

2SHB 1668 - H AMD 1107

By Representative MacEwen

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

3 **"Sec. 1.** RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

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

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

18 (c) "Board" means the Washington state liquor and cannabis board.

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

21 (e) "CBD product" means any product containing or consisting of
22 cannabidiol.

23 (f) "Class A cannabinoid" means a substance that meets the
24 following structural and functional criteria:

25 (1) The substance exhibits the structural backbone of
26 tetrahydrocannabinols and tetrahydrocannabinol-like (THC-like)
27 molecules that include the interconnected three-ring system of a:
28 Six-carbon aromatic ring; pyran ring; and cyclohexene/cyclohexane
29 ring. Known compounds that fit the description in this subsection

30 (f) (1) include:

31 (i) Tetrahydrocannabinols - a single double-bond in the C ring:

32 (A) Delta-10-THC and isomers;

1 (B) Delta-9-THC and isomers;
2 (C) Delta-8-THC and isomers;
3 (D) Delta-7-THC and isomers;
4 (E) Delta-6a-THC and isomers; and
5 (F) Delta-10a-THC and isomers;
6 (ii) Hexahydrocannabinol - no double bonds in the C ring;
7 (iii) Carboxylates (C-2 and C-4) of tetrahydrocannabinols or
8 hexahydrocannabinol:
9 (A) Delta-9-THC acid (Delta-9-THCA);
10 (B) Similar carboxylates of Delta-9-THCA for
11 tetrahydrocannabinols in (1)(i)(A) through (F) of this subsection
12 (f); and
13 (C) Carboxylate esters in (1)(i)(A) through (F) of this
14 subsection (f);
15 (iv) Alkyl analogues (C-3) of tetrahydrocannabinols or
16 hexahydrocannabinol:
17 (A) Delta-9-THCP (Delta-9-tetrahydrocannabiphorol) and n-alkyl
18 analogues;
19 (B) Similar alkylated analogues of Delta-9-THC for
20 tetrahydrocannabinols in (1)(i)(A) through (F) of this subsection
21 (f); and
22 (v) Hydroxylated analogues of tetrahydrocannabinols or
23 hexahydrocannabinol:
24 (A) 11-hydroxy-delta-9-THC and 8- and 10-hydroxy analogues; and
25 (B) Similar hydroxylated analogues of Delta-9-THC for
26 tetrahydrocannabinols in (1)(i)(A) through (F) of this subsection
27 (f);
28 (2) Possesses significant CB1 agonist activity as demonstrable by
29 binding affinity (Ki) to the CB1 receptors at less than 200 nM; and
30 (3) Results in positive effects for all four components of the
31 tetrad test in rodents or reliably causes functional impairment in
32 humans as assayed by a method possessing scientific consensus.
33 (g) "Class B cannabinoid" means all cannabinoids that do not meet
34 the form and function of class A cannabinoids.
35 (h) "Commission" means the pharmacy quality assurance commission.
36 ((~~g~~)) (i) "Controlled substance" means a drug, substance, or
37 immediate precursor included in Schedules I through V as set forth in
38 federal or state laws, or federal or commission rules, but does not
39 include hemp or industrial hemp as defined in RCW 15.140.020.

1 ~~((h))~~ (j)(1) "Controlled substance analog" means a substance
2 the chemical structure of which is substantially similar to the
3 chemical 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 ~~((i))~~ (k) "Deliver" or "delivery" means the actual or
27 constructive transfer from one person to another of a substance,
28 whether or not there is an agency relationship.

29 ~~((j))~~ (l) "Department" means the department of health.

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

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

37 ~~((m))~~ (o) "Dispenser" means a practitioner who dispenses.

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

40 ~~((o))~~ (q) "Distributor" means a person who distributes.

1 ~~((p))~~ (r) "Drug" means (1) a controlled substance recognized as
2 a drug in the official United States pharmacopoeia/national formulary
3 or the official homeopathic pharmacopoeia of the United States, or
4 any supplement to them; (2) controlled substances intended for use in
5 the diagnosis, cure, mitigation, treatment, or prevention of disease
6 in individuals or animals; (3) controlled substances (other than
7 food) 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 ~~((q))~~ (s) "Drug enforcement administration" means the drug
13 enforcement administration in the United States Department of
14 Justice, or its successor agency.

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

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

24 ~~((t))~~ (v) "Immediate precursor" means a substance:
25 (1) that the commission has found to be and by rule designates as
26 being the principal compound commonly used, or produced primarily for
27 use, in the manufacture of a controlled substance;
28 (2) that is an immediate chemical intermediary used or likely to
29 be used in the manufacture of a controlled substance; and
30 (3) the control of which is necessary to prevent, curtail, or
31 limit the manufacture of the controlled substance.

32 ~~((u))~~ (w) "Isomer" means an optical isomer, but in subsection
33 ~~((gg))~~ (ii) (5) of this section, RCW 69.50.204(a) (12) and (34), and
34 69.50.206(b) (4), the term includes any geometrical isomer; in RCW
35 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
36 positional isomer; and in RCW 69.50.204(a) (35), 69.50.204(c), and
37 69.50.208(a) the term includes any positional or geometric isomer.

38 ~~((v))~~ (x) "Lot" means a definite quantity of marijuana,
39 marijuana concentrates, useable marijuana, or marijuana-infused
40 product identified by a lot number, every portion or package of which

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

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

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

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

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

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

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

36 (2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds
37 used for licensed hemp production under chapter 15.140 RCW.

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

1 (~~(aa)~~) (cc) "Marijuana processor" means a person licensed by
2 the board to process marijuana into marijuana concentrates, useable
3 marijuana, and marijuana-infused products, package and label
4 marijuana concentrates, useable marijuana, and marijuana-infused
5 products for sale in retail outlets, and sell marijuana concentrates,
6 useable marijuana, and marijuana-infused products at wholesale to
7 marijuana retailers.

8 (~~(bb)~~) (dd) "Marijuana producer" means a person licensed by the
9 board to produce and sell marijuana at wholesale to marijuana
10 processors and other marijuana producers.

11 (~~(ee)~~) (ee) "Marijuana products" means useable marijuana,
12 marijuana concentrates, and marijuana-infused products as defined in
13 this section.

14 (~~(dd)~~) (ff) "Marijuana researcher" means a person licensed by
15 the board to produce, process, and possess marijuana for the purposes
16 of conducting research on marijuana and marijuana-derived drug
17 products.

18 (~~(ee)~~) (gg) "Marijuana retailer" means a person licensed by the
19 board to sell marijuana concentrates, useable marijuana, and
20 marijuana-infused products in a retail outlet.

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

27 (~~(gg)~~) (ii) "Narcotic drug" means any of the following, whether
28 produced directly or indirectly by extraction from substances of
29 vegetable origin, or independently by means of chemical synthesis, or
30 by a combination of extraction and chemical synthesis:

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

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

- 1 (3) Poppy straw and concentrate of poppy straw.
- 2 (4) Coca leaves, except coca leaves and extracts of coca leaves
3 from which cocaine, ecgonine, and derivatives or ecgonine or their
4 salts have been removed.
- 5 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.
- 6 (6) Cocaine base.
- 7 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
8 thereof.
- 9 (8) Any compound, mixture, or preparation containing any quantity
10 of any substance referred to in (1) through (7) of this subsection.

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

20 ~~((ii))~~ (kk) "Opium poppy" means the plant of the species
21 Papaver somniferum L., except its seeds.

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

26 ~~((kk))~~ (mm) "Plant" has the meaning provided in RCW 69.51A.010.

27 ~~((ll))~~ (nn) "Poppy straw" means all parts, except the seeds, of
28 the opium poppy, after mowing.

29 ~~((mm))~~ (oo) "Practitioner" means:

- 30 (1) A physician under chapter 18.71 RCW; a physician assistant
31 under chapter 18.71A RCW; an osteopathic physician and surgeon under
32 chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW
33 who is certified by the optometry board under RCW 18.53.010 subject
34 to any limitations in RCW 18.53.010; a dentist under chapter 18.32
35 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a
36 veterinarian under chapter 18.92 RCW; a registered nurse, advanced
37 registered nurse practitioner, or licensed practical nurse under
38 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
39 who is licensed under RCW 18.36A.030 subject to any limitations in
40 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific

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

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

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

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

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

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

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

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

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

37 (~~(tt)~~) (vv) "State," unless the context otherwise requires,
38 means a 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 (~~(uu)~~) (ww) "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 (~~(vv)~~) (xx) "Ultimate user" means an individual who lawfully
8 possesses a controlled substance for the individual's own use or for
9 the use of a member of the individual's household or for
10 administering to an animal owned by the individual or by a member of
11 the individual's household.

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

15 (~~(xx)~~) (zz) "Youth access" means the level of interest persons
16 under the age of twenty-one may have in a vapor product, as well as
17 the degree to which the product is available or appealing to such
18 persons, and the likelihood of initiation, use, or addiction by
19 adolescents and young adults.

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

22 Class A cannabinoids may not be sold in the general market,
23 except naturally occurring hemp delta-9-THC and THCA at or below 0.3
24 percent with marketed and labeled class B cannabinoids present.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 69.50
26 RCW to read as follows:

27 (1) The Washington State University center for cannabis policy,
28 research, and outreach shall convene a scientific panel, with members
29 as provided in subsection (2) of this section, to review available
30 scientific research, data, and regulations of other jurisdictions
31 related to cannabinoids and the regulation of cannabinoids including,
32 but not limited to:

33 (a) Definitions of impairing cannabinoids;

34 (b) Definitions of synthetic cannabinoids, synthetically derived
35 cannabinoids, and artificial cannabinoids; and

36 (c) Health and safety considerations related to the conversion
37 process and consumption of cannabinoids.

38 (2) The scientific panel shall consist of the following members:

- 1 (a) One representative from Washington State University,
2 designated by the dean of Washington State University;
- 3 (b) One representative from the University of Washington,
4 designated by the dean of the University of Washington;
- 5 (c) One representative who holds a cannabis research license
6 issued by the board;
- 7 (d) One representative from a certified cannabis testing
8 laboratory; and
- 9 (e) One person who is a regulatory expert experienced with
10 regulations of the United States food and drug administration on
11 consumable products.
- 12 (3) The scientific panel convened under this section shall
13 compile findings and make recommendations to the legislature
14 regarding regulating cannabinoids in the adult-use cannabis market,
15 with a report submitted to the legislature by December 1, 2022, and
16 annual updates to the legislature thereafter.

17 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2022."

18 Correct the title.

EFFECT: (1) Strikes all provisions of the second substitute bill. Adds a definition of the terms "class A cannabinoid" and "class B cannabinoid" to the Uniform Controlled Substances Act. Defines "class A cannabinoid" as a substance that meets specific structural and functional criteria. Defines "class B cannabinoid" as all cannabinoids that do not meet the form and function of class A cannabinoids.

(2) Specifies that class A cannabinoids may not be sold in the general market, except naturally occurring hemp delta-9-THC and THCA at or below 0.3 percent with marketed and labeled class B cannabinoids present.

(3) Requires the Washington State University Center for Cannabis Policy, Research, and Outreach to convene a five-member scientific panel to review available scientific research, data, and regulations of other jurisdictions related to cannabinoids and the regulation of cannabinoids including, but not limited to: (a) Definitions of impairing cannabinoids; (b) definitions of synthetic cannabinoids, synthetically derived cannabinoids, and artificial cannabinoids; and (c) health and safety considerations related to the conversion process and consumption of cannabinoids. Requires a report to the Legislature by December 1, 2022, with annual updates thereafter.

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