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**SENATE BILL 5276**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Ericksen, Takko, and Wellman

Read first time 01/16/19. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to authorizing hemp production in conformance  
2 with the agriculture improvement act of 2018; amending RCW  
3 15.120.005, 15.120.010, 15.120.020, and 15.120.030; reenacting and  
4 amending RCW 69.50.101; and repealing RCW 15.120.035, 15.120.040,  
5 15.120.050, and 15.120.060.

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

7 **Sec. 1.** RCW 15.120.005 and 2016 sp.s. c 11 s 1 are each amended  
8 to read as follows:

9 The legislature intends to authorize the growing of  
10 ~~((industrial))~~ hemp as a legal, agricultural activity in ~~((this))~~ the  
11 state ~~((as part of an agricultural pilot program))~~ of Washington in  
12 conformance with the ~~((agricultural))~~ agriculture improvement act of  
13 ~~((2014, 128 Stat. 912 § 7606, P.L. 113-79 (Feb. 7, 2014)))~~ 2018, P.L.  
14 115-334.

15 **Sec. 2.** RCW 15.120.010 and 2016 sp.s. c 11 s 2 are each amended  
16 to read as follows:

17 The definitions in this section apply throughout this chapter  
18 unless the context clearly requires otherwise.

19 (1) "Department" means the Washington state department of  
20 agriculture.

1       (2) (~~"Grower" means any person licensed to grow industrial hemp~~  
2 ~~under this chapter.~~

3       (3) ~~"Industrial hemp" means all parts and varieties of the genera~~  
4 ~~Cannabis, cultivated or possessed by a grower, whether growing or~~  
5 ~~not, that contain a THC concentration of 0.3 percent or less by dry~~  
6 ~~weight. Industrial hemp does not include plants of the genera~~  
7 ~~Cannabis that meet the definition of "marijuana" as defined in RCW~~  
8 ~~69.50.101.~~

9       (4) ~~"Industrial hemp research program" means an agricultural~~  
10 ~~pilot program to study the growth, cultivation, or marketing of~~  
11 ~~industrial hemp supervised by the department.~~

12       (5)) "Hemp" means the plant *Cannabis sativa L.* and any part of  
13 that plant, including the seeds thereof and all derivatives,  
14 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
15 whether growing or not, with a delta-9 tetrahydrocannabinol  
16 concentration of not more than 0.3 percent on a dry weight basis.

17       (3) "Person" means any natural person, firm, partnership,  
18 association, private or public corporation, government entity, or  
19 other business entity.

20       (~~(6) "THC concentration" means the percent of total~~  
21 ~~tetrahydrocannabinol, which is the combined percent of delta-9~~  
22 ~~tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of~~  
23 ~~the genera Cannabis.)~~)

24       **Sec. 3.** RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended  
25 to read as follows:

26       (~~Except as otherwise provided in this chapter, industrial~~) Hemp  
27 is an agricultural product that may be grown, produced, possessed,  
28 processed, and exchanged in the state ((solely and exclusively as  
29 part of an industrial hemp research program supervised by the  
30 department)) of Washington pursuant to a plan approved under the  
31 agriculture improvement act of 2018. Processing any part of  
32 (~~industrial~~) hemp, except seed, as food, extract, oil, cake,  
33 concentrate, resin, or other preparation for topical use, oral  
34 consumption, or inhalation by humans is prohibited.

35       **Sec. 4.** RCW 15.120.030 and 2016 sp.s. c 11 s 4 are each amended  
36 to read as follows:

37       (1) The department shall (~~adopt rules pursuant to this chapter~~  
38 ~~and chapter 34.05 RCW as necessary to license persons to grow hemp~~

1 ~~under an industrial hemp research program. The rules must include,~~  
2 ~~but are not limited to:~~

3 ~~(a) Fee amounts for license application, issuance, and renewal;~~

4 ~~(b) Testing criteria and protocols for testing compliance with~~  
5 ~~THC levels; and~~

6 ~~(c) Grower qualifications. Grower qualifications include, at a~~  
7 ~~minimum, that a person with a prior felony drug conviction within ten~~  
8 ~~years of applying for a license not be eligible for the license. The~~  
9 ~~department shall adopt by rule the persons in associations,~~  
10 ~~corporations, and other business entities to be qualified under this~~  
11 ~~felony drug conviction limitation)) submit a plan to the United~~  
12 ~~States secretary of agriculture under which the state of Washington~~  
13 ~~will monitor and regulate the production of hemp, pursuant to the~~  
14 ~~agriculture improvement act of 2018. The plan must include:~~

15 ~~(a) All elements required for such plans under the agriculture~~  
16 ~~improvement act of 2018;~~

17 ~~(b) A requirement that any person growing hemp must submit global~~  
18 ~~positioning system information to the department identifying the~~  
19 ~~location of land where hemp will be grown;~~

20 ~~(c) A requirement that any person growing hemp must submit to~~  
21 ~~having plant samples tested by the department at the nearest~~  
22 ~~appropriate testing facility before harvest if the person intends to~~  
23 ~~sell the hemp outside Washington;~~

24 ~~(d) A requirement for an administrative license fee system under~~  
25 ~~which a person growing hemp must pay an annual license fee to the~~  
26 ~~department: The fee for one acre or less is a flat fee of ten~~  
27 ~~dollars; the fee for more than one acre up to five acres is a flat~~  
28 ~~fee of twenty dollars; the fee for more than five acres up to twenty-~~  
29 ~~five acres is a flat fee of one hundred fifty dollars; the fee for~~  
30 ~~more than twenty-five acres is a fee of seven dollars per acre;~~

31 ~~(e) A requirement that a person growing hemp must notify the~~  
32 ~~department of the source of the seed, solely for the purpose of~~  
33 ~~keeping an official record of the sources of seed being used for hemp~~  
34 ~~production in Washington; and~~

35 ~~(f) A requirement that any plant sample which, when tested by the~~  
36 ~~department, exceeds the maximum tetrahydrocannabinol concentration~~  
37 ~~for hemp under RCW 15.120.010 must be retested at a different testing~~  
38 ~~facility before any enforcement action may be taken.~~

39 (2) The department may adopt rules for administration of ((an  
40 industrial hemp research program, including the goals of the

1 ~~program))~~ the plan approved under this chapter in conformance with  
2 the agriculture improvement act of 2018.

3 (3) The department may adopt rules for administration of (~~a~~  
4 ~~industrial))~~ a hemp seed certification program pursuant to chapter  
5 15.49 RCW.

6 (4) All requirements in this section are subject to the  
7 availability of amounts appropriated for the specific purposes  
8 described.

9 (5) All moneys collected by the department under this chapter  
10 must be deposited in an account within the agricultural local fund  
11 and used solely for carrying out the requirements of this chapter. No  
12 appropriation is required for disbursement of moneys from the account  
13 by the director of the department.

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

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

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

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

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

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

29 (c) "CBD concentration" has the meaning provided in RCW  
30 69.51A.010.

31 (d) "CBD product" means any product containing or consisting of  
32 cannabidiol.

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

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

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

4 (i) that has a stimulant, depressant, or hallucinogenic effect on  
5 the central nervous system substantially similar to the stimulant,  
6 depressant, or hallucinogenic effect on the central nervous system of  
7 a controlled substance included in Schedule I or II; or

8 (ii) with respect to a particular individual, that the individual  
9 represents or intends to have a stimulant, depressant, or  
10 hallucinogenic effect on the central nervous system substantially  
11 similar to the stimulant, depressant, or hallucinogenic effect on the  
12 central nervous system of a controlled substance included in Schedule  
13 I or II.

14 (2) The term does not include:

15 (i) a controlled substance;

16 (ii) a substance for which there is an approved new drug  
17 application;

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

23 (iv) any substance to the extent not intended for human  
24 consumption before an exemption takes effect with respect to the  
25 substance.

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

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

30 (j) "Designated provider" has the meaning provided in RCW  
31 69.51A.010.

32 (k) "Dispense" means the interpretation of a prescription or  
33 order for a controlled substance and, pursuant to that prescription  
34 or order, the proper selection, measuring, compounding, labeling, or  
35 packaging necessary to prepare that prescription or order for  
36 delivery.

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

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

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

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

12 (p) "Drug enforcement administration" means the drug enforcement  
13 administration in the United States Department of Justice, or its  
14 successor agency.

15 (q) "Electronic communication of prescription information" means  
16 the transmission of a prescription or refill authorization for a drug  
17 of a practitioner using computer systems. The term does not include a  
18 prescription or refill authorization verbally transmitted by  
19 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

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

37 (u) "Lot" means a definite quantity of marijuana, marijuana  
38 concentrates, useable marijuana, or marijuana-infused product  
39 identified by a lot number, every portion or package of which is

1 uniform within recognized tolerances for the factors that appear in  
2 the labeling.

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

7 (w) "Manufacture" means the production, preparation, propagation,  
8 compounding, conversion, or processing of a controlled substance,  
9 either directly or indirectly or by extraction from substances of  
10 natural origin, or independently by means of chemical synthesis, or  
11 by a combination of extraction and chemical synthesis, and includes  
12 any packaging or repackaging of the substance or labeling or  
13 relabeling of its container. The term does not include the  
14 preparation, compounding, packaging, repackaging, labeling, or  
15 relabeling of a controlled substance:

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

19 (2) by a practitioner, or by the practitioner's authorized agent  
20 under the practitioner's supervision, for the purpose of, or as an  
21 incident to, research, teaching, or chemical analysis and not for  
22 sale.

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

29 (1) The mature stalks of the plant, fiber produced from the  
30 stalks, oil or cake made from the seeds of the plant, any other  
31 compound, manufacture, salt, derivative, mixture, or preparation of  
32 the mature stalks (except the resin extracted therefrom), fiber, oil,  
33 or cake, or the sterilized seed of the plant which is incapable of  
34 germination; or

35 (2) (~~Industrial~~) Hemp as defined in RCW 15.120.010.

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

39 (z) "Marijuana processor" means a person licensed by the state  
40 liquor and cannabis board to process marijuana into marijuana

1 concentrates, useable marijuana, and marijuana-infused products,  
2 package and label marijuana concentrates, useable marijuana, and  
3 marijuana-infused products for sale in retail outlets, and sell  
4 marijuana concentrates, useable marijuana, and marijuana-infused  
5 products at wholesale to marijuana retailers.

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

9 (bb) "Marijuana products" means useable marijuana, marijuana  
10 concentrates, and marijuana-infused products as defined in this  
11 section.

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

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

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

25 (ff) "Narcotic drug" means any of the following, whether produced  
26 directly or indirectly by extraction from substances of vegetable  
27 origin, or independently by means of chemical synthesis, or by a  
28 combination of extraction and chemical synthesis:

29 (1) Opium, opium derivative, and any derivative of opium or opium  
30 derivative, including their salts, isomers, and salts of isomers,  
31 whenever the existence of the salts, isomers, and salts of isomers is  
32 possible within the specific chemical designation. The term does not  
33 include the isoquinoline alkaloids of opium.

34 (2) Synthetic opiate and any derivative of synthetic opiate,  
35 including their isomers, esters, ethers, salts, and salts of isomers,  
36 esters, and ethers, whenever the existence of the isomers, esters,  
37 ethers, and salts is possible within the specific chemical  
38 designation.

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



1 (4) Coca leaves, except coca leaves and extracts of coca leaves  
2 from which cocaine, ecgonine, and derivatives or ecgonine or their  
3 salts have been removed.

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

5 (6) Cocaine base.

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

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

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

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

21 (ii) "Person" means individual, corporation, business trust,  
22 estate, trust, partnership, association, joint venture, government,  
23 governmental subdivision or agency, or any other legal or commercial  
24 entity.

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

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

28 (ll) "Practitioner" means:

29 (1) A physician under chapter 18.71 RCW; a physician assistant  
30 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
31 chapter 18.57 RCW; an osteopathic physician assistant under chapter  
32 18.57A RCW who is licensed under RCW 18.57A.020 subject to any  
33 limitations in RCW 18.57A.040; an optometrist licensed under chapter  
34 18.53 RCW who is certified by the optometry board under RCW 18.53.010  
35 subject to any limitations in RCW 18.53.010; a dentist under chapter  
36 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;  
37 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
38 registered nurse practitioner, or licensed practical nurse under  
39 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW  
40 who is licensed under RCW 18.36A.030 subject to any limitations in

1 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific  
2 investigator under this chapter, licensed, registered or otherwise  
3 permitted insofar as is consistent with those licensing laws to  
4 distribute, dispense, conduct research with respect to or administer  
5 a controlled substance in the course of their professional practice  
6 or research in this state.

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

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

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

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

28 (oo) "Qualifying patient" has the meaning provided in RCW  
29 69.51A.010.

30 (pp) "Recognition card" has the meaning provided in RCW  
31 69.51A.010.

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

35 (rr) "Secretary" means the secretary of health or the secretary's  
36 designee.

37 (ss) "State," unless the context otherwise requires, means a  
38 state of the United States, the District of Columbia, the  
39 Commonwealth of Puerto Rico, or a territory or insular possession  
40 subject to the jurisdiction of the United States.

1 (tt) "THC concentration" means percent of delta-9  
2 tetrahydrocannabinol content per dry weight of any part of the plant  
3 *Cannabis*, or per volume or weight of marijuana product, or the  
4 combined percent of delta-9 tetrahydrocannabinol and  
5 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
6 regardless of moisture content.

7 (uu) "Ultimate user" means an individual who lawfully possesses a  
8 controlled substance for the individual's own use or for the use of a  
9 member of the individual's household or for administering to an  
10 animal owned by the individual or by a member of the individual's  
11 household.

12 (vv) "Useable marijuana" means dried marijuana flowers. The term  
13 "useable marijuana" does not include either marijuana-infused  
14 products or marijuana concentrates.

15 NEW SECTION. **Sec. 6.** The following acts or parts of acts are  
16 each repealed:

17 (1) RCW 15.120.035 (Rule-making authority—Monetary penalties,  
18 license suspension or forfeiture, other sanctions—Rules to be  
19 consistent with section 7606 of federal agricultural act of 2014) and  
20 2017 c 317 s 10;

21 (2) RCW 15.120.040 (Industrial hemp research program—Established  
22 —Licensure—Seed certification program—Permission/waiver from  
23 appropriate federal entity) and 2016 sp.s. c 11 s 5;

24 (3) RCW 15.120.050 (Application form—Fee—Licensure—Renewal—  
25 Record of license forwarded to county sheriff—Public disclosure  
26 exemption) and 2016 sp.s. c 11 s 6; and

27 (4) RCW 15.120.060 (Sales and transfers of industrial hemp  
28 produced for processing—Department and state liquor and cannabis  
29 board to study feasibility and practicality of implementing  
30 legislatively authorized regulatory framework) and 2017 c 317 s 9.

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