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**SUBSTITUTE HOUSE BILL 1237**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Commerce & Gaming (originally sponsored by Representatives Kirby, MacEwen, Stanford, Vick, Blake, Eslick, and Appleton)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to reforming the compliance and enforcement  
2 provisions for marijuana licensees; amending RCW 69.50.331;  
3 reenacting and amending RCW 69.50.101; adding new sections to chapter  
4 69.50 RCW; creating a new section; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) In the years since the creation of a legal and regulated  
8 marketplace for adult use of cannabis, the industry, stakeholders,  
9 and state agencies have collaborated to develop a safe, fully  
10 regulated marketplace.

11 (b) As the regulated marketplace has been developing, Washington  
12 residents with a strong entrepreneurial spirit have taken great  
13 financial and personal risk to become licensed and part of this  
14 nascent industry.

15 (c) It should not be surprising that mistakes have been made both  
16 by licensees and regulators, and that both have learned from these  
17 mistakes leading to a stronger, safer industry.

18 (d) While a strong focus on enforcement is an important component  
19 of the regulated marketplace, a strong focus on compliance and  
20 education is also critically necessary to assist licensees who strive  
21 for compliance and in order to allow the board to focus its

1 enforcement priorities on those violations that directly harm public  
2 health and safety.

3 (e) The risk taking entrepreneurs who are trying to comply with  
4 board regulations should not face punitive consequences for mistakes  
5 made during this initial phase of the industry that did not pose a  
6 direct threat to public health and safety.

7 (2) Therefore, the legislature intends to provide amnesty for  
8 violations that occurred before April 30, 2017, and to reform  
9 enforcement penalties to better align with state priorities.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 69.50  
11 RCW to read as follows:

12 (1) The board must prescribe procedures for the following:

13 (a) Issuance of written warnings in lieu of violations with  
14 respect to de minimis violations that have no direct or immediate  
15 relationship to public safety;

16 (b) Waiving any fines, civil penalties, or administrative  
17 sanctions for violations, that have no direct or immediate  
18 relationship to public safety, and are corrected by the licensee  
19 within seven days or such earlier period as specified by the board;  
20 and

21 (c) A compliance program whereby licensees may request compliance  
22 assistance and inspections without issuance of a violation provided  
23 that any noncompliant issues are resolved within a specified period  
24 of time.

25 (2) The board must adopt rules prescribing penalties for  
26 violations of this chapter. The board:

27 (a) May establish escalating penalties for violation of this  
28 chapter, provided that the cumulative effect of any such escalating  
29 penalties cannot last beyond two years;

30 (b) May not include cancellation of a license for a single  
31 violation or for cumulative violations, unless the board can prove by  
32 clear, cogent, and convincing evidence that:

33 (i) The current or a prior administrative violation evidences:

34 (A) Diversion of marijuana product to the illicit market or sales  
35 across state lines;

36 (B) Sales of marijuana product to minors;

37 (C) Diversion of revenue from the sale of marijuana product to  
38 criminal enterprises, gangs, or cartels;

1 (D) Use of firearms in a facility licensed by the board that  
2 poses a direct and significant threat to public safety; or

3 (E) Other nonmarijuana-related, criminal behavior; or

4 (ii) The licensee has engaged in a pattern and practice of  
5 intentional and flagrant disregard of the law;

6 (c) May include cancellation of a license for cumulative  
7 violations only if a marijuana licensee commits at least four  
8 violations within a two-year period of time;

9 (d) Must consider aggravating and mitigating circumstances and  
10 deviate from the prescribed penalties accordingly, and must authorize  
11 enforcement officers to do the same, provided that such penalty may  
12 not exceed the maximum escalating penalty prescribed by the board for  
13 that violation; and

14 (e) May not issue a violation if there is unpreventable employee  
15 misconduct that led to the violation, but the licensee must show the  
16 existence of:

17 (i) A thorough compliance program, including rules, training, and  
18 equipment designed to prevent the violation;

19 (ii) Adequate communication of these rules to employees;

20 (iii) Steps to discover and correct violations of its rules; and

21 (iv) Effective enforcement of its compliance program as written  
22 in practice and not just in theory.

23 (3) The board may not consider any violation that occurred before  
24 April 30, 2017, as grounds for denial, suspension, revocation,  
25 cancellation, or nonrenewal, unless the board can prove by clear,  
26 cogent, and convincing evidence that the prior administrative  
27 violation evidences:

28 (a) Diversion of marijuana product to the illicit market or sales  
29 across state lines;

30 (b) Sales of marijuana product to minors;

31 (c) Diversion of revenue from the sale of marijuana product to  
32 criminal enterprises, gangs, or cartels;

33 (d) Use of firearms in a facility licensed by the board that  
34 poses a direct and significant threat to public safety; or

35 (e) Other nonmarijuana-related, criminal behavior.

36 (4) This section expires August 1, 2024.

37 **Sec. 3.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to  
38 read as follows:

1 (1) For the purpose of considering any application for a license  
2 to produce, process, research, transport, or deliver marijuana,  
3 useable marijuana, marijuana concentrates, or marijuana-infused  
4 products subject to the regulations established under RCW 69.50.385,  
5 or sell marijuana, or for the renewal of a license to produce,  
6 process, research, transport, or deliver marijuana, useable  
7 marijuana, marijuana concentrates, or marijuana-infused products  
8 subject to the regulations established under RCW 69.50.385, or sell  
9 marijuana, the ((~~state liquor and cannabis~~)) board must conduct a  
10 comprehensive, fair, and impartial evaluation of the applications  
11 timely received.

12 (a) The ((~~state liquor and cannabis~~)) board may cause an  
13 inspection of the premises to be made, and may inquire into all  
14 matters in connection with the construction and operation of the  
15 premises. For the purpose of reviewing any application for a license  
16 and for considering the denial, suspension, revocation, cancellation,  
17 or renewal or denial thereof, of any license, the ((~~state liquor and~~  
18 ~~cannabis~~)) board may consider any prior criminal ((~~conduct~~)) arrests  
19 or convictions of the applicant ((~~including an administrative~~  
20 ~~violation history record with the state liquor and cannabis board~~))  
21 and a criminal history record information check. The ((~~state liquor~~  
22 ~~and cannabis~~)) board may submit the criminal history record  
23 information check to the Washington state patrol and to the  
24 identification division of the federal bureau of investigation in  
25 order that these agencies may search their records for prior arrests  
26 and convictions of the individual or individuals who filled out the  
27 forms. The ((~~state liquor and cannabis~~)) board must require  
28 fingerprinting of any applicant whose criminal history record  
29 information check is submitted to the federal bureau of  
30 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A  
31 RCW do not apply to these cases. Subject to the provisions of this  
32 section, the ((~~state liquor and cannabis~~)) board may, in its  
33 discretion, grant or deny the renewal or license applied for. Denial  
34 may be based on, without limitation, the existence of chronic illegal  
35 activity documented in objections submitted pursuant to subsections  
36 (7)(c) and (10) of this section. Authority to approve an uncontested  
37 or unopposed license may be granted by the ((~~state liquor and~~  
38 ~~cannabis~~)) board to any staff member the board designates in writing.  
39 Conditions for granting this authority must be adopted by rule.

1       (b) For the purpose of reviewing any application for a license  
2 and for considering the denial, suspension, revocation, cancellation,  
3 or renewal or denial thereof, of any license, the board may also  
4 consider any prior administrative violation history record with the  
5 board. However, any prior administrative violation that occurred  
6 before April 30, 2017, must not be considered unless the board can  
7 prove by clear, cogent, and convincing evidence that the prior  
8 administrative violation evidences:

9       (i) Diversion of marijuana product to the illicit market or sales  
10 across state lines;

11       (ii) Sales of marijuana product to minors;

12       (iii) Diversion of revenue from the sale of marijuana product to  
13 criminal enterprises, gangs, or cartels;

14       (iv) Trafficking of a controlled substance; or

15       (v) Use of firearms in a facility licensed by the board.

16       (c) No license of any kind may be issued to:

17       (i) A person under the age of twenty-one years;

18       (ii) A person doing business as a sole proprietor who has not  
19 lawfully resided in the state for at least six months prior to  
20 applying to receive a license;

21       (iii) A partnership, employee cooperative, association, nonprofit  
22 corporation, or corporation unless formed under the laws of this  
23 state, and unless all of the members thereof are qualified to obtain  
24 a license as provided in this section; or

25       (iv) A person whose place of business is conducted by a manager  
26 or agent, unless the manager or agent possesses the same  
27 qualifications required of the licensee.

28       (2) (a) ~~The ((state liquor and cannabis))~~ board may, in its  
29 discretion, subject to ~~((the provisions of))~~ subsection (1)(b) of  
30 this section, section 2 of this act, and RCW 69.50.334, suspend or  
31 cancel any license; and all protections of the licensee from criminal  
32 or civil sanctions under state law for producing, processing,  
33 researching, or selling marijuana, marijuana concentrates, useable  
34 marijuana, or marijuana-infused products thereunder must be suspended  
35 or terminated, as the case may be.

36       (b) ~~The ((state liquor and cannabis))~~ board must immediately  
37 suspend the license of a person who has been certified pursuant to  
38 RCW 74.20A.320 by the department of social and health services as a  
39 person who is not in compliance with a support order. If the person  
40 has continued to meet all other requirements for reinstatement during

1 the suspension, reissuance of the license is automatic upon the  
2 ((~~state liquor and cannabis~~)) board's receipt of a release issued by  
3 the department of social and health services stating that the  
4 licensee is in compliance with the order.

5 (c) The ((~~state liquor and cannabis~~)) board may request the  
6 appointment of administrative law judges under chapter 34.12 RCW who  
7 shall have power to administer oaths, issue subpoenas for the  
8 attendance of witnesses and the production of papers, books,  
9 accounts, documents, and testimony, examine witnesses, ((~~and to~~))  
10 receive testimony in any inquiry, investigation, hearing, or  
11 proceeding in any part of the state, and consider mitigating and  
12 aggravating circumstances in any case and deviate from any prescribed  
13 penalty, under rules ((~~and regulations~~)) the ((~~state liquor and~~  
14 ~~cannabis~~)) board may adopt.

15 (d) Witnesses must be allowed fees and mileage each way to and  
16 from any inquiry, investigation, hearing, or proceeding at the rate  
17 authorized by RCW 34.05.446. Fees need not be paid in advance of  
18 appearance of witnesses to testify or to produce books, records, or  
19 other legal evidence.

20 (e) In case of disobedience of any person to comply with the  
21 order of the ((~~state liquor and cannabis~~)) board or a subpoena issued  
22 by the ((~~state liquor and cannabis~~)) board, or any of its members, or  
23 administrative law judges, or on the refusal of a witness to testify  
24 to any matter regarding which he or she may be lawfully interrogated,  
25 the judge of the superior court of the county in which the person  
26 resides, on application of any member of the board or administrative  
27 law judge, compels obedience by contempt proceedings, as in the case  
28 of disobedience of the requirements of a subpoena issued from said  
29 court or a refusal to testify therein.

30 (3) Upon receipt of notice of the suspension or cancellation of a  
31 license, the licensee must forthwith deliver up the license to the  
32 ((~~state liquor and cannabis~~)) board. Where the license has been  
33 suspended only, the ((~~state liquor and cannabis~~)) board must return  
34 the license to the licensee at the expiration or termination of the  
35 period of suspension. The ((~~state liquor and cannabis~~)) board must  
36 notify all other licensees in the county where the subject licensee  
37 has its premises of the suspension or cancellation of the license;  
38 and no other licensee or employee of another licensee may allow or  
39 cause any marijuana, marijuana concentrates, useable marijuana, or

1 marijuana-infused products to be delivered to or for any person at  
2 the premises of the subject licensee.

3 (4) Every license issued under this chapter is subject to all  
4 conditions and restrictions imposed by this chapter or by rules  
5 adopted by the (~~state liquor and cannabis~~) board to implement and  
6 enforce this chapter. All conditions and restrictions imposed by the  
7 (~~state liquor and cannabis~~) board in the issuance of an individual  
8 license must be listed on the face of the individual license along  
9 with the trade name, address, and expiration date.

10 (5) Every licensee must post and keep posted its license, or  
11 licenses, in a conspicuous place on the premises.

12 (6) No licensee may employ any person under the age of twenty-one  
13 years.

14 (7) (a) Before the (~~state liquor and cannabis~~) board issues a  
15 new or renewed license to an applicant it must give notice of the  
16 application to the chief executive officer of the incorporated city  
17 or town, if the application is for a license within an incorporated  
18 city or town, or to the county legislative authority, if the  
19 application is for a license outside the boundaries of incorporated  
20 cities or towns, or to the tribal government if the application is  
21 for a license within Indian country, or to the port authority if the  
22 application for a license is located on property owned by a port  
23 authority.

24 (b) The incorporated city or town through the official or  
25 employee selected by it, the county legislative authority or the  
26 official or employee selected by it, the tribal government, or port  
27 authority has the right to file with the (~~state liquor and  
28 cannabis~~) board within twenty days after the date of transmittal of  
29 the notice for applications, or at least thirty days prior to the  
30 expiration date for renewals, written objections against the  
31 applicant or against the premises for which the new or renewed  
32 license is asked. The (~~state liquor and cannabis~~) board may extend  
33 the time period for submitting written objections upon request from  
34 the authority notified by the (~~state liquor and cannabis~~) board.

35 (c) The written objections must include a statement of all facts  
36 upon which the objections are based, and in case written objections  
37 are filed, the city or town or county legislative authority may  
38 request, and the (~~state liquor and cannabis~~) board may in its  
39 discretion hold, a hearing subject to the applicable provisions of  
40 Title 34 RCW. If the (~~state liquor and cannabis~~) board makes an

1 initial decision to deny a license or renewal based on the written  
2 objections of an incorporated city or town or county legislative  
3 authority, the applicant may request a hearing subject to the  
4 applicable provisions of Title 34 RCW. If a hearing is held at the  
5 request of the applicant, (~~state liquor and cannabis~~) board  
6 representatives must present and defend the (~~state liquor and~~  
7 ~~cannabis~~) board's initial decision to deny a license or renewal.

8 (d) Upon the granting of a license under this title the (~~state~~  
9 ~~liquor and cannabis~~) board must send written notification to the  
10 chief executive officer of the incorporated city or town in which the  
11 license is granted, or to the county legislative authority if the  
12 license is granted outside the boundaries of incorporated cities or  
13 towns.

14 (8)(a) Except as provided in (b) through (d) of this subsection,  
15 the (~~state liquor and cannabis~~) board may not issue a license for  
16 any premises within one thousand feet of the perimeter of the grounds  
17 of any elementary or secondary school, playground, recreation center  
18 or facility, child care center, public park, public transit center,  
19 or library, or any game arcade admission to which is not restricted  
20 to persons aged twenty-one years or older.

21 (b) A city, county, or town may permit the licensing of premises  
22 within one thousand feet but not less than one hundred feet of the  
23 facilities described in (a) of this subsection, except elementary  
24 schools, secondary schools, and playgrounds, by enacting an ordinance  
25 authorizing such distance reduction, provided that such distance  
26 reduction will not negatively impact the jurisdiction's civil  
27 regulatory enforcement, criminal law enforcement interests, public  
28 safety, or public health.

29 (c) A city, county, or town may permit the licensing of research  
30 premises allowed under RCW 69.50.372 within one thousand feet but not  
31 less than one hundred feet of the facilities described in (a) of this  
32 subsection by enacting an ordinance authorizing such distance  
33 reduction, provided that the ordinance will not negatively impact the  
34 jurisdiction's civil regulatory enforcement, criminal law  
35 enforcement, public safety, or public health.

36 (d) The (~~state liquor and cannabis~~) board may license premises  
37 located in compliance with the distance requirements set in an  
38 ordinance adopted under (b) or (c) of this subsection. Before issuing  
39 or renewing a research license for premises within one thousand feet  
40 but not less than one hundred feet of an elementary school, secondary



1 school, or playground in compliance with an ordinance passed pursuant  
2 to (c) of this subsection, the board must ensure that the facility:

3 (i) Meets a security standard exceeding that which applies to  
4 marijuana producer, processor, or retailer licensees;

5 (ii) Is inaccessible to the public and no part of the operation  
6 of the facility is in view of the general public; and

7 (iii) Bears no advertising or signage indicating that it is a  
8 marijuana research facility.

9 (e) The (~~state liquor and cannabis~~) board may not issue a  
10 license for any premises within Indian country, as defined in 18  
11 U.S.C. Sec. 1151, including any fee patent lands within the exterior  
12 boundaries of a reservation, without the consent of the federally  
13 recognized tribe associated with the reservation or Indian country.

14 (9) A city, town, or county may adopt an ordinance prohibiting a  
15 marijuana producer or marijuana processor from operating or locating  
16 a business within areas zoned primarily for residential use or rural  
17 use with a minimum lot size of five acres or smaller.

18 (10) In determining whether to grant or deny a license or renewal  
19 of any license, the (~~state liquor and cannabis~~) board must give  
20 substantial weight to objections from an incorporated city or town or  
21 county legislative authority based upon chronic illegal activity  
22 associated with the applicant's operations of the premises proposed  
23 to be licensed or the applicant's operation of any other licensed  
24 premises, or the conduct of the applicant's patrons inside or outside  
25 the licensed premises. "Chronic illegal activity" means (a) a  
26 pervasive pattern of activity that threatens the public health,  
27 safety, and welfare of the city, town, or county including, but not  
28 limited to, open container violations, assaults, disturbances,  
29 disorderly conduct, or other criminal law violations, or as  
30 documented in crime statistics, police reports, emergency medical  
31 response data, calls for service, field data, or similar records of a  
32 law enforcement agency for the city, town, county, or any other  
33 municipal corporation or any state agency; or (b) an unreasonably  
34 high number of citations for violations of RCW 46.61.502 associated  
35 with the applicant's or licensee's operation of any licensed premises  
36 as indicated by the reported statements given to law enforcement upon  
37 arrest.

38 NEW SECTION. **Sec. 4.** A new section is added to chapter 69.50  
39 RCW to read as follows:

1 (1) This section applies to the board's issuance of  
2 administrative violations to licensed marijuana producers,  
3 processors, retailers, transporters, and researchers, when a  
4 settlement conference is held between a hearing examiner or designee  
5 of the board and the marijuana licensee that received a notice of an  
6 alleged administrative violation or violations.

7 (2) If a settlement agreement is entered between a marijuana  
8 licensee and a hearing examiner or designee of the board at or after  
9 a settlement conference, the terms of the settlement agreement are  
10 binding on the board and the board may not subsequently disapprove,  
11 modify, change, or add to the terms of the settlement agreement  
12 including terms addressing penalties and license restrictions.

13 (3) For the purposes of this section:

14 (a) "Settlement agreement" means the agreement or compromise  
15 between a licensed marijuana producer, processor, retailer,  
16 researcher, transporter, or researcher and the hearing examiner or  
17 designee of the board with authority to participate in the settlement  
18 conference, that:

19 (i) Includes the terms of the agreement or compromise regarding  
20 an alleged violation or violations by the licensee of this chapter,  
21 chapter 69.51A RCW, or rules adopted under either chapter, and any  
22 related penalty or licensing restriction; and

23 (ii) Is in writing and signed by the licensee and the hearing  
24 examiner or designee of the board.

25 (b) "Settlement conference" means a meeting or discussion between  
26 a licensed marijuana producer, processor, retailer, researcher,  
27 transporter, researcher, or authorized representative of any of the  
28 preceding licensees, and a hearing examiner or designee of the board,  
29 held for purposes such as discussing the circumstances surrounding an  
30 alleged violation of law or rules by the licensee, the recommended  
31 penalty, and any aggravating or mitigating factors, and that is  
32 intended to resolve the alleged violation before an administrative  
33 hearing or judicial proceeding is initiated.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50  
35 RCW to read as follows:

36 (1)(a) The board's officers and employees, while enforcing any  
37 provision of this chapter, chapter 69.51A RCW, or any rule adopted  
38 under authority of these chapters, are designated as inspectors or  
39 employees and do not have law enforcement authority, except as

1 provided in (b) of this subsection, to enforce penal provisions of  
2 any law of this state against marijuana licensees or employees of  
3 marijuana licensees, relating to the manufacture, processing,  
4 distribution, transportation, or sale of marijuana or marijuana  
5 products.

6 (b) Subject to (c) of this subsection, officers and employees of  
7 the board with enforcement authority under this chapter who are  
8 designated as inspectors may, if and when authorized under another  
9 section of this chapter:

10 (i) Inspect premises, books, and records of licensed marijuana  
11 businesses, and investigate licensees, applicants, and premises of  
12 licensed marijuana businesses, to ensure compliance with any  
13 applicable provision of this chapter, chapter 69.51A RCW, or rules  
14 adopted under these chapters; and

15 (ii) Issue a notice of violation to a marijuana licensee alleged  
16 to have violated any applicable provision of this chapter, chapter  
17 69.51A RCW, or rules adopted under these chapters.

18 (c) Other than as provided in (b) of this subsection, officers  
19 and employees of the board with enforcement authority over licensed  
20 marijuana businesses under this chapter may not exercise any law  
21 enforcement authority, including but not limited to:

22 (i) Serving or executing any warrant or process of law issued by  
23 a court enforcing any penal law of this state relating to the  
24 production, processing, transportation, distribution, or sale of  
25 marijuana or marijuana products;

26 (ii) Arresting, with or without a warrant, any person or persons  
27 found in the act of violating, or in violation of, any of the penal  
28 provisions of this chapter or chapter 69.51A RCW; and

29 (iii) Exercising any other law enforcement power or authority  
30 over a marijuana licensee, other than issuing notices of violations  
31 as provided in this subsection.

32 (2) Nothing in this section limits or restricts the power,  
33 authority, or classification of any officer or employee of the board  
34 with respect to enforcement of any provision of:

35 (a) Title 66 RCW or any other state laws relating to liquor for  
36 which the board has enforcement authority in law;

37 (b) Chapters 82.24 and 82.26 RCW or any other state laws relating  
38 to tobacco or cigarettes for which the board has enforcement  
39 authority in law; or

1 (c) Chapter 70.345 RCW or any other state laws relating to vapor  
2 products for which the board has enforcement authority in law.

3 (3) Nothing in this section grants the board any new power or  
4 authority with respect to marijuana regulation or enforcement.

5 **Sec. 6.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and  
6 amended to read as follows:

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

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

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

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

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

20 (c) "CBD concentration" has the meaning provided in RCW  
21 69.51A.010.

22 (d) "CBD product" means any product containing or consisting of  
23 cannabidiol.

24 (e) "Commission" means the pharmacy quality assurance commission.

25 (f) "Controlled substance" means a drug, substance, or immediate  
26 precursor included in Schedules I through V as set forth in federal  
27 or state laws, or federal or commission rules, but does not include  
28 industrial hemp as defined in RCW 15.120.010.

29 (g)(1) "Controlled substance analog" means a substance the  
30 chemical structure of which is substantially similar to the chemical  
31 structure of a controlled substance in Schedule I or II and:

32 (i) that has a stimulant, depressant, or hallucinogenic effect on  
33 the central nervous system substantially similar to the stimulant,  
34 depressant, or hallucinogenic effect on the central nervous system of  
35 a controlled substance included in Schedule I or II; or

36 (ii) with respect to a particular individual, that the individual  
37 represents or intends to have a stimulant, depressant, or  
38 hallucinogenic effect on the central nervous system substantially  
39 similar to the stimulant, depressant, or hallucinogenic effect on the

1 central nervous system of a controlled substance included in Schedule  
2 I or II.

3 (2) The term does not include:

4 (i) a controlled substance;

5 (ii) a substance for which there is an approved new drug  
6 application;

7 (iii) a substance with respect to which an exemption is in effect  
8 for investigational use by a particular person under Section 505 of  
9 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or  
10 chapter 69.77 RCW to the extent conduct with respect to the substance  
11 is pursuant to the exemption; or

12 (iv) any substance to the extent not intended for human  
13 consumption before an exemption takes effect with respect to the  
14 substance.

15 (h) "Deliver" or "delivery" means the actual or constructive  
16 transfer from one person to another of a substance, whether or not  
17 there is an agency relationship.

18 (i) "Department" means the department of health.

19 (j) "Designated provider" has the meaning provided in RCW  
20 69.51A.010.

21 (k) "Dispense" means the interpretation of a prescription or  
22 order for a controlled substance and, pursuant to that prescription  
23 or order, the proper selection, measuring, compounding, labeling, or  
24 packaging necessary to prepare that prescription or order for  
25 delivery.

26 (l) "Dispenser" means a practitioner who dispenses.

27 (m) "Distribute" means to deliver other than by administering or  
28 dispensing a controlled substance.

29 (n) "Distributor" means a person who distributes.

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

1 (p) "Drug enforcement administration" means the drug enforcement  
2 administration in the United States Department of Justice, or its  
3 successor agency.

4 (q) "Electronic communication of prescription information" means  
5 the transmission of a prescription or refill authorization for a drug  
6 of a practitioner using computer systems. The term does not include a  
7 prescription or refill authorization verbally transmitted by  
8 telephone nor a facsimile manually signed by the practitioner.

9 (r) "Immature plant or clone" means a plant or clone that has no  
10 flowers, is less than twelve inches in height, and is less than  
11 twelve inches in diameter.

12 (s) "Immediate precursor" means a substance:

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

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

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

20 (t) "Isomer" means an optical isomer, but in subsection (ff)(5)  
21 of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b) (4),  
22 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and  
23 (42), and 69.50.210(c) the term includes any positional isomer; and  
24 in RCW 69.50.204(a) (35), 69.50.204(c), and 69.50.208(a) the term  
25 includes any positional or geometric isomer.

26 (u) "Lot" means a definite quantity of marijuana, marijuana  
27 concentrates, useable marijuana, or marijuana-infused product  
28 identified by a lot number, every portion or package of which is  
29 uniform within recognized tolerances for the factors that appear in  
30 the labeling.

31 (v) "Lot number" must identify the licensee by business or trade  
32 name and Washington state unified business identifier number, and the  
33 date of harvest or processing for each lot of marijuana, marijuana  
34 concentrates, useable marijuana, or marijuana-infused product.

35 (w) "Manufacture" means the production, preparation, propagation,  
36 compounding, conversion, or processing of a controlled substance,  
37 either directly or indirectly or by extraction from substances of  
38 natural origin, or independently by means of chemical synthesis, or  
39 by a combination of extraction and chemical synthesis, and includes  
40 any packaging or repackaging of the substance or labeling or

1 relabeling of its container. The term does not include the  
2 preparation, compounding, packaging, repackaging, labeling, or  
3 relabeling of a controlled substance:

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

7 (2) by a practitioner, or by the practitioner's authorized agent  
8 under the practitioner's supervision, for the purpose of, or as an  
9 incident to, research, teaching, or chemical analysis and not for  
10 sale.

11 (x) "Marijuana" or "marihuana" means all parts of the plant  
12 *Cannabis*, whether growing or not, with a THC concentration greater  
13 than 0.3 percent on a dry weight basis; the seeds thereof; the resin  
14 extracted from any part of the plant; and every compound,  
15 manufacture, salt, derivative, mixture, or preparation of the plant,  
16 its seeds or resin. The term does not include:

17 (1) The mature stalks of the plant, fiber produced from the  
18 stalks, oil or cake made from the seeds of the plant, any other  
19 compound, manufacture, salt, derivative, mixture, or preparation of  
20 the mature stalks (except the resin extracted therefrom), fiber, oil,  
21 or cake, or the sterilized seed of the plant which is incapable of  
22 germination; or

23 (2) Industrial hemp as defined in RCW 15.120.010.

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

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

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

37 (bb) "Marijuana products" means useable marijuana, marijuana  
38 concentrates, and marijuana-infused products as defined in this  
39 section.

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

5 (dd) "Marijuana retailer" means a person licensed by the state  
6 liquor and cannabis board to sell marijuana concentrates, useable  
7 marijuana, and marijuana-infused products in a retail outlet.

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

14 (ff) "Narcotic drug" means any of the following, whether produced  
15 directly or indirectly by extraction from substances of vegetable  
16 origin, or independently by means of chemical synthesis, or by a  
17 combination of extraction and chemical synthesis:

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

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

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

29 (4) Coca leaves, except coca leaves and extracts of coca leaves  
30 from which cocaine, ecgonine, and derivatives or ecgonine or their  
31 salts have been removed.

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

33 (6) Cocaine base.

34 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
35 thereof.

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

38 (gg) "Opiate" means any substance having an addiction-forming or  
39 addiction-sustaining liability similar to morphine or being capable  
40 of conversion into a drug having addiction-forming or addiction-



1 sustaining liability. The term includes opium, substances derived  
2 from opium (opium derivatives), and synthetic opiates. The term does  
3 not include, unless specifically designated as controlled under RCW  
4 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan  
5 and its salts (dextromethorphan). The term includes the racemic and  
6 levorotatory forms of dextromethorphan.

7 (hh) "Opium poppy" means the plant of the species *Papaver*  
8 *somniferum* L., except its seeds.

9 (ii) "Person" means individual, corporation, business trust,  
10 estate, trust, partnership, association, joint venture, government,  
11 governmental subdivision or agency, or any other legal or commercial  
12 entity.

13 (jj) "Plant" has the meaning provided in RCW 69.51A.010.

14 (kk) "Poppy straw" means all parts, except the seeds, of the  
15 opium poppy, after mowing.

16 (ll) "Practitioner" means:

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

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

39 (3) A physician licensed to practice medicine and surgery, a  
40 physician licensed to practice osteopathic medicine and surgery, a

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

10 (mm) "Prescription" means an order for controlled substances  
11 issued by a practitioner duly authorized by law or rule in the state  
12 of Washington to prescribe controlled substances within the scope of  
13 his or her professional practice for a legitimate medical purpose.

14 (nn) "Production" includes the manufacturing, planting,  
15 cultivating, growing, or harvesting of a controlled substance.

16 (oo) "Qualifying patient" has the meaning provided in RCW  
17 69.51A.010.

18 (pp) "Recognition card" has the meaning provided in RCW  
19 69.51A.010.

20 (qq) "Retail outlet" means a location licensed by the state  
21 liquor and cannabis board for the retail sale of marijuana  
22 concentrates, useable marijuana, and marijuana-infused products.

23 (rr) "Secretary" means the secretary of health or the secretary's  
24 designee.

25 (ss) "State," unless the context otherwise requires, means a  
26 state of the United States, the District of Columbia, the  
27 Commonwealth of Puerto Rico, or a territory or insular possession  
28 subject to the jurisdiction of the United States.

29 (tt) "THC concentration" means percent of delta-9  
30 tetrahydrocannabinol content per dry weight of any part of the plant  
31 *Cannabis*, or per volume or weight of marijuana product, or the  
32 combined percent of delta-9 tetrahydrocannabinol and  
33 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
34 regardless of moisture content.

35 (uu) "Ultimate user" means an individual who lawfully possesses a  
36 controlled substance for the individual's own use or for the use of a  
37 member of the individual's household or for administering to an  
38 animal owned by the individual or by a member of the individual's  
39 household.

1 (vv) "Useable marijuana" means dried marijuana flowers. The term  
2 "useable marijuana" does not include either marijuana-infused  
3 products or marijuana concentrates.

4 (ww) "Board" means the Washington state liquor and cannabis  
5 board.

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