements necessary to meet the medical needs of qualifying  
33 patients. The state liquor and cannabis board must reconsider and  
34 increase the maximum number of retail outlets it established before  
35 July 24, 2015, and allow for a new license application period and a  
36 greater number of retail outlets to be permitted in order to  
37 accommodate the medical needs of qualifying patients and designated  
38 providers. After January 1, 2017, any reconsideration of the maximum  
39 number of retail outlets needed to meet the medical needs of  
40 qualifying patients must consider information contained in the

1 medical marijuana authorization database established in RCW  
2 69.51A.230;

3 (3) Determining the maximum quantity of marijuana a marijuana  
4 producer may have on the premises of a licensed location at any time  
5 without violating Washington state law;

6 (4) Determining the maximum quantities of marijuana, marijuana  
7 concentrates, useable marijuana, and marijuana-infused products a  
8 marijuana processor may have on the premises of a licensed location  
9 at any time without violating Washington state law;

10 (5) Determining the maximum quantities of marijuana concentrates,  
11 useable marijuana, and marijuana-infused products a marijuana  
12 retailer may have on the premises of a retail outlet at any time  
13 without violating Washington state law;

14 (6) In making the determinations required by this section, the  
15 state liquor and cannabis board shall take into consideration:

16 (a) Security and safety issues;

17 (b) The provision of adequate access to licensed sources of  
18 marijuana, marijuana concentrates, useable marijuana, and marijuana-  
19 infused products to discourage purchases from the illegal market; and

20 (c) Economies of scale, and their impact on licensees' ability to  
21 both comply with regulatory requirements and undercut illegal market  
22 prices;

23 (7) Determining the nature, form, and capacity of all containers  
24 to be used by licensees to contain marijuana, marijuana concentrates,  
25 useable marijuana, and marijuana-infused products, and their labeling  
26 requirements (~~(, to include but not be limited to:~~

27 ~~(a) The business or trade name and Washington state unified  
28 business identifier number of the licensees that produced and  
29 processed the marijuana, marijuana concentrates, useable marijuana,  
30 or marijuana-infused product;~~

31 ~~(b) Lot numbers of the marijuana, marijuana concentrates, useable  
32 marijuana, or marijuana-infused product;~~

33 ~~(c) THC concentration and CBD concentration of the marijuana,  
34 marijuana concentrates, useable marijuana, or marijuana-infused  
35 product;~~

36 ~~(d) Medically and scientifically accurate information about the  
37 health and safety risks posed by marijuana use; and~~

38 ~~(e) Language required by RCW 69.04.480));~~

39 (8) In consultation with the department of agriculture and the  
40 department, establishing classes of marijuana, marijuana

1 concentrates, useable marijuana, and marijuana-infused products  
2 according to grade, condition, cannabinoid profile, THC  
3 concentration, CBD concentration, or other qualitative measurements  
4 deemed appropriate by the state liquor and cannabis board;

5 (9) Establishing reasonable time, place, and manner restrictions  
6 and requirements regarding advertising of marijuana, marijuana  
7 concentrates, useable marijuana, and marijuana-infused products that  
8 are not inconsistent with the provisions of this chapter, taking into  
9 consideration:

10 (a) Federal laws relating to marijuana that are applicable within  
11 Washington state;

12 (b) Minimizing exposure of people under twenty-one years of age  
13 to the advertising;

14 (c) The inclusion of medically and scientifically accurate  
15 information about the health and safety risks posed by marijuana use  
16 in the advertising; and

17 (d) Ensuring that retail outlets with medical marijuana  
18 endorsements may advertise themselves as medical retail outlets;

19 (10) Specifying and regulating the time and periods when, and the  
20 manner, methods, and means by which, licensees shall transport and  
21 deliver marijuana, marijuana concentrates, useable marijuana, and  
22 marijuana-infused products within the state;

23 (11) In consultation with the department and the department of  
24 agriculture, establishing accreditation requirements for testing  
25 laboratories used by licensees to demonstrate compliance with  
26 standards adopted by the state liquor and cannabis board, and  
27 prescribing methods of producing, processing, and packaging  
28 marijuana, marijuana concentrates, useable marijuana, and marijuana-  
29 infused products; conditions of sanitation; and standards of  
30 ingredients, quality, and identity of marijuana, marijuana  
31 concentrates, useable marijuana, and marijuana-infused products  
32 produced, processed, packaged, or sold by licensees;

33 (12) Specifying procedures for identifying, seizing,  
34 confiscating, destroying, and donating to law enforcement for  
35 training purposes all marijuana, marijuana concentrates, useable  
36 marijuana, and marijuana-infused products produced, processed,  
37 packaged, labeled, or offered for sale in this state that do not  
38 conform in all respects to the standards prescribed by this chapter  
39 or the rules of the state liquor and cannabis board.

1       **Sec. 3.** RCW 69.50.346 and 2018 c 43 s 1 are each amended to read  
2 as follows:

3       (1) The label on a marijuana product container, including  
4 marijuana concentrates, useable marijuana, or marijuana-infused  
5 products, sold at retail((÷

6 ~~(1-))~~ must include:

7       (a) The business or trade name and Washington state unified  
8 business identifier number of the marijuana producer and processor  
9 ((that produced and processed the marijuana as required pursuant to  
10 RCW 69.50.345(7); and

11 ~~(2) Is))~~ ;

12       (b) The lot numbers of the product;

13       (c) The THC concentration and CBD concentration of the product;

14       (d) Medically and scientifically accurate and reliable  
15 information about the health and safety risks posed by marijuana use;  
16 and

17       (e) Language required by RCW 69.04.480.

18       (2) (a) For marijuana products that have been identified by the  
19 department in rules adopted under RCW 69.50.375(4) in chapter 246-70  
20 WAC as being a compliant marijuana product, the product label and  
21 labeling may include a structure or function claim describing the  
22 intended role of a product to maintain the structure or any function  
23 of the body, or characterize the documented mechanism by which the  
24 product acts to maintain such structure or function, provided that  
25 the claim is substantiated as truthful and not misleading.

26       (b) In the context of describing the product's intended role in  
27 maintaining the structure or any function of the body, including the  
28 documented mechanism by which a product acts to maintain bodily  
29 structure or function, the label and labeling may include such terms  
30 as, but not limited to, "wellness," "well-being," "health,"  
31 "maintain," "support," "assist," "promote," and "relief," and  
32 derivatives of any such terms.

33       (c) A statement made under (a) and (b) of this subsection may not  
34 claim to diagnose, mitigate, treat, cure, or prevent any disease.

35       (3) The labels and labeling may not be:

36       (a) False or misleading; or

37       (b) Especially appealing to children.

38       (4) The label is not required to include the business or trade  
39 name or Washington state unified business identifier number of, or

1 any information about, the marijuana retailer selling the marijuana  
2 product.

3 (5) A marijuana product is not in violation of any Washington  
4 state law or rule of the Washington state liquor and cannabis board  
5 solely because its label or labeling contains directions or  
6 recommended conditions of use.

7 (6) This section does not create any civil liability on the part  
8 of the state, the liquor and cannabis board, any other state agency,  
9 officer, employee, or agent based on a marijuana licensee's  
10 description of a structure or function claim or the product's  
11 intended role under subsection (2) of this section.

12 **Sec. 4.** RCW 82.08.9998 and 2015 2nd sp.s. c 4 s 207 are each  
13 amended to read as follows:

14 (1) ~~((Beginning July 1, 2016,))~~ The tax levied by RCW 82.08.020  
15 does not apply to:

16 (a) Sales of marijuana concentrates, useable marijuana, or  
17 marijuana-infused products, identified by the department of health in  
18 rules adopted under RCW ~~((69.50.375 to be beneficial for medical~~  
19 ~~use))~~ 69.50.375(4) in chapter 246-70 WAC as being a compliant  
20 marijuana product, by marijuana retailers with medical marijuana  
21 endorsements to qualifying patients or designated providers who have  
22 been issued recognition cards;

23 (b) Sales of products containing THC with a THC concentration of  
24 0.3 percent or less to qualifying patients or designated providers  
25 who have been issued recognition cards by marijuana retailers with  
26 medical marijuana endorsements;

27 (c) Sales of marijuana concentrates, useable marijuana, or  
28 marijuana-infused products, identified by the department of health  
29 under RCW 69.50.375 to have a low THC, high CBD ratio, and to be  
30 beneficial for medical use, by marijuana retailers with medical  
31 marijuana endorsements, to any person;

32 (d) Sales of topical, noningestible products containing THC with  
33 a THC concentration of 0.3 percent or less by health care  
34 professionals under RCW 69.51A.280;

35 (e)(i) Marijuana, marijuana concentrates, useable marijuana,  
36 marijuana-infused products, or products containing THC with a THC  
37 concentration of 0.3 percent or less produced by a cooperative and  
38 provided to its members; and

1 (ii) Any nonmonetary resources and labor contributed by an  
2 individual member of the cooperative in which the individual is a  
3 member. However, nothing in this subsection (1)(e) may be construed  
4 to exempt the individual members of a cooperative from the tax  
5 imposed in RCW 82.08.020 on any purchase of property or services  
6 contributed to the cooperative.

7 ~~(2) ((From July 1, 2015, until July 1, 2016, the tax levied by~~  
8 ~~RCW 82.08.020 does not apply to sales of marijuana, marijuana~~  
9 ~~concentrates, useable marijuana, marijuana-infused products, or~~  
10 ~~products containing THC with a THC concentration of 0.3 percent or~~  
11 ~~less, by collective gardens under RCW 69.51A.085 to qualifying~~  
12 ~~patients or designated providers, if such sales are in compliance~~  
13 ~~with chapter 69.51A RCW.~~

14 ~~(3))~~ Each seller making exempt sales under subsection (1) ~~((or~~  
15 ~~(2))~~) of this section must maintain information establishing  
16 eligibility for the exemption in the form and manner required by the  
17 department.

18 ~~((4))~~ (3) The department must provide a separate tax reporting  
19 line for exemption amounts claimed under this section.

20 ~~((5))~~ (4) The definitions in this subsection apply throughout  
21 this section unless the context clearly requires otherwise.

22 (a) "Cooperative" means a cooperative authorized by and operating  
23 in compliance with RCW 69.51A.250.

24 (b) "Marijuana retailer with a medical marijuana endorsement"  
25 means a marijuana retailer permitted under RCW 69.50.375 to sell  
26 marijuana for medical use to qualifying patients and designated  
27 providers.

28 (c) "Products containing THC with a THC concentration of 0.3  
29 percent or less" means all products containing THC with a THC  
30 concentration not exceeding 0.3 percent and that, when used as  
31 intended, are inhalable, ingestible, or absorbable.

32 (d) "THC concentration," "marijuana," "marijuana concentrates,"  
33 "useable marijuana," "marijuana retailer," and "marijuana-infused  
34 products" have the same meanings as provided in RCW 69.50.101 and the  
35 terms "qualifying patients," "designated providers," and "recognition  
36 card" have the same meaning as provided in RCW 69.51A.010.

37 **Sec. 5.** RCW 82.12.9998 and 2015 2nd sp.s. c 4 s 208 are each  
38 amended to read as follows:

1           (1) (~~From July 1, 2015, until July 1, 2016, the provisions of~~  
2 ~~this chapter do not apply to the use of marijuana, marijuana~~  
3 ~~concentrates, useable marijuana, marijuana-infused products, or~~  
4 ~~products containing THC with a THC concentration of 0.3 percent or~~  
5 ~~less, by a collective garden under RCW 69.51A.085, and the qualifying~~  
6 ~~patients or designated providers participating in the collective~~  
7 ~~garden, if such use is in compliance with chapter 69.51A RCW.~~

8           ~~(2) Beginning July 1, 2016,~~) The provisions of this chapter do  
9 not apply to:

10           (a) The use of marijuana concentrates, useable marijuana, or  
11 marijuana-infused products, identified by the department of health in  
12 rules adopted under RCW (~~69.50.375 to be beneficial for medical~~  
13 ~~use)) 69.50.375(4) in chapter 246-70 WAC as being a compliant  
14 marijuana product, by qualifying patients or designated providers who  
15 have been issued recognition cards and have obtained such products  
16 from a marijuana retailer with a medical marijuana endorsement.~~

17           (b) The use of products containing THC with a THC concentration  
18 of 0.3 percent or less by qualifying patients or designated providers  
19 who have been issued recognition cards and have obtained such  
20 products from a marijuana retailer with a medical marijuana  
21 endorsement.

22           (c)(i) Marijuana retailers with a medical marijuana endorsement  
23 with respect to:

24           (A) Marijuana concentrates, useable marijuana, or marijuana-  
25 infused products; or

26           (B) Products containing THC with a THC concentration of 0.3  
27 percent or less;

28           (ii) The exemption in this subsection (~~(2)~~) (1)(c) applies only  
29 if such products are provided at no charge to a qualifying patient or  
30 designated provider who has been issued a recognition card. Each such  
31 retailer providing such products at no charge must maintain  
32 information establishing eligibility for this exemption in the form  
33 and manner required by the department.

34           (d) The use of marijuana concentrates, useable marijuana, or  
35 marijuana-infused products, identified by the department of health  
36 under RCW 69.50.375 to have a low THC, high CBD ratio, and to be  
37 beneficial for medical use, purchased from marijuana retailers with a  
38 medical marijuana endorsement.

39           (e) Health care professionals with respect to the use of products  
40 containing THC with a THC concentration of 0.3 percent or less



1 provided at no charge by the health care professionals under RCW  
2 69.51A.280. Each health care professional providing such products at  
3 no charge must maintain information establishing eligibility for this  
4 exemption in the form and manner required by the department.

5 (f) The use of topical, noningestible products containing THC  
6 with a THC concentration of 0.3 percent or less by qualifying  
7 patients when purchased from or provided at no charge by a health  
8 care professional under RCW 69.51A.280.

9 (g) The use of:

10 (i) Marijuana, marijuana concentrates, useable marijuana,  
11 marijuana-infused products, or products containing THC with a THC  
12 concentration of 0.3 percent or less, by a cooperative and its  
13 members, when produced by the cooperative; and

14 (ii) Any nonmonetary resources and labor by a cooperative when  
15 contributed by its members. However, nothing in this subsection  
16 (~~((2))~~) (1)(g) may be construed to exempt the individual members of a  
17 cooperative from the tax imposed in RCW 82.12.020 on the use of any  
18 property or services purchased by the member and contributed to the  
19 cooperative.

20 (~~((3))~~) (2) The definitions in RCW 82.08.9998 apply to this  
21 section.

22 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020."

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**ADOPTED AS AMENDED 03/11/2019**

23 On page 1, line 1 of the title, after "products;" strike the  
24 remainder of the title and insert "amending RCW 69.50.345, 69.50.346,  
25 82.08.9998, and 82.12.9998; creating a new section; and providing an  
26 effective date."

EFFECT: Clarifies that marijuana products identified for medical  
use are those products identified in chapter 246-70 WAC by the  
department of health as being compliant products.

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