
ENGROSSED SUBSTITUTE SENATE BILL 5318

State of Washington

66th Legislature

2019 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Rivers, Palumbo, and Wagoner)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to reforming the compliance and enforcement
2 provisions for marijuana licensees; amending RCW 69.50.342 and
3 69.50.331; reenacting and amending RCW 69.50.101; adding new sections
4 to chapter 43.05 RCW; adding new sections to chapter 69.50 RCW;
5 creating new sections; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

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

19 (4) While a strong focus on enforcement is an important component
20 of the regulated marketplace, a strong focus on compliance and
21 education is also critically necessary to assist licensees who strive

1 for compliance and in order to allow the board to focus its
2 enforcement priorities on those violations that directly harm public
3 health and safety.

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

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.05
9 RCW to read as follows:

10 (1) If, during an inspection or visit to a marijuana business
11 licensed under chapter 69.50 RCW that is not a technical assistance
12 visit, the liquor and cannabis board becomes aware of conditions that
13 are not in compliance with applicable laws and rules enforced by the
14 board and are not subject to civil penalties as provided for in
15 section 3 of this act, the board may issue a notice of correction to
16 the responsible party that includes:

17 (a) A description of the condition that is not in compliance and
18 the text of the specific section or subsection of the applicable
19 state law or rule;

20 (b) A statement of what is required to achieve compliance;

21 (c) The date by which the board requires compliance to be
22 achieved;

23 (d) Notice of the means to contact any technical assistance
24 services provided by the board or others; and

25 (e) Notice of when, where, and to whom a request to extend the
26 time to achieve compliance for good cause may be filed with the
27 board.

28 (2) A notice of correction is not a formal enforcement action, is
29 not subject to appeal, and is a public record.

30 (3) If the liquor and cannabis board issues a notice of
31 correction, it may not issue a civil penalty for the violations
32 identified in the notice of correction unless the responsible party
33 fails to comply with the notice.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.05
35 RCW to read as follows:

36 (1) The liquor and cannabis board may issue a civil penalty
37 without first issuing a notice of correction if:

1 (a) The person has previously been subject to an enforcement
2 action for the same or similar type of violation of the same statute
3 or rule or has been given previous notice of the same or similar type
4 of violation of the same statute or rule;

5 (b) Compliance is not achieved by the date established by the
6 liquor and cannabis board in a previously issued notice of correction
7 and if the board has responded to a request for review of the date by
8 reaffirming the original date or establishing a new date; or

9 (c) The board can prove by a preponderance of the evidence:

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

12 (ii) Furnishing of marijuana product to minors;

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

15 (iv) Use of firearms in a facility licensed by the board that
16 poses a direct and significant threat to public safety; or

17 (v) The commission of nonmarijuana-related crimes.

18 (2) The liquor and cannabis board may adopt rules to implement
19 this section and section 2 of this act.

20 **Sec. 4.** RCW 69.50.342 and 2015 2nd sp.s. c 4 s 1601 are each
21 amended to read as follows:

22 (1) For the purpose of carrying into effect the provisions of
23 chapter 3, Laws of 2013 according to their true intent or of
24 supplying any deficiency therein, the state liquor and cannabis board
25 may adopt rules not inconsistent with the spirit of chapter 3, Laws
26 of 2013 as are deemed necessary or advisable. Without limiting the
27 generality of the preceding sentence, the state liquor and cannabis
28 board is empowered to adopt rules regarding the following:

29 (a) The equipment and management of retail outlets and premises
30 where marijuana is produced or processed, and inspection of the
31 retail outlets and premises where marijuana is produced or processed;

32 (b) The books and records to be created and maintained by
33 licensees, the reports to be made thereon to the state liquor and
34 cannabis board, and inspection of the books and records;

35 (c) Methods of producing, processing, and packaging marijuana,
36 useable marijuana, marijuana concentrates, and marijuana-infused
37 products; conditions of sanitation; safe handling requirements;
38 approved pesticides and pesticide testing requirements; and standards
39 of ingredients, quality, and identity of marijuana, useable

1 marijuana, marijuana concentrates, and marijuana-infused products
2 produced, processed, packaged, or sold by licensees;

3 (d) Security requirements for retail outlets and premises where
4 marijuana is produced or processed, and safety protocols for
5 licensees and their employees;

6 (e) Screening, hiring, training, and supervising employees of
7 licensees;

8 (f) Retail outlet locations and hours of operation;

9 (g) Labeling requirements and restrictions on advertisement of
10 marijuana, useable marijuana, marijuana concentrates, cannabis health
11 and beauty aids, and marijuana-infused products for sale in retail
12 outlets;

13 (h) Forms to be used for purposes of this chapter and chapter
14 69.51A RCW or the rules adopted to implement and enforce these
15 chapters, the terms and conditions to be contained in licenses issued
16 under this chapter and chapter 69.51A RCW, and the qualifications for
17 receiving a license issued under this chapter and chapter 69.51A RCW,
18 including a criminal history record information check. The state
19 liquor and cannabis board may submit any criminal history record
20 information check to the Washington state patrol and to the
21 identification division of the federal bureau of investigation in
22 order that these agencies may search their records for prior arrests
23 and convictions of the individual or individuals who filled out the
24 forms. The state liquor and cannabis board must require
25 fingerprinting of any applicant whose criminal history record
26 information check is submitted to the federal bureau of
27 investigation;

28 (i) Application, reinstatement, and renewal fees for licenses
29 issued under this chapter and chapter 69.51A RCW, and fees for
30 anything done or permitted to be done under the rules adopted to
31 implement and enforce this chapter and chapter 69.51A RCW;

32 (j) The manner of giving and serving notices required by this
33 chapter and chapter 69.51A RCW or rules adopted to implement or
34 enforce these chapters;

35 (k) Times and periods when, and the manner, methods, and means by
36 which, licensees transport and deliver marijuana, marijuana
37 concentrates, useable marijuana, and marijuana-infused products
38 within the state;

39 (l) Identification, seizure, confiscation, destruction, or
40 donation to law enforcement for training purposes of all marijuana,

1 marijuana concentrates, useable marijuana, and marijuana-infused
2 products produced, processed, sold, or offered for sale within this
3 state which do not conform in all respects to the standards
4 prescribed by this chapter or chapter 69.51A RCW or the rules adopted
5 to implement and enforce these chapters.

6 (2) Rules adopted on retail outlets holding medical marijuana
7 endorsements must be adopted in coordination and consultation with
8 the department.

9 (3) The board must adopt rules to perfect and expand existing
10 programs for compliance education for licensed marijuana businesses
11 and their employees. The rules must include a voluntary compliance
12 program created in consultation with licensed marijuana businesses
13 and their employees. The voluntary compliance program must include
14 recommendations on abating violations of this chapter and rules
15 adopted under this chapter.

16 NEW SECTION. Sec. 5. A new section is added to chapter 69.50
17 RCW to read as follows:

18 (1) The board may grant a licensee's application for advice and
19 consultation as provided in RCW 69.50.342(3) and visit the licensee's
20 licensed premises in order to provide such advice and consultation.
21 Advice and consultation services are limited to the matters specified
22 in the request affecting the interpretation and applicability of the
23 standards in this chapter to the conditions, structures, machines,
24 equipment, apparatus, devices, materials, methods, means, and
25 practices in the licensee's licensed premises. The board may provide
26 for an alternative means of affording consultation and advice other
27 than on-site consultation.

28 (2) The board must make recommendations on eliminating areas of
29 concern disclosed within the scope of the on-site consultation. A
30 visit to a licensee's licensed premises may not be considered an
31 inspection or investigation under this chapter. During the visit, the
32 board may not issue notices or citations and may not assess civil
33 penalties. However, if the on-site visit discloses a violation with a
34 direct or immediate relationship to public safety and the violation
35 is not corrected, the board may investigate.

36 (3) This section does not provide immunity to a licensee who has
37 applied for consultative services from inspections or investigations
38 conducted under this chapter or from any inspection conducted as a

1 result of a complaint before, during, or after the provision of
2 consultative services.

3 (4) This section does not require an inspection of a licensee's
4 licensed premises that has been visited for consultative purposes.
5 However, if the premises are inspected after a visit, the board may
6 consider any information obtained during the consultation visit in
7 determining the nature of an alleged violation and the amount of
8 penalties to be assessed, if any.

9 (5) Rules adopted under section 6 of this act must provide that
10 violations with a direct or immediate relationship to public safety
11 discovered during the consultation visit must be corrected within a
12 specified period of time and an inspection must be conducted at the
13 end of that time period.

14 (6) All licensees requesting consultative services must be
15 advised of this section and the rules adopted by the board relating
16 to the voluntary compliance program. Information obtained by the
17 board as a result of licensee-requested consultation and training
18 services is confidential and not subject to public inspection under
19 chapter 42.56 RCW.

20 (7) The board may adopt rules on the frequency, manner, and
21 method of providing consultative services to licensees. Rules may
22 include scheduling of consultative services and prioritizing requests
23 for the services while maintaining the enforcement requirements of
24 this chapter.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 69.50
26 RCW to read as follows:

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

28 (a) Issuance of written warnings or notices to correct in lieu of
29 penalties, sanctions, or other violations with respect to regulatory
30 violations that have no direct or immediate relationship to public
31 safety as defined by the board;

32 (b) Waiving any fines, civil penalties, or administrative
33 sanctions for violations, that have no direct or immediate
34 relationship to public safety, and are corrected by the licensee
35 within a reasonable amount of time as designated by the board; and

36 (c) A compliance program in accordance with chapter 43.05 RCW and
37 RCW 69.50.342, whereby licensees may request compliance assistance
38 and inspections without issuance of a penalty, sanction, or other

1 violation provided that any noncompliant issues are resolved within a
2 specified period of time.

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

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

8 (b) May not include cancellation of a license for a single
9 violation, unless the board can prove by clear, cogent, and
10 convincing evidence that the administrative violation evidences
11 intentional or grossly negligent action or inaction that results in a
12 high probability of:

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

15 (ii) Furnishing of marijuana product to minors;

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

18 (iv) Use of firearms in a facility licensed by the board that
19 poses a direct and significant threat to public safety; or

20 (v) The commission of nonmarijuana-related crimes;

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

24 (d) Must consider aggravating and mitigating circumstances and
25 deviate from the prescribed penalties accordingly, and must authorize
26 enforcement officers to do the same, provided that such penalty may
27 not exceed the maximum escalating penalty prescribed by the board for
28 that violation; and

29 (e) May not issue a violation if there is employee misconduct
30 that led to the violation if the licensee provides documentation that
31 before the date of the violation the licensee:

32 (i) Established a compliance program designed to prevent the
33 violation;

34 (ii) Performed meaningful training with employees designed to
35 prevent the violation; and

36 (iii) Had not enabled or ignored the violation or other similar
37 violations in the past.

38 (3) The board may not consider any violation that occurred before
39 April 30, 2017, as grounds for denial, suspension, revocation,
40 cancellation, or nonrenewal, unless the board can prove by clear,

1 cogent, and convincing evidence that the prior administrative
2 violation evidences:

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

5 (b) Furnishing of marijuana product to minors;

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

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

10 (e) The commission of nonmarijuana-related crimes.

11 **Sec. 7.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to
12 read as follows:

13 (1) For the purpose of considering any application for a license
14 to produce, process, research, transport, or deliver marijuana,
15 useable marijuana, marijuana concentrates, or marijuana-infused
16 products subject to the regulations established under RCW 69.50.385,
17 or sell marijuana, or for the renewal of a license to produce,
18 process, research, transport, or deliver marijuana, useable
19 marijuana, marijuana concentrates, or marijuana-infused products
20 subject to the regulations established under RCW 69.50.385, or sell
21 marijuana, the ((state liquor and cannabis)) board must conduct a
22 comprehensive, fair, and impartial evaluation of the applications
23 timely received.

24 (a) The ((state liquor and cannabis)) board may cause an
25 inspection of the premises to be made, and may inquire into all
26 matters in connection with the construction and operation of the
27 premises. For the purpose of reviewing any application for a license
28 and for considering the denial, suspension, revocation, cancellation,
29 or renewal or denial thereof, of any license, the ((state liquor and
30 cannabis)) board may consider any prior criminal ((conduct)) arrests
31 or convictions of the applicant ((including an administrative
32 violation history record with the state liquor and cannabis board))
33 and a criminal history record information check. The ((state liquor
34 and cannabis)) board may submit the criminal history record
35 information check to the Washington state patrol and to the
36 identification division of the federal bureau of investigation in
37 order that these agencies may search their records for prior arrests
38 and convictions of the individual or individuals who filled out the
39 forms. The ((state liquor and cannabis)) board must require

1 fingerprinting of any applicant whose criminal history record
2 information check is submitted to the federal bureau of
3 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
4 RCW do not apply to these cases. Subject to the provisions of this
5 section, the (~~state liquor and cannabis~~) board may, in its
6 discretion, grant or deny the renewal or license applied for. Denial
7 may be based on, without limitation, the existence of chronic illegal
8 activity documented in objections submitted pursuant to subsections
9 (7)(c) and (10) of this section. Authority to approve an uncontested
10 or unopposed license may be granted by the (~~state liquor and
11 cannabis~~) board to any staff member the board designates in writing.
12 Conditions for granting this authority must be adopted by rule.

13 (b) No license of any kind may be issued to:

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

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

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

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

25 (2)(a) The (~~state liquor and cannabis~~) board may, in its
26 discretion, subject to (~~the provisions of~~) sections 2, 3, and 6 of
27 this act, RCW 69.50.334, and 69.50.342(3) suspend or cancel any
28 license; and all protections of the licensee from criminal or civil
29 sanctions under state law for producing, processing, researching, or
30 selling marijuana, marijuana concentrates, useable marijuana, or
31 marijuana-infused products thereunder must be suspended or
32 terminated, as the case may be.

33 (b) The (~~state liquor and cannabis~~) board must immediately
34 suspend the license of a person who has been certified pursuant to
35 RCW 74.20A.320 by the department of social and health services as a
36 person who is not in compliance with a support order. If the person
37 has continued to meet all other requirements for reinstatement during
38 the suspension, reissuance of the license is automatic upon the
39 (~~state liquor and cannabis~~) board's receipt of a release issued by

1 the department of social and health services stating that the
2 licensee is in compliance with the order.

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

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

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

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

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

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

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

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

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

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

1 authority, the applicant may request a hearing subject to the
2 applicable provisions of Title 34 RCW. If a hearing is held at the
3 request of the applicant, (~~state liquor and cannabis~~) board
4 representatives must present and defend the (~~state liquor and~~
5 ~~cannabis~~) board's initial decision to deny a license or renewal.

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

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

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

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

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 8.** A new section is added to chapter 69.50
37 RCW to read as follows:

38 (1) This section applies to the board's issuance of
39 administrative violations to licensed marijuana producers,

1 processors, retailers, transporters, and researchers, when a
2 settlement conference is held between a hearing examiner or designee
3 of the board and the marijuana licensee that received a notice of an
4 alleged administrative violation or violations.

5 (2) If a settlement agreement is entered between a marijuana
6 licensee and a hearing examiner or designee of the board at or after
7 a settlement conference, the terms of the settlement agreement must
8 be given substantial weight by the board and the board may only
9 disapprove, modify, change, or add to the terms of the settlement
10 agreement including terms addressing penalties and license
11 restrictions if the board finds the agreements to be clearly
12 erroneous.

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 **Sec. 9.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and
35 amended to read as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

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

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

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

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

12 (c) "CBD concentration" has the meaning provided in RCW
13 69.51A.010.

14 (d) "CBD product" means any product containing or consisting of
15 cannabidiol.

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

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

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

24 (i) that has a stimulant, depressant, or hallucinogenic effect on
25 the central nervous system substantially similar to the stimulant,
26 depressant, or hallucinogenic effect on the central nervous system of
27 a controlled substance included in Schedule I or II; or

28 (ii) with respect to a particular individual, that the individual
29 represents or intends to have a stimulant, depressant, or
30 hallucinogenic effect on the central nervous system substantially
31 similar to the stimulant, depressant, or hallucinogenic effect on the
32 central nervous system of a controlled substance included in Schedule
33 I or II.

34 (2) The term does not include:

35 (i) a controlled substance;

36 (ii) a substance for which there is an approved new drug
37 application;

38 (iii) a substance with respect to which an exemption is in effect
39 for investigational use by a particular person under Section 505 of
40 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or

1 chapter 69.77 RCW to the extent conduct with respect to the substance
2 is pursuant to the exemption; or

3 (iv) any substance to the extent not intended for human
4 consumption before an exemption takes effect with respect to the
5 substance.

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

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

10 (j) "Designated provider" has the meaning provided in RCW
11 69.51A.010.

12 (k) "Dispense" means the interpretation of a prescription or
13 order for a controlled substance and, pursuant to that prescription
14 or order, the proper selection, measuring, compounding, labeling, or
15 packaging necessary to prepare that prescription or order for
16 delivery.

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

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

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

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

32 (p) "Drug enforcement administration" means the drug enforcement
33 administration in the United States Department of Justice, or its
34 successor agency.

35 (q) "Electronic communication of prescription information" means
36 the transmission of a prescription or refill authorization for a drug
37 of a practitioner using computer systems. The term does not include a
38 prescription or refill authorization verbally transmitted by
39 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

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

18 (u) "Lot" means a definite quantity of marijuana, marijuana
19 concentrates, useable marijuana, or marijuana-infused product
20 identified by a lot number, every portion or package of which is
21 uniform within recognized tolerances for the factors that appear in
22 the labeling.

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

27 (w) "Manufacture" means the production, preparation, propagation,
28 compounding, conversion, or processing of a controlled substance,
29 either directly or indirectly or by extraction from substances of
30 natural origin, or independently by means of chemical synthesis, or
31 by a combination of extraction and chemical synthesis, and includes
32 any packaging or repackaging of the substance or labeling or
33 relabeling of its container. The term does not include the
34 preparation, compounding, packaging, repackaging, labeling, or
35 relabeling of a controlled substance:

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

39 (2) by a practitioner, or by the practitioner's authorized agent
40 under the practitioner's supervision, for the purpose of, or as an

1 incident to, research, teaching, or chemical analysis and not for
2 sale.

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

9 (1) The mature stalks of the plant, fiber produced from the
10 stalks, oil or cake made from the seeds of the plant, any other
11 compound, manufacture, salt, derivative, mixture, or preparation of
12 the mature stalks (except the resin extracted therefrom), fiber, oil,
13 or cake, or the sterilized seed of the plant which is incapable of
14 germination; or

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

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

19 (z) "Marijuana processor" means a person licensed by the state
20 liquor and cannabis board to process marijuana into marijuana
21 concentrates, useable marijuana, and marijuana-infused products,
22 package and label marijuana concentrates, useable marijuana, and
23 marijuana-infused products for sale in retail outlets, and sell
24 marijuana concentrates, useable marijuana, and marijuana-infused
25 products at wholesale to marijuana retailers.

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

29 (bb) "Marijuana products" means useable marijuana, marijuana
30 concentrates, and marijuana-infused products as defined in this
31 section.

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

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

39 (ee) "Marijuana-infused products" means products that contain
40 marijuana or marijuana extracts, are intended for human use, are

1 derived from marijuana as defined in subsection (x) of this section,
2 and have a THC concentration no greater than ten percent. The term
3 "marijuana-infused products" does not include either useable
4 marijuana or marijuana concentrates.

5 (ff) "Narcotic drug" means any of the following, whether produced
6 directly or indirectly by extraction from substances of vegetable
7 origin, or independently by means of chemical synthesis, or by a
8 combination of extraction and chemical synthesis:

9 (1) Opium, opium derivative, and any derivative of opium or opium
10 derivative, including their salts, isomers, and salts of isomers,
11 whenever the existence of the salts, isomers, and salts of isomers is
12 possible within the specific chemical designation. The term does not
13 include the isoquinoline alkaloids of opium.

14 (2) Synthetic opiate and any derivative of synthetic opiate,
15 including their isomers, esters, ethers, salts, and salts of isomers,
16 esters, and ethers, whenever the existence of the isomers, esters,
17 ethers, and salts is possible within the specific chemical
18 designation.

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

20 (4) Coca leaves, except coca leaves and extracts of coca leaves
21 from which cocaine, ecgonine, and derivatives or ecgonine or their
22 salts have been removed.

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

24 (6) Cocaine base.

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

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

29 (gg) "Opiate" means any substance having an addiction-forming or
30 addiction-sustaining liability similar to morphine or being capable
31 of conversion into a drug having addiction-forming or addiction-
32 sustaining liability. The term includes opium, substances derived
33 from opium (opium derivatives), and synthetic opiates. The term does
34 not include, unless specifically designated as controlled under RCW
35 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
36 and its salts (dextromethorphan). The term includes the racemic and
37 levorotatory forms of dextromethorphan.

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

1 (ii) "Person" means individual, corporation, business trust,
2 estate, trust, partnership, association, joint venture, government,
3 governmental subdivision or agency, or any other legal or commercial
4 entity.

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

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

8 (ll) "Practitioner" means:

9 (1) A physician under chapter 18.71 RCW; a physician assistant
10 under chapter 18.71A RCW; an osteopathic physician and surgeon under
11 chapter 18.57 RCW; an osteopathic physician assistant under chapter
12 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
13 limitations in RCW 18.57A.040; an optometrist licensed under chapter
14 18.53 RCW who is certified by the optometry board under RCW 18.53.010
15 subject to any limitations in RCW 18.53.010; a dentist under chapter
16 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
17 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
18 registered nurse practitioner, or licensed practical nurse under
19 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
20 who is licensed under RCW 18.36A.030 subject to any limitations in
21 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
22 investigator under this chapter, licensed, registered or otherwise
23 permitted insofar as is consistent with those licensing laws to
24 distribute, dispense, conduct research with respect to or administer
25 a controlled substance in the course of their professional practice
26 or research in this state.

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

31 (3) A physician licensed to practice medicine and surgery, a
32 physician licensed to practice osteopathic medicine and surgery, a
33 dentist licensed to practice dentistry, a podiatric physician and
34 surgeon licensed to practice podiatric medicine and surgery, a
35 licensed physician assistant or a licensed osteopathic physician
36 assistant specifically approved to prescribe controlled substances by
37 his or her state's medical quality assurance commission or equivalent
38 and his or her supervising physician, an advanced registered nurse
39 practitioner licensed to prescribe controlled substances, or a

1 veterinarian licensed to practice veterinary medicine in any state of
2 the United States.

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

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

9 (oo) "Qualifying patient" has the meaning provided in RCW
10 69.51A.010.

11 (pp) "Recognition card" has the meaning provided in RCW
12 69.51A.010.

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

16 (rr) "Secretary" means the secretary of health or the secretary's
17 designee.

18 (ss) "State," unless the context otherwise requires, means a
19 state of the United States, the District of Columbia, the
20 Commonwealth of Puerto Rico, or a territory or insular possession
21 subject to the jurisdiction of the United States.

22 (tt) "THC concentration" means percent of delta-9
23 tetrahydrocannabinol content per dry weight of any part of the plant
24 *Cannabis*, or per volume or weight of marijuana product, or the
25 combined percent of delta-9 tetrahydrocannabinol and
26 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
27 regardless of moisture content.

28 (uu) "Ultimate user" means an individual who lawfully possesses a
29 controlled substance for the individual's own use or for the use of a
30 member of the individual's household or for administering to an
31 animal owned by the individual or by a member of the individual's
32 household.

33 (vv) "Useable marijuana" means dried marijuana flowers. The term
34 "useable marijuana" does not include either marijuana-infused
35 products or marijuana concentrates.

36 (ww) "Board" means the Washington state liquor and cannabis
37 board.

1 NEW SECTION. **Sec. 10.** (1)(a) A legislative work group on
2 cannabis enforcement and training processes and procedures is
3 established, with members as provided in this subsection.

4 (i) The president of the senate shall appoint one member from
5 each of the two largest caucuses of the senate.

6 (ii) The speaker of the house of representatives shall appoint
7 one member from each of the two largest caucuses of the house of
8 representatives.

9 (iii) The president of the senate and the speaker of the house of
10 representatives jointly shall appoint members representing one
11 representative from each of the trade associations representing
12 licensed cannabis businesses and one representative of a labor union
13 representing employees who are enforcement officers for the liquor
14 and cannabis board.

15 (iv) The governor shall appoint one member representing the
16 governor.

17 (v) The chair of the liquor and cannabis board shall appoint one
18 member representing the board.

19 (b) The work group shall choose its cochairs from among its
20 legislative membership. A legislator shall convene the initial
21 meeting of the work group.

22 (2) The work group shall review the following issues:

23 (a) The use of anonymous complaints to initiate enforcement
24 actions;

25 (b) The uniform qualifications and experience that should be
26 established for enforcement officers;

27 (c) The training and guidelines given to enforcement officers;

28 (d) Whether the board should create an ombuds position where
29 license holders may register concerns about the board's procedures,
30 actions, or employees, without threat of retaliation; and

31 (e) Other such issues as identified by the cochairs of the work
32 group.

33 (3) Staff support for the work group must be provided by the
34 senate committee services and the house of representatives office of
35 program research.

36 (4) Legislative members of the work group are reimbursed for
37 travel expenses in accordance with RCW 44.04.120. Nonlegislative
38 members are not entitled to be reimbursed for travel expenses if they
39 are elected officials or are participating on behalf of an employer,

1 governmental entity, or other organization. Any reimbursement for
2 other nonlegislative members is subject to chapter 43.03 RCW.

3 (5) The expenses of the work group must be paid jointly by the
4 senate and the house of representatives. Work group expenditures are
5 subject to approval by the senate facilities and operations committee
6 and the house of representatives executive rules committee, or their
7 successor committees.

8 (6) The work group shall report its findings and recommendations
9 to the appropriate committees of the legislature by December 15,
10 2019.

11 (7) This section expires December 31, 2019.

--- **END** ---