

SB 5476 - S AMD 831

By Senator Pedersen

ADOPTED AS AMENDED 04/15/2021

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that substance use
4 disorder is a disease and should be treated using a public health,
5 rather than a criminal justice-centered, approach. Existing laws
6 criminalizing the possession of drugs have been ineffective in
7 reducing drug use and preventing substance use disorder. These laws
8 cause significant harm to individuals who use drugs by disrupting and
9 further destabilizing their lives. It also contributes to an
10 increased risk of death, the spread of infectious diseases, mass
11 incarceration, the separation of families, and barriers to accessing
12 housing, employment, and other vital services. Furthermore, even
13 though research shows that drugs are used and sold at similar levels
14 across all races, laws criminalizing the use of drugs have
15 disproportionately impacted minority communities.

16 This act takes the important first step of reducing the crime of
17 possession from a felony to a gross misdemeanor and institutes
18 greater opportunities for treatment. In coordination with this act,
19 the legislature intends to increase funding for programs that have a
20 proven track record of assisting individuals to break free from
21 substance use dependency. These programs include LEAD (law
22 enforcement assisted diversion/let everyone advance with dignity
23 program); HOST (homeless outreach stabilization transition teams);
24 peer-run clubhouses; opioid treatment network; project for
25 psychiatric outreach for the homeless; mobile opioid treatment grant;
26 peer support programs; and family navigators.

27 The purpose of this act is to save lives and to help transform
28 Washington's approach to drug use from one based on criminalization
29 and stigma to one based on science and compassion.

30

31

1 acting in the course of his or her professional practice, or except
2 as otherwise authorized by this chapter.

3 (2) Except as provided in RCW 69.50.4014, any person who violates
4 this section is guilty of a (~~class C felony~~) gross misdemeanor
5 punishable under chapter 9A.20 RCW.

6 (3) Where a case is legally sufficient, the prosecutor shall
7 divert the case for treatment if the alleged violation is the
8 person's first or second violation of this section. On a person's
9 third and subsequent violation of this section, the prosecutor is
10 encouraged to divert the case for treatment.

11 (4)(a) The possession, by a person twenty-one years of age or
12 older, of useable marijuana, marijuana concentrates, or marijuana-
13 infused products in amounts that do not exceed those set forth in RCW
14 69.50.360(3) is not a violation of this section, this chapter, or any
15 other provision of Washington state law.

16 (b) The possession of marijuana, useable marijuana, marijuana
17 concentrates, and marijuana-infused products being physically
18 transported or delivered within the state, in amounts not exceeding
19 those that may be established under RCW 69.50.385(3), by a licensed
20 employee of a common carrier when performing the duties authorized in
21 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
22 this section, this chapter, or any other provision of Washington
23 state law.

24 (~~(4)~~) (5)(a) The delivery by a person twenty-one years of age
25 or older to one or more persons twenty-one years of age or older,
26 during a single twenty-four hour period, for noncommercial purposes
27 and not conditioned upon or done in connection with the provision or
28 receipt of financial consideration, of any of the following marijuana
29 products, is not a violation of this section, this chapter, or any
30 other provisions of Washington state law:

- 31 (i) One-half ounce of useable marijuana;
- 32 (ii) Eight ounces of marijuana-infused product in solid form;
- 33 (iii) Thirty-six ounces of marijuana-infused product in liquid
34 form; or
- 35 (iv) Three and one-half grams of marijuana concentrates.

36 (b) The act of delivering marijuana or a marijuana product as
37 authorized under this subsection (~~(4)~~) (5) must meet one of the
38 following requirements:

- 39 (i) The delivery must be done in a location outside of the view
40 of general public and in a nonpublic place; or

1 (ii) The marijuana or marijuana product must be in the original
2 packaging as purchased from the marijuana retailer.

3 ~~((+5))~~ (6) No person under twenty-one years of age may possess,
4 manufacture, sell, or distribute marijuana, marijuana-infused
5 products, or marijuana concentrates, regardless of THC concentration.
6 This does not include qualifying patients with a valid authorization.

7 ~~((+6))~~ (7) The possession by a qualifying patient or designated
8 provider of marijuana concentrates, useable marijuana, marijuana-
9 infused products, or plants in accordance with chapter 69.51A RCW is
10 not a violation of this section, this chapter, or any other provision
11 of Washington state law.

12 **Sec. 4.** RCW 69.50.412 and 2019 c 64 s 22 are each amended to
13 read as follows:

14 (1) It is unlawful for any person to use drug paraphernalia to
15 plant, propagate, cultivate, grow, harvest, manufacture, compound,
16 convert, produce, process, or prepare(~~(, test, analyze, pack, repack,~~
17 ~~store, contain, conceal, inject, ingest, inhale, or otherwise~~
18 ~~introduce into the human body)) a controlled substance other than
19 marijuana. Any person who violates this subsection is guilty of a
20 misdemeanor.~~

21 (2) It is unlawful for any person to deliver, possess with intent
22 to deliver, or manufacture with intent to deliver drug paraphernalia,
23 knowing, or under circumstances where one reasonably should know,
24 that it will be used to plant, propagate, cultivate, grow, harvest,
25 manufacture, compound, convert, produce, process, or prepare(~~(, test,~~
26 ~~analyze, pack, repack, store, contain, conceal, inject, ingest,~~
27 ~~inhale, or otherwise introduce into the human body)) a controlled
28 substance other than marijuana. Any person who violates this
29 subsection is guilty of a misdemeanor.~~

30 (3) Any person eighteen years of age or over who violates
31 subsection (2) of this section by delivering drug paraphernalia to a
32 person under eighteen years of age who is at least three years his or
33 her junior is guilty of a gross misdemeanor.

34 (4) It is unlawful for any person to place in any newspaper,
35 magazine, handbill, or other publication any advertisement, knowing,
36 or under circumstances where one reasonably should know, that the
37 purpose of the advertisement, in whole or in part, is to promote the
38 sale of objects designed or intended for use as drug paraphernalia.
39 Any person who violates this subsection is guilty of a misdemeanor.

1 (5) It is lawful for any person over the age of eighteen to
2 possess sterile hypodermic syringes and needles for the purpose of
3 reducing blood-borne diseases.

4 **Sec. 5.** RCW 69.41.030 and 2019 c 55 s 9 are each amended to read
5 as follows:

6 (1) (~~It~~) Except as provided in subsection (2) of this section,
7 it shall be unlawful for any person to sell, deliver, or knowingly
8 possess any legend drug (~~except~~).

9 (2) The sale, delivery, or possession of a legend drug does not
10 constitute a violation of this section upon the order or prescription
11 of a physician under chapter 18.71 RCW, an osteopathic physician and
12 surgeon under chapter 18.57 RCW, an optometrist licensed under
13 chapter 18.53 RCW who is certified by the optometry board under RCW
14 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
15 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
16 18.92 RCW, a commissioned medical or dental officer in the United
17 States armed forces or public health service in the discharge of his
18 or her official duties, a duly licensed physician or dentist employed
19 by the veterans administration in the discharge of his or her
20 official duties, a registered nurse or advanced registered nurse
21 practitioner under chapter 18.79 RCW when authorized by the nursing
22 care quality assurance commission, a pharmacist licensed under
23 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
24 or protocols established under RCW 18.64.011 and authorized by the
25 commission and approved by a practitioner authorized to prescribe
26 drugs, an osteopathic physician assistant under chapter 18.57A RCW
27 when authorized by the board of osteopathic medicine and surgery, a
28 physician assistant under chapter 18.71A RCW when authorized by the
29 Washington medical commission, or any of the following professionals
30 in any province of Canada that shares a common border with the state
31 of Washington or in any state of the United States: A physician
32 licensed to practice medicine and surgery or a physician licensed to
33 practice osteopathic medicine and surgery, a dentist licensed to
34 practice dentistry, a podiatric physician and surgeon licensed to
35 practice podiatric medicine and surgery, a licensed advanced
36 registered nurse practitioner, a licensed physician assistant, a
37 licensed osteopathic physician assistant, or a veterinarian licensed
38 to practice veterinary medicine: PROVIDED, HOWEVER, That the above
39 provisions shall not apply to sale, delivery, or possession by drug

1 wholesalers or drug manufacturers, or their agents or employees, or
2 to any practitioner acting within the scope of his or her license, or
3 to a common or contract carrier or warehouse operator, or any
4 employee thereof, whose possession of any legend drug is in the usual
5 course of business or employment: PROVIDED FURTHER, That nothing in
6 this chapter or chapter 18.64 RCW shall prevent a family planning
7 clinic that is under contract with the health care authority from
8 selling, delivering, possessing, and dispensing commercially
9 prepackaged oral contraceptives prescribed by authorized, licensed
10 health care practitioners: PROVIDED FURTHER, That nothing in this
11 chapter prohibits possession or delivery of legend drugs by an
12 authorized collector or other person participating in the operation
13 of a drug take-back program authorized in chapter 69.48 RCW.

14 ~~((+2))~~ (3)(a) A violation of this section involving the sale,
15 delivery, or possession with intent to sell or deliver is a class B
16 felony punishable according to chapter 9A.20 RCW.

17 (b) A violation of this section involving possession is a
18 misdemeanor. Where a case is legally sufficient, the prosecutor shall
19 divert the case for treatment if the alleged violation involving
20 possession is the person's first or second violation. On a person's
21 third and subsequent violation involving possession, the prosecutor
22 is encouraged to divert the case for treatment.

23 **Sec. 6.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to
24 read as follows:

25 (1) ~~((+1))~~ Except as provided in subsection (2) of this section,
26 it shall be unlawful for any person to sell, deliver, or knowingly
27 possess any legend drug (~~(except)~~).

28 (2) The sale, delivery, or possession of a legend drug does not
29 constitute a violation of this section upon the order or prescription
30 of a physician under chapter 18.71 RCW, an osteopathic physician and
31 surgeon under chapter 18.57 RCW, an optometrist licensed under
32 chapter 18.53 RCW who is certified by the optometry board under RCW
33 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
34 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
35 18.92 RCW, a commissioned medical or dental officer in the United
36 States armed forces or public health service in the discharge of his
37 or her official duties, a duly licensed physician or dentist employed
38 by the veterans administration in the discharge of his or her
39 official duties, a registered nurse or advanced registered nurse

1 practitioner under chapter 18.79 RCW when authorized by the nursing
2 care quality assurance commission, a pharmacist licensed under
3 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
4 or protocols established under RCW 18.64.011 and authorized by the
5 commission and approved by a practitioner authorized to prescribe
6 drugs, a physician assistant under chapter 18.71A RCW when authorized
7 by the Washington medical commission, or any of the following
8 professionals in any province of Canada that shares a common border
9 with the state of Washington or in any state of the United States: A
10 physician licensed to practice medicine and surgery or a physician
11 licensed to practice osteopathic medicine and surgery, a dentist
12 licensed to practice dentistry, a podiatric physician and surgeon
13 licensed to practice podiatric medicine and surgery, a licensed
14 advanced registered nurse practitioner, a licensed physician
15 assistant, or a veterinarian licensed to practice veterinary
16 medicine: PROVIDED, HOWEVER, That the above provisions shall not
17 apply to sale, delivery, or possession by drug wholesalers or drug
18 manufacturers, or their agents or employees, or to any practitioner
19 acting within the scope of his or her license, or to a common or
20 contract carrier or warehouse operator, or any employee thereof,
21 whose possession of any legend drug is in the usual course of
22 business or employment: PROVIDED FURTHER, That nothing in this
23 chapter or chapter 18.64 RCW shall prevent a family planning clinic
24 that is under contract with the health care authority from selling,
25 delivering, possessing, and dispensing commercially prepackaged oral
26 contraceptives prescribed by authorized, licensed health care
27 practitioners: PROVIDED FURTHER, That nothing in this chapter
28 prohibits possession or delivery of legend drugs by an authorized
29 collector or other person participating in the operation of a drug
30 take-back program authorized in chapter 69.48 RCW.

31 ~~((+2))~~ (3)(a) A violation of this section involving the sale,
32 delivery, or possession with intent to sell or deliver is a class B
33 felony punishable according to chapter 9A.20 RCW.

34 (b) A violation of this section involving possession is a
35 misdemeanor. Where a case is legally sufficient, the prosecutor shall
36 divert the case for treatment if the alleged violation involving
37 possession is the person's first or second violation. On a person's
38 third and subsequent violation involving possession, the prosecutor
39 is encouraged to divert the case for treatment.

1 (2) "Commission" means the pharmacy quality assurance commission.

2 (3) "Community-based care settings" include: Community
3 residential programs for persons with developmental disabilities,
4 certified by the department of social and health services under
5 chapter 71A.12 RCW; adult family homes licensed under chapter 70.128
6 RCW; and assisted living facilities licensed under chapter 18.20 RCW.
7 Community-based care settings do not include acute care or skilled
8 nursing facilities.

9 (4) "Deliver" or "delivery" means the actual, constructive, or
10 attempted transfer from one person to another of a legend drug,
11 whether or not there is an agency relationship.

12 (5) "Department" means the department of health.

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

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

18 (8) "Distribute" means to deliver other than by administering or
19 dispensing a legend drug.

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

21 (10) "Drug" means:

22 (a) Substances recognized as drugs in the official United States
23 pharmacopoeia, official homeopathic pharmacopoeia of the United
24 States, or official national formulary, or any supplement to any of
25 them;

26 (b) Substances intended for use in the diagnosis, cure,
27 mitigation, treatment, or prevention of disease in human beings or
28 animals;

29 (c) Substances (other than food, minerals or vitamins) intended
30 to affect the structure or any function of the body of human beings
31 or animals; and

32 (d) Substances intended for use as a component of any article
33 specified in (a), (b), or (c) of this subsection. It does not include
34 devices or their components, parts, or accessories.

35 (11) "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 transmitted verbally by
39 telephone nor a facsimile manually signed by the practitioner.

1 (12) "In-home care settings" include an individual's place of
2 temporary and permanent residence, but does not include acute care or
3 skilled nursing facilities, and does not include community-based care
4 settings.

5 (13) "Legend drugs" means any drugs which are required by state
6 law or regulation of the pharmacy quality assurance commission to be
7 dispensed on prescription only or are restricted to use by
8 practitioners only.

9 (14) "Legible prescription" means a prescription or medication
10 order issued by a practitioner that is capable of being read and
11 understood by the pharmacist filling the prescription or the nurse or
12 other practitioner implementing the medication order. A prescription
13 must be hand printed, typewritten, or electronically generated.

14 (15) "Medication assistance" means assistance rendered by a
15 nonpractitioner to an individual residing in a community-based care
16 setting or in-home care setting to facilitate the individual's self-
17 administration of a legend drug or controlled substance. It includes
18 reminding or coaching the individual, handing the medication
19 container to the individual, opening the individual's medication
20 container, using an enabler, or placing the medication in the
21 individual's hand, and such other means of medication assistance as
22 defined by rule adopted by the department. A nonpractitioner may help
23 in the preparation of legend drugs or controlled substances for self-
24 administration where a practitioner has determined and communicated
25 orally or by written direction that such medication preparation
26 assistance is necessary and appropriate. Medication assistance shall
27 not include assistance with intravenous medications or injectable
28 medications, except prefilled insulin syringes.

29 (16) "Person" means individual, corporation, government or
30 governmental subdivision or agency, business trust, estate, trust,
31 partnership or association, or any other legal entity.

32 (17) "Personal use amount" has the meaning provided in RCW
33 69.50.101.

34 (18) "Practitioner" means:

35 (a) A physician under chapter 18.71 RCW, an osteopathic physician
36 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
37 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
38 under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern
39 medicine practitioner to the extent authorized under chapter 18.06
40 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian

1 under chapter 18.92 RCW, a registered nurse, advanced registered
2 nurse practitioner, or licensed practical nurse under chapter 18.79
3 RCW, an optometrist under chapter 18.53 RCW who is certified by the
4 optometry board under RCW 18.53.010, an osteopathic physician
5 assistant under chapter 18.57A RCW, a physician assistant under
6 chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a
7 licensed athletic trainer to the extent authorized under chapter
8 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting
9 under the required supervision of a dentist licensed under chapter
10 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

11 (b) A pharmacy, hospital, or other institution licensed,
12 registered, or otherwise permitted to distribute, dispense, conduct
13 research with respect to, or to administer a legend drug in the
14 course of professional practice or research in this state; and

15 (c) A physician licensed to practice medicine and surgery or a
16 physician licensed to practice osteopathic medicine and surgery in
17 any state, or province of Canada, which shares a common border with
18 the state of Washington.

19 (~~(18)~~) (19) "Secretary" means the secretary of health or the
20 secretary's designee.

21 **Sec. 9.** RCW 69.41.010 and 2020 c 80 s 40 are each amended to
22 read as follows:

23 As used in this chapter, the following terms have the meanings
24 indicated unless the context clearly requires otherwise:

25 (1) "Administer" means the direct application of a legend drug
26 whether by injection, inhalation, ingestion, or any other means, to
27 the body of a patient or research subject by:

28 (a) A practitioner; or

29 (b) The patient or research subject at the direction of the
30 practitioner.

31 (2) "Commission" means the pharmacy quality assurance commission.

32 (3) "Community-based care settings" include: Community
33 residential programs for persons with developmental disabilities,
34 certified by the department of social and health services under
35 chapter 71A.12 RCW; adult family homes licensed under chapter 70.128
36 RCW; and assisted living facilities licensed under chapter 18.20 RCW.
37 Community-based care settings do not include acute care or skilled
38 nursing facilities.

1 (4) "Deliver" or "delivery" means the actual, constructive, or
2 attempted transfer from one person to another of a legend drug,
3 whether or not there is an agency relationship.

4 (5) "Department" means the department of health.

5 (6) "Dispense" means the interpretation of a prescription or
6 order for a legend drug and, pursuant to that prescription or order,
7 the proper selection, measuring, compounding, labeling, or packaging
8 necessary to prepare that prescription or order for delivery.

9 (7) "Dispenser" means a practitioner who dispenses.

10 (8) "Distribute" means to deliver other than by administering or
11 dispensing a legend drug.

12 (9) "Distributor" means a person who distributes.

13 (10) "Drug" means:

14 (a) Substances recognized as drugs in the official United States
15 pharmacopoeia, official homeopathic pharmacopoeia of the United
16 States, or official national formulary, or any supplement to any of
17 them;

18 (b) Substances intended for use in the diagnosis, cure,
19 mitigation, treatment, or prevention of disease in human beings or
20 animals;

21 (c) Substances (other than food, minerals or vitamins) intended
22 to affect the structure or any function of the body of human beings
23 or animals; and

24 (d) Substances intended for use as a component of any article
25 specified in (a), (b), or (c) of this subsection. It does not include
26 devices or their components, parts, or accessories.

27 (11) "Electronic communication of prescription information" means
28 the transmission of a prescription or refill authorization for a drug
29 of a practitioner using computer systems. The term does not include a
30 prescription or refill authorization transmitted verbally by
31 telephone nor a facsimile manually signed by the practitioner.

32 (12) "In-home care settings" include an individual's place of
33 temporary and permanent residence, but does not include acute care or
34 skilled nursing facilities, and does not include community-based care
35 settings.

36 (13) "Legend drugs" means any drugs which are required by state
37 law or regulation of the pharmacy quality assurance commission to be
38 dispensed on prescription only or are restricted to use by
39 practitioners only.

1 (14) "Legible prescription" means a prescription or medication
2 order issued by a practitioner that is capable of being read and
3 understood by the pharmacist filling the prescription or the nurse or
4 other practitioner implementing the medication order. A prescription
5 must be hand printed, typewritten, or electronically generated.

6 (15) "Medication assistance" means assistance rendered by a
7 nonpractitioner to an individual residing in a community-based care
8 setting or in-home care setting to facilitate the individual's self-
9 administration of a legend drug or controlled substance. It includes
10 reminding or coaching the individual, handing the medication
11 container to the individual, opening the individual's medication
12 container, using an enabler, or placing the medication in the
13 individual's hand, and such other means of medication assistance as
14 defined by rule adopted by the department. A nonpractitioner may help
15 in the preparation of legend drugs or controlled substances for self-
16 administration where a practitioner has determined and communicated
17 orally or by written direction that such medication preparation
18 assistance is necessary and appropriate. Medication assistance shall
19 not include assistance with intravenous medications or injectable
20 medications, except prefilled insulin syringes.

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

24 (17) "Personal use amount" has the meaning provided in RCW
25 69.50.101.

26 (18) "Practitioner" means:

27 (a) A physician under chapter 18.71 RCW, an osteopathic physician
28 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
29 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
30 under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern
31 medicine practitioner to the extent authorized under chapter 18.06
32 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian
33 under chapter 18.92 RCW, a registered nurse, advanced registered
34 nurse practitioner, or licensed practical nurse under chapter 18.79
35 RCW, an optometrist under chapter 18.53 RCW who is certified by the
36 optometry board under RCW 18.53.010, a physician assistant under
37 chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a
38 licensed athletic trainer to the extent authorized under chapter
39 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when acting

1 under the required supervision of a dentist licensed under chapter
2 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

3 (b) A pharmacy, hospital, or other institution licensed,
4 registered, or otherwise permitted to distribute, dispense, conduct
5 research with respect to, or to administer a legend drug in the
6 course of professional practice or research in this state; and

7 (c) A physician licensed to practice medicine and surgery or a
8 physician licensed to practice osteopathic medicine and surgery in
9 any state, or province of Canada, which shares a common border with
10 the state of Washington.

11 (~~(18)~~) (19) "Secretary" means the secretary of health or the
12 secretary's designee.

13 **Sec. 10.** RCW 69.50.101 and 2020 c 133 s 2 are each amended to
14 read as follows:

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

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

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

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

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

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

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

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

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

34 (g) "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 hemp or industrial hemp as defined in RCW 15.140.020.

1 (h) (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 (i) "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 (j) "Department" means the department of health.

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

32 (l) "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 (m) "Dispenser" means a practitioner who dispenses.

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

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

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

15 (r) "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 (s) "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 (t) "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 (u) "Isomer" means an optical isomer, but in subsection (gg)(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 (v) "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 (w) "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 (x) "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 (y) "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) Hemp or industrial hemp as defined in RCW 15.140.020, seeds
36 used for licensed hemp production under chapter 15.140 RCW.

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

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

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

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

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

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

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

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

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

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

40 (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 (1) through (7) of this subsection.

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

21 (jj) "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 (kk) "Personal use amount" means the maximum amount of a
26 particular controlled substance, legend drug, or counterfeit
27 substance that the health care authority has determined to be
28 consistent with personal, nonprescribed use patterns of people with
29 substance use disorder, as provided under section 7 of this act.

30 (ll) "Plant" has the meaning provided in RCW 69.51A.010.

31 (~~(ll)~~) (mm) "Poppy straw" means all parts, except the seeds, of
32 the opium poppy, after mowing.

33 (~~(mm)~~) (nn) "Practitioner" means:

34 (1) A physician under chapter 18.71 RCW; a physician assistant
35 under chapter 18.71A RCW; an osteopathic physician and surgeon under
36 chapter 18.57 RCW; an osteopathic physician assistant under chapter
37 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
38 limitations in RCW 18.57A.040; an optometrist licensed under chapter
39 18.53 RCW who is certified by the optometry board under RCW 18.53.010
40 subject to any limitations in RCW 18.53.010; a dentist under chapter

1 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
2 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
3 registered nurse practitioner, or licensed practical nurse under
4 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
5 who is licensed under RCW 18.36A.030 subject to any limitations in
6 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
7 investigator under this chapter, licensed, registered or otherwise
8 permitted insofar as is consistent with those licensing laws to
9 distribute, dispense, conduct research with respect to or administer
10 a controlled substance in the course of their professional practice
11 or research in this state.

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

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

27 (~~(nn)~~) (oo) "Prescription" means an order for controlled
28 substances issued by a practitioner duly authorized by law or rule in
29 the state of Washington to prescribe controlled substances within the
30 scope of his or her professional practice for a legitimate medical
31 purpose.

32 (~~(oo)~~) (pp) "Production" includes the manufacturing, planting,
33 cultivating, growing, or harvesting of a controlled substance.

34 (~~(pp)~~) (qq) "Qualifying patient" has the meaning provided in
35 RCW 69.51A.010.

36 (~~(qq)~~) (rr) "Recognition card" has the meaning provided in RCW
37 69.51A.010.

38 (~~(rr)~~) (ss) "Retail outlet" means a location licensed by the
39 board for the retail sale of marijuana concentrates, useable
40 marijuana, and marijuana-infused products.

1 (~~(ss)~~) (tt) "Secretary" means the secretary of health or the
2 secretary's designee.

3 (~~(ttt)~~) (uu) "State," unless the context otherwise requires,
4 means a state of the United States, the District of Columbia, the
5 Commonwealth of Puerto Rico, or a territory or insular possession
6 subject to the jurisdiction of the United States.

7 (~~(uu)~~) (vv) "THC concentration" means percent of delta-9
8 tetrahydrocannabinol content per dry weight of any part of the plant
9 *Cannabis*, or per volume or weight of marijuana product, or the
10 combined percent of delta-9 tetrahydrocannabinol and
11 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
12 regardless of moisture content.

13 (~~(vv)~~) (ww) "Ultimate user" means an individual who lawfully
14 possesses a controlled substance for the individual's own use or for
15 the use of a member of the individual's household or for
16 administering to an animal owned by the individual or by a member of
17 the individual's household.

18 (~~(ww)~~) (xx) "Useable marijuana" means dried marijuana flowers.
19 The term "useable marijuana" does not include either marijuana-
20 infused products or marijuana concentrates.

21 (~~(xx)~~) (yy) "Youth access" means the level of interest persons
22 under the age of twenty-one may have in a vapor product, as well as
23 the degree to which the product is available or appealing to such
24 persons, and the likelihood of initiation, use, or addiction by
25 adolescents and young adults.

26 **Sec. 11.** RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 8 s 43 are
27 each reenacted and amended to read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

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

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

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

37 (b) "Agent" means an authorized person who acts on behalf of or
38 at the direction of a manufacturer, distributor, or dispenser. It

1 does not include a common or contract carrier, public
2 warehouseperson, or employee of the carrier or warehouseperson.

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

4 (d) "CBD concentration" has the meaning provided in RCW
5 69.51A.010.

6 (e) "CBD product" means any product containing or consisting of
7 cannabidiol.

8 (f) "Commission" means the pharmacy quality assurance commission.

9 (g) "Controlled substance" means a drug, substance, or immediate
10 precursor included in Schedules I through V as set forth in federal
11 or state laws, or federal or commission rules, but does not include
12 hemp or industrial hemp as defined in RCW 15.140.020.

13 (h) (1) "Controlled substance analog" means a substance the
14 chemical structure of which is substantially similar to the chemical
15 structure of a controlled substance in Schedule I or II and:

16 (i) that has a stimulant, depressant, or hallucinogenic effect on
17 the central nervous system substantially similar to the stimulant,
18 depressant, or hallucinogenic effect on the central nervous system of
19 a controlled substance included in Schedule I or II; or

20 (ii) with respect to a particular individual, that the individual
21 represents or intends to have a stimulant, depressant, or
22 hallucinogenic effect on the central nervous system substantially
23 similar to the stimulant, depressant, or hallucinogenic effect on the
24 central nervous system of a controlled substance included in Schedule
25 I or II.

26 (2) The term does not include:

27 (i) a controlled substance;

28 (ii) a substance for which there is an approved new drug
29 application;

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

35 (iv) any substance to the extent not intended for human
36 consumption before an exemption takes effect with respect to the
37 substance.

38 (i) "Deliver" or "delivery" means the actual or constructive
39 transfer from one person to another of a substance, whether or not
40 there is an agency relationship.

- 1 (j) "Department" means the department of health.
- 2 (k) "Designated provider" has the meaning provided in RCW
3 69.51A.010.
- 4 (l) "Dispense" means the interpretation of a prescription or
5 order for a controlled substance and, pursuant to that prescription
6 or order, the proper selection, measuring, compounding, labeling, or
7 packaging necessary to prepare that prescription or order for
8 delivery.
- 9 (m) "Dispenser" means a practitioner who dispenses.
- 10 (n) "Distribute" means to deliver other than by administering or
11 dispensing a controlled substance.
- 12 (o) "Distributor" means a person who distributes.
- 13 (p) "Drug" means (1) a controlled substance recognized as a drug
14 in the official United States pharmacopoeia/national formulary or the
15 official homeopathic pharmacopoeia of the United States, or any
16 supplement to them; (2) controlled substances intended for use in the
17 diagnosis, cure, mitigation, treatment, or prevention of disease in
18 individuals or animals; (3) controlled substances (other than food)
19 intended to affect the structure or any function of the body of
20 individuals or animals; and (4) controlled substances intended for
21 use as a component of any article specified in (1), (2), or (3) of
22 this subsection. The term does not include devices or their
23 components, parts, or accessories.
- 24 (q) "Drug enforcement administration" means the drug enforcement
25 administration in the United States Department of Justice, or its
26 successor agency.
- 27 (r) "Electronic communication of prescription information" means
28 the transmission of a prescription or refill authorization for a drug
29 of a practitioner using computer systems. The term does not include a
30 prescription or refill authorization verbally transmitted by
31 telephone nor a facsimile manually signed by the practitioner.
- 32 (s) "Immature plant or clone" means a plant or clone that has no
33 flowers, is less than twelve inches in height, and is less than
34 twelve inches in diameter.
- 35 (t) "Immediate precursor" means a substance:
- 36 (1) that the commission has found to be and by rule designates as
37 being the principal compound commonly used, or produced primarily for
38 use, in the manufacture of a controlled substance;
- 39 (2) that is an immediate chemical intermediary used or likely to
40 be used in the manufacture of a controlled substance; and

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

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

9 (v) "Lot" means a definite quantity of marijuana, marijuana
10 concentrates, useable marijuana, or marijuana-infused product
11 identified by a lot number, every portion or package of which is
12 uniform within recognized tolerances for the factors that appear in
13 the labeling.

14 (w) "Lot number" must identify the licensee by business or trade
15 name and Washington state unified business identifier number, and the
16 date of harvest or processing for each lot of marijuana, marijuana
17 concentrates, useable marijuana, or marijuana-infused product.

18 (x) "Manufacture" means the production, preparation, propagation,
19 compounding, conversion, or processing of a controlled substance,
20 either directly or indirectly or by extraction from substances of
21 natural origin, or independently by means of chemical synthesis, or
22 by a combination of extraction and chemical synthesis, and includes
23 any packaging or repackaging of the substance or labeling or
24 relabeling of its container. The term does not include the
25 preparation, compounding, packaging, repackaging, labeling, or
26 relabeling of a controlled substance:

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

30 (2) by a practitioner, or by the practitioner's authorized agent
31 under the practitioner's supervision, for the purpose of, or as an
32 incident to, research, teaching, or chemical analysis and not for
33 sale.

34 (y) "Marijuana" or "marihuana" means all parts of the plant
35 *Cannabis*, whether growing or not, with a THC concentration greater
36 than 0.3 percent on a dry weight basis; the seeds thereof; the resin
37 extracted from any part of the plant; and every compound,
38 manufacture, salt, derivative, mixture, or preparation of the plant,
39 its seeds or resin. The term does not include:

1 (1) The mature stalks of the plant, fiber produced from the
2 stalks, oil or cake made from the seeds of the plant, any other
3 compound, manufacture, salt, derivative, mixture, or preparation of
4 the mature stalks (except the resin extracted therefrom), fiber, oil,
5 or cake, or the sterilized seed of the plant which is incapable of
6 germination; or

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

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

12 (aa) "Marijuana processor" means a person licensed by the board
13 to process marijuana into marijuana concentrates, useable marijuana,
14 and marijuana-infused products, package and label marijuana
15 concentrates, useable marijuana, and marijuana-infused products for
16 sale in retail outlets, and sell marijuana concentrates, useable
17 marijuana, and marijuana-infused products at wholesale to marijuana
18 retailers.

19 (bb) "Marijuana producer" means a person licensed by the board to
20 produce and sell marijuana at wholesale to marijuana processors and
21 other marijuana producers.

22 (cc) "Marijuana products" means useable marijuana, marijuana
23 concentrates, and marijuana-infused products as defined in this
24 section.

25 (dd) "Marijuana researcher" means a person licensed by the board
26 to produce, process, and possess marijuana for the purposes of
27 conducting research on marijuana and marijuana-derived drug products.

28 (ee) "Marijuana retailer" means a person licensed by the board to
29 sell marijuana concentrates, useable marijuana, and marijuana-infused
30 products in a retail outlet.

31 (ff) "Marijuana-infused products" means products that contain
32 marijuana or marijuana extracts, are intended for human use, are
33 derived from marijuana as defined in subsection (y) of this section,
34 and have a THC concentration no greater than ten percent. The term
35 "marijuana-infused products" does not include either useable
36 marijuana or marijuana concentrates.

37 (gg) "Narcotic drug" means any of the following, whether produced
38 directly or indirectly by extraction from substances of vegetable
39 origin, or independently by means of chemical synthesis, or by a
40 combination of extraction and chemical synthesis:

1 (1) Opium, opium derivative, and any derivative of opium or opium
2 derivative, including their salts, isomers, and salts of isomers,
3 whenever the existence of the salts, isomers, and salts of isomers is
4 possible within the specific chemical designation. The term does not
5 include the isoquinoline alkaloids of opium.

6 (2) Synthetic opiate and any derivative of synthetic opiate,
7 including their isomers, esters, ethers, salts, and salts of isomers,
8 esters, and ethers, whenever the existence of the isomers, esters,
9 ethers, and salts is possible within the specific chemical
10 designation.

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

12 (4) Coca leaves, except coca leaves and extracts of coca leaves
13 from which cocaine, ecgonine, and derivatives or ecgonine or their
14 salts have been removed.

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

16 (6) Cocaine base.

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

19 (8) Any compound, mixture, or preparation containing any quantity
20 of any substance referred to in (1) through (7) of this subsection.

21 (hh) "Opiate" means any substance having an addiction-forming or
22 addiction-sustaining liability similar to morphine or being capable
23 of conversion into a drug having addiction-forming or addiction-
24 sustaining liability. The term includes opium, substances derived
25 from opium (opium derivatives), and synthetic opiates. The term does
26 not include, unless specifically designated as controlled under RCW
27 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
28 and its salts (dextromethorphan). The term includes the racemic and
29 levorotatory forms of dextromethorphan.

30 (ii) "Opium poppy" means the plant of the species *Papaver*
31 *somniferum* L., except its seeds.

32 (jj) "Person" means individual, corporation, business trust,
33 estate, trust, partnership, association, joint venture, government,
34 governmental subdivision or agency, or any other legal or commercial
35 entity.

36 (kk) "Personal use amount" means the maximum amount of a
37 particular controlled substance, legend drug, or counterfeit
38 substance that the health care authority has determined to be
39 consistent with personal, nonprescribed use patterns of people with
40 substance use disorder, as provided under section 7 of this act.

1 ~~(ll)~~ "Plant" has the meaning provided in RCW 69.51A.010.

2 ~~((ll))~~ (mm) "Poppy straw" means all parts, except the seeds, of
3 the opium poppy, after mowing.

4 ~~((mm))~~ (nn) "Practitioner" means:

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

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

25 (3) A physician licensed to practice medicine and surgery, a
26 physician licensed to practice osteopathic medicine and surgery, a
27 dentist licensed to practice dentistry, a podiatric physician and
28 surgeon licensed to practice podiatric medicine and surgery, a
29 licensed physician assistant or a licensed osteopathic physician
30 assistant specifically approved to prescribe controlled substances by
31 his or her state's medical commission or equivalent and his or her
32 supervising physician, an advanced registered nurse practitioner
33 licensed to prescribe controlled substances, or a veterinarian
34 licensed to practice veterinary medicine in any state of the United
35 States.

36 ~~((nn))~~ (oo) "Prescription" means an order for controlled
37 substances issued by a practitioner duly authorized by law or rule in
38 the state of Washington to prescribe controlled substances within the
39 scope of his or her professional practice for a legitimate medical
40 purpose.

1 (1) The authority shall establish the substance use recovery
2 services advisory committee to make recommendations for
3 implementation of a substance use recovery services plan.

4 (2) The authority must, in consultation with the University of
5 Washington department of psychiatry and behavioral sciences and an
6 organization that represents the interests of people who have been
7 directly impacted by substance use and the criminal legal system,
8 appoint members to the advisory committee who have relevant
9 background related to the needs of persons with substance use
10 disorder. The membership of the advisory committee must include, but
11 is not limited to, experts in the etiology and stabilization of
12 substance use disorders, including expertise in medication-assisted
13 treatment and other innovative medication therapies; experts in
14 mental health and trauma and their comorbidity with substance use
15 disorders; people who are currently using controlled substances
16 outside the legal authority of prescription or valid practitioner
17 order; experts in the relationship between social determinants of
18 health, including housing and substance use disorder; experts in drug
19 user health and harm reduction; representatives of city and county
20 governments; a representative of urban police chiefs; a
21 representative of rural county sheriffs; a representative of the
22 interests of rural communities; a representative of fire chiefs;
23 experts in peer support services; experts in substance use disorder
24 recovery support services; experts in diversion from the criminal
25 legal system to community-based care for people with complex
26 behavioral health needs; experts in reducing racial disparity in
27 exposure to the criminal legal system; an academic researcher with an
28 expertise in drug policy and program evaluation; a substance use
29 disorder professional; a representative of public defenders; a
30 representative of prosecutors; a representative of the criminal
31 justice training commission; a nongovernmental immigration attorney
32 with expertise in the immigration consequences of drug possession and
33 use crimes and findings of substance use disorder; recovery housing
34 providers; low-barrier housing providers; representatives of racial
35 justice organizations, including organizations promoting antiracism
36 and equity in health care; a representative of a local health
37 jurisdiction with expertise in overdose prevention and harm
38 reduction; representatives of the interests of tribes; at least three
39 adults in recovery from substance use disorder, including individuals
40 with previous contact with the criminal legal system due to substance

1 use; at least three youths in recovery from substance use disorder,
2 including youths with previous criminal legal system contact due to
3 substance use; and at least three family members of persons with
4 substance use disorder. The advisory committee shall be reflective of
5 the community of individuals living with substance use disorder,
6 including people who are Black, indigenous, and people of color, and
7 individuals who can represent the unique needs of rural communities.

8 (3) The advisory committee must make recommendations and provide
9 perspectives to the authority regarding:

10 (a) Reforms to state laws that align with the goal of treating
11 substance use disorder as a disease, rather than a criminal behavior;

12 (b) Current regional capacity for existing public and private
13 programs providing substance use disorder assessments, each of the
14 American society of addiction medicine levels of care, and recovery
15 support services;

16 (c) Barriers to accessing the existing health system for those
17 populations chronically exposed to criminal legal system responses
18 relating to complex behavioral health conditions and the consequences
19 of trauma, and possible innovations that could reduce those barriers
20 and improve the quality and accessibility of care for those
21 populations;

22 (d) Evidence-based, research-based, and promising treatment and
23 recovery services appropriate for target populations, to include, but
24 not be limited to, field-based outreach and engagement, case
25 management, mental and physical health care, contingency management,
26 medication-assisted treatment and other innovative medication
27 therapies, peer support services, family education, housing, job
28 training and employment programs, and treatments that have not
29 traditionally been covered by insurance;

30 (e) Workforce needs for the behavioral health services sector,
31 including wage and retention challenges;

32 (f) Options for leveraging existing integrated managed care,
33 medicaid waiver, American Indian or Alaska Native fee-for-service
34 behavioral health benefits, and private insurance service capacity
35 for substance use disorders, including but not limited to
36 coordination with managed care organizations, behavioral health
37 administrative services organizations, the Washington health benefit
38 exchange, accountable communities of health, and the office of the
39 insurance commissioner;

1 (g) Framework and design assistance for jurisdictions to assist
2 in compliance with the requirements of RCW 10.31.110 for diversion of
3 individuals with complex behavioral health conditions to community-
4 based care whenever possible and appropriate, and identifying
5 resource gaps that impede jurisdictions in fully realizing the
6 potential impact of this approach;

7 (h) The design of a referral mechanism for referring people with
8 substance use disorder or problematic behaviors resulting from drug
9 use into the supportive services described in this section, including
10 intercepting individuals who likely would otherwise be referred into
11 the criminal legal system, with the express intention of ensuring
12 that decriminalization of possession of personal use amounts does not
13 inadvertently contribute to increased racial disparity among those
14 who continue to be exposed to the criminal legal system due to income
15 instability and involvement in the illicit economy to meet basic
16 needs;

17 (i) The design of ongoing qualitative and quantitative research
18 about the types of services desired by people with substance use
19 disorders and barriers they experience in accessing existing and
20 recommended services; and

21 (j) Proposing a funding framework in which, over time, resources
22 are shifted from punishment sectors to community-based care
23 interventions such that community-based care becomes the primary
24 strategy for addressing and resolving public order issues related to
25 behavioral health conditions.

26 (4) The authority shall submit a summary report of the substance
27 use recovery services plan and recommended changes to the law to the
28 appropriate committees of the legislature by October 1, 2022.

29 (5) This section expires December 31, 2023.

30 **PART IV**

31 **RESENTENCING AND RELEASE OF PERSONS IMPACTED BY *STATE V. BLAKE***

32 **Sec. 13.** RCW 2.24.010 and 2013 c 27 s 3 are each amended to read
33 as follows:

34 (1) There may be appointed in each county or judicial district,
35 by the judges of the superior court having jurisdiction therein, one
36 or more court commissioners for said county or judicial district.
37 Each such commissioner shall be a citizen of the United States and

1 shall hold the office during the pleasure of the judges making the
2 appointment.

3 (2) (a) There may be appointed (~~(in counties with a population of~~
4 ~~more than four hundred thousand,~~) by the presiding judge of the
5 superior court having jurisdiction (~~(therein)~~), one or more attorneys
6 to act as criminal commissioners to assist the superior court in
7 disposing of adult criminal cases. Such criminal commissioners shall
8 have power, authority, and jurisdiction, concurrent with the superior
9 court and the judges thereof, in adult criminal cases, to preside
10 over arraignments, preliminary appearances, initial extradition
11 hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or
12 9.94B.040; accept pleas if authorized by local court rules; appoint
13 counsel; make determinations of probable cause; set, amend, and
14 review conditions of pretrial release; set bail; set trial and
15 hearing dates; authorize continuances; accept waivers of the right to
16 speedy trial; and authorize and issue search warrants and orders to
17 intercept, monitor, or record wired or wireless telecommunications or
18 for the installation of electronic taps or other devices to include,
19 but not be limited to, vehicle global positioning system or other
20 mobile tracking devices with all the powers conferred upon the judge
21 of the superior court in such matters. Criminal commissioners also
22 shall have the authority to conduct resentencing hearings and to
23 vacate convictions pursuant to *State v. Blake*, No. 96873-0 (Feb. 25,
24 2021).

25 (b) The county legislative authority must approve the creation of
26 criminal commissioner positions.

27 **Sec. 14.** RCW 2.24.040 and 2009 c 28 s 1 are each amended to read
28 as follows:

29 Such court commissioner shall have power, authority, and
30 jurisdiction, concurrent with the superior court and the judge
31 thereof, in the following particulars:

32 (1) To hear and determine all matters in probate, to make and
33 issue all proper orders therein, and to issue citations in all cases
34 where same are authorized by the probate statutes of this state.

35 (2) To grant and enter defaults and enter judgment thereon.

36 (3) To issue temporary restraining orders and temporary
37 injunctions, and to fix and approve bonds thereon.

1 (4) To act as referee in all matters and actions referred to him
2 or her by the superior court as such, with all the powers now
3 conferred upon referees by law.

4 (5) To hear and determine all proceedings supplemental to
5 execution, with all the powers conferred upon the judge of the
6 superior court in such matters.

7 (6) To hear and determine all petitions for the adoption of
8 children and for the dissolution of incorporations.

9 (7) To hear and determine all applications for the commitment of
10 any person to the hospital for the insane, with all the powers of the
11 superior court in such matters: PROVIDED, That in cases where a jury
12 is demanded, same shall be referred to the superior court for trial.

13 (8) To hear and determine all complaints for the commitments of
14 minors with all powers conferred upon the superior court in such
15 matters.

16 (9) To hear and determine ex parte and uncontested civil matters
17 of any nature.

18 (10) To grant adjournments, administer oaths, preserve order,
19 compel attendance of witnesses, and to punish for contempts in the
20 refusal to obey or the neglect of the court commissioner's lawful
21 orders made in any matter before the court commissioner as fully as
22 the judge of the superior court.

23 (11) To take acknowledgments and proofs of deeds, mortgages and
24 all other instruments requiring acknowledgment under the laws of this
25 state, and to take affidavits and depositions in all cases.

26 (12) To provide an official seal, upon which shall be engraved
27 the words "Court Commissioner," and the name of the county for which
28 he or she may be appointed, and to authenticate his official acts
29 therewith in all cases where same is necessary.

30 (13) To charge and collect, for his or her own use, the same fees
31 for the official performance of official acts mentioned in
32 subsections (4) and (11) of this section as are provided by law for
33 referees and notaries public.

34 (14) To hear and determine small claims appeals as provided in
35 chapter 12.36 RCW.

36 (15) In adult criminal cases, to preside over arraignments,
37 preliminary appearances, initial extradition hearings, and
38 noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040;
39 accept pleas if authorized by local court rules; appoint counsel;
40 make determinations of probable cause; set, amend, and review

1 conditions of pretrial release; set bail; set trial and hearing
2 dates; authorize continuances; ~~((and))~~ accept waivers of the right to
3 speedy trial; and conduct resentencing hearings and to vacate
4 convictions pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021).

5 **Sec. 15.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to
6 read as follows:

7 (1) No person serving a sentence imposed pursuant to this chapter
8 and committed to the custody of the department shall leave the
9 confines of the correctional facility or be released prior to the
10 expiration of the sentence except as follows:

11 (a) An offender may earn early release time as authorized by RCW
12 9.94A.729;

13 (b) An offender may leave a correctional facility pursuant to an
14 authorized furlough or leave of absence. In addition, offenders may
15 leave a correctional facility when in the custody of a corrections
16 officer or officers;

17 (c)(i) The secretary may authorize an extraordinary medical
18 placement for an offender when all of the following conditions exist:

19 (A) The offender has a medical condition that is serious and is
20 expected to require costly care or treatment;

21 (B) The offender poses a low risk to the community because he or
22 she is currently physically incapacitated due to age or the medical
23 condition or is expected to be so at the time of release; and

24 (C) It is expected that granting the extraordinary medical
25 placement will result in a cost savings to the state.

26 (ii) An offender sentenced to death or to life imprisonment
27 without the possibility of release or parole is not eligible for an
28 extraordinary medical placement.

29 (iii) The secretary shall require electronic monitoring for all
30 offenders in extraordinary medical placement unless the electronic
31 monitoring equipment interferes with the function of the offender's
32 medical equipment or results in the loss of funding for the
33 offender's medical care, in which case, an alternative type of
34 monitoring shall be utilized. The secretary shall specify who shall
35 provide the monitoring services and the terms under which the
36 monitoring shall be performed.

37 (iv) The secretary may revoke an extraordinary medical placement
38 under this subsection (1)(c) at any time.

1 (v) Persistent offenders are not eligible for extraordinary
2 medical placement;

3 (d) The governor, upon recommendation from the clemency and
4 pardons board, may grant an extraordinary release for reasons of
5 serious health problems, senility, advanced age, extraordinary
6 meritorious acts, or other extraordinary circumstances;

7 (e) No more than the final twelve months of the offender's term
8 of confinement may be served in partial confinement for aiding the
9 offender with: Finding work as part of the work release program under
10 chapter 72.65 RCW; or reestablishing himself or herself in the
11 community as part of the parenting program in RCW 9.94A.6551. This is
12 in addition to that period of earned early release time that may be
13 exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

14 (f) No more than the final six months of the offender's term of
15 confinement may be served in partial confinement as home detention as
16 part of the graduated reentry program developed by the department
17 under RCW 9.94A.733;

18 (g) The governor may pardon any offender;

19 (h) The department may release an offender from confinement any
20 time within ten days before a release date calculated under this
21 section;

22 (i) An offender may leave a correctional facility prior to
23 completion of his or her sentence if the sentence has been reduced as
24 provided in RCW 9.94A.870;

25 (j) Notwithstanding any other provisions of this section, an
26 offender sentenced for a felony crime listed in RCW 9.94A.540 as
27 subject to a mandatory minimum sentence of total confinement shall
28 not be released from total confinement before the completion of the
29 listed mandatory minimum sentence for that felony crime of conviction
30 unless allowed under RCW 9.94A.540; and

31 (k) Any person convicted of one or more crimes committed prior to
32 the person's eighteenth birthday may be released from confinement
33 pursuant to RCW 9.94A.730.

34 (2) Notwithstanding any other provision of this section, an
35 offender entitled to vacation of a conviction or the recalculation of
36 his or her offender score pursuant to *State v. Blake*, No. 96873-0
37 (Feb. 25, 2021), may be released from confinement pursuant to a court
38 order if the offender has already served a period of confinement that
39 exceeds his or her new standard range. This provision does not create

1 an independent right to release from confinement prior to
2 resentencing.

3 (3) Offenders residing in a juvenile correctional facility
4 placement pursuant to RCW 72.01.410(1)(a) are not subject to the
5 limitations in this section.

6 NEW SECTION. **Sec. 16.** The *State v. Blake* reimbursement account
7 is created in the state treasury. Moneys in the account may be spent
8 only after appropriation. Expenditures from the account may be used
9 only for state and local government costs resulting from the supreme
10 court's decision in *State v. Blake* and to reimburse individuals for
11 legal financial obligations paid in connection with sentences that
12 have been invalidated as a result of the decision in *State v. Blake*.

13 **PART V**

14 **ELIMINATION OF CRIMINAL PENALTIES FOR PERSONAL USE AMOUNTS OF**
15 **CONTROLLED SUBSTANCES, COUNTERFEIT SUBSTANCES, AND LEGEND DRUGS**

16 **Sec. 17.** RCW 69.50.4011 and 2003 c 53 s 332 are each amended to
17 read as follows:

18 (1) Except as authorized by this chapter, it is unlawful for
19 ~~((any))~~:

20 (a) Any person to create(~~(r)~~) or deliver(~~(r—or—possess)~~) a
21 counterfeit substance;

22 (b) Any person to knowingly possess more than a personal use
23 amount of a counterfeit substance; or

24 (c) A person under the age of 21 to knowingly possess a
25 counterfeit substance of any amount.

26 (2) Any person who violates subsection (1)(a) of this section
27 with respect to:

28 (a) A counterfeit substance classified in Schedule I or II which
29 is a narcotic drug, or flunitrazepam classified in Schedule IV, is
30 guilty of a class B felony and upon conviction may be imprisoned for
31 not more than ten years, fined not more than twenty-five thousand
32 dollars, or both;

33 (b) A counterfeit substance which is methamphetamine, is guilty
34 of a class B felony and upon conviction may be imprisoned for not
35 more than ten years, fined not more than twenty-five thousand
36 dollars, or both;

1 (c) Any other counterfeit substance classified in Schedule I, II,
2 or III, is guilty of a class C felony punishable according to chapter
3 9A.20 RCW;

4 (d) A counterfeit substance classified in Schedule IV, except
5 flunitrazepam, is guilty of a class C felony punishable according to
6 chapter 9A.20 RCW;

7 (e) A counterfeit substance classified in Schedule V, is guilty
8 of a class C felony punishable according to chapter 9A.20 RCW.

9 (3) Any person who violates subsection (1)(b) or (c) of this
10 section is guilty of a gross misdemeanor. Where a case is legally
11 sufficient, the prosecutor shall divert the case for treatment if the
12 alleged violation involving possession is the person's first or
13 second violation. On a person's third and subsequent violation
14 involving possession, the prosecutor may divert the case for
15 treatment.

16 (4) A person 21 years of age or older who possesses a counterfeit
17 substance in an amount that does not exceed the applicable personal
18 use amount may be referred to a local diversion program for
19 connection to substance use disorder resources.

20 **Sec. 18.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to
21 read as follows:

22 (1) (~~It is unlawful for any person to possess a controlled~~
23 ~~substance unless~~) Unless the substance was obtained directly from,
24 or pursuant to, a valid prescription or order of a practitioner while
25 acting in the course of his or her professional practice, or except
26 as otherwise authorized by this chapter, it is unlawful for:

27 (a) Any person to knowingly possess more than a personal use
28 amount of a controlled substance; or

29 (b) A person under the age of 21 to knowingly possess a
30 controlled substance of any amount.

31 (2) Except as provided in RCW 69.50.4014, any person who violates
32 this section is guilty of a (~~class C felony~~) gross misdemeanor
33 punishable under chapter 9A.20 RCW.

34 (3) A person 21 years of age or older who possesses a controlled
35 substance in an amount that does not exceed the applicable personal
36 use amount may be referred to a local diversion program for
37 connection to substance use disorder resources.

38 (4)(a) The possession, by a person twenty-one years of age or
39 older, of useable marijuana, marijuana concentrates, or marijuana-

1 infused products in amounts that do not exceed those set forth in RCW
2 69.50.360(3) is not a violation of this section, this chapter, or any
3 other provision of Washington state law.

4 (b) The possession of marijuana, useable marijuana, marijuana
5 concentrates, and marijuana-infused products being physically
6 transported or delivered within the state, in amounts not exceeding
7 those that may be established under RCW 69.50.385(3), by a licensed
8 employee of a common carrier when performing the duties authorized in
9 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
10 this section, this chapter, or any other provision of Washington
11 state law.

12 (~~(4)~~) (5)(a) The delivery by a person twenty-one years of age
13 or older to one or more persons twenty-one years of age or older,
14 during a single twenty-four hour period, for noncommercial purposes
15 and not conditioned upon or done in connection with the provision or
16 receipt of financial consideration, of any of the following marijuana
17 products, is not a violation of this section, this chapter, or any
18 other provisions of Washington state law:

19 (i) One-half ounce of useable marijuana;

20 (ii) Eight ounces of marijuana-infused product in solid form;

21 (iii) Thirty-six ounces of marijuana-infused product in liquid
22 form; or

23 (iv) Three and one-half grams of marijuana concentrates.

24 (b) The act of delivering marijuana or a marijuana product as
25 authorized under this subsection (~~(4)~~) (5) must meet one of the
26 following requirements:

27 (i) The delivery must be done in a location outside of the view
28 of general public and in a nonpublic place; or

29 (ii) The marijuana or marijuana product must be in the original
30 packaging as purchased from the marijuana retailer.

31 (~~(5)~~) (6) No person under twenty-one years of age may possess,
32 manufacture, sell, or distribute marijuana, marijuana-infused
33 products, or marijuana concentrates, regardless of THC concentration.
34 This does not include qualifying patients with a valid authorization.

35 (~~(6)~~) (7) The possession by a qualifying patient or designated
36 provider of marijuana concentrates, useable marijuana, marijuana-
37 infused products, or plants in accordance with chapter 69.51A RCW is
38 not a violation of this section, this chapter, or any other provision
39 of Washington state law.

1 **Sec. 19.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to
2 read as follows:

3 (1) ~~((~~It~~))~~ Except as provided in subsection (2) of this section,
4 it shall be unlawful for ((any)):

5 (a) Any person to sell(~~(r)~~) or deliver(~~(, or possess)~~) any legend
6 drug (~~(except)~~);

7 (b) Any person to knowingly possess more than a personal use
8 amount of any legend drug; or

9 (c) A person under the age of 21 to knowingly possess a legend
10 drug of any amount.

11 (2) The sale, delivery, or possession of a legend drug does not
12 constitute a violation of this section upon the order or prescription
13 of a physician under chapter 18.71 RCW, an osteopathic physician and
14 surgeon under chapter 18.57 RCW, an optometrist licensed under
15 chapter 18.53 RCW who is certified by the optometry board under RCW
16 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
17 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
18 18.92 RCW, a commissioned medical or dental officer in the United
19 States armed forces or public health service in the discharge of his
20 or her official duties, a duly licensed physician or dentist employed
21 by the veterans administration in the discharge of his or her
22 official duties, a registered nurse or advanced registered nurse
23 practitioner under chapter 18.79 RCW when authorized by the nursing
24 care quality assurance commission, a pharmacist licensed under
25 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
26 or protocols established under RCW 18.64.011 and authorized by the
27 commission and approved by a practitioner authorized to prescribe
28 drugs, a physician assistant under chapter 18.71A RCW when authorized
29 by the Washington medical commission, or any of the following
30 professionals in any province of Canada that shares a common border
31 with the state of Washington or in any state of the United States: A
32 physician licensed to practice medicine and surgery or a physician
33 licensed to practice osteopathic medicine and surgery, a dentist
34 licensed to practice dentistry, a podiatric physician and surgeon
35 licensed to practice podiatric medicine and surgery, a licensed
36 advanced registered nurse practitioner, a licensed physician
37 assistant, or a veterinarian licensed to practice veterinary
38 medicine: PROVIDED, HOWEVER, That the above provisions shall not
39 apply to sale, delivery, or possession by drug wholesalers or drug
40 manufacturers, or their agents or employees, or to any practitioner

1 acting within the scope of his or her license, or to a common or
2 contract carrier or warehouse operator, or any employee thereof,
3 whose possession of any legend drug is in the usual course of
4 business or employment: PROVIDED FURTHER, That nothing in this
5 chapter or chapter 18.64 RCW shall prevent a family planning clinic
6 that is under contract with the health care authority from selling,
7 delivering, possessing, and dispensing commercially prepackaged oral
8 contraceptives prescribed by authorized, licensed health care
9 practitioners: PROVIDED FURTHER, That nothing in this chapter
10 prohibits possession or delivery of legend drugs by an authorized
11 collector or other person participating in the operation of a drug
12 take-back program authorized in chapter 69.48 RCW.

13 ~~((2))~~ (3)(a) A violation of this section involving the sale,
14 delivery, or possession with intent to sell or deliver is a class B
15 felony punishable according to chapter 9A.20 RCW.

16 (b) A violation of this section involving possession is a
17 misdemeanor. Where a case is legally sufficient, the prosecutor shall
18 divert the case for treatment if the alleged violation involving
19 possession is the person's first or second violation. On a person's
20 third and subsequent violation involving possession, the prosecutor
21 may divert the case for treatment.

22 (4) A person 21 years of age or older who possesses a legend drug
23 in an amount that does not exceed the applicable personal use amount
24 may be referred to a local diversion program for connection to
25 substance use disorder resources.

26 **Sec. 20.** RCW 69.50.445 and 2015 2nd sp.s. c 4 s 401 are each
27 amended to read as follows:

28 (1) It is unlawful to open a package containing marijuana,
29 useable marijuana, marijuana-infused products, or marijuana
30 concentrates, or consume marijuana, useable marijuana, marijuana-
31 infused products, or marijuana concentrates, in view of the general
32 public or in a public place.

33 (2) It is unlawful to open a package containing an unauthorized
34 controlled substance or consume an unauthorized controlled substance
35 in view of the general public or in a public place.

36 (3) For the purposes of this section, "public place" has the same
37 meaning as defined in RCW 66.04.010, but the exclusions in RCW
38 66.04.011 do not apply.

ADOPTED AS AMENDED 04/15/2021

1 On page 1, line 1 of the title, after "Relating to" strike the
2 remainder of the title and insert "responding to the *State v. Blake*
3 decision by addressing justice system responses and behavioral health
4 prevention, treatment, and related services for individuals using or
5 possessing controlled substances, counterfeit substances, and legend
6 drugs; amending RCW 69.50.4011, 69.50.4013, 69.50.412, 69.41.030,
7 69.41.030, 69.41.010, 69.50.101, 2.24.010, 2.24.040, 9.94A.728,
8 69.50.4011, 69.50.4013, 69.41.030, and 69.50.445; reenacting and
9 amending RCW 69.41.010 and 69.50.101; adding a new section to chapter
10 71.24 RCW; adding a new section to chapter 41.05 RCW; creating new
11 sections; prescribing penalties; providing an effective date;
12 providing a contingent effective date; providing expiration dates;
13 providing a contingent expiration date; and declaring an emergency."

EFFECT: (1) Amends the title;

(2) Adds intent statement, including intent to increase funding for substance use disorder treatment programs;

(3) Reinstates criminal penalties for possession of personal use amounts of controlled substances, counterfeit substances, and legend drugs;

(4) Decreases criminal penalty for possession of controlled substances and counterfeit substances from a felony to a gross misdemeanor;

(5) Requires the prosecutor to divert a person's first and second violations for possession of a controlled substance, counterfeit substance, or legend drug and encourages diversion thereafter when agreed by the prosecutor;

(6) Retains provisions removing criminal penalties for possessing drug paraphernalia for personal use;

(7) Removes provision directing funds from the civil infraction be deposited in the *State v. Blake* reimbursement account;

(8) Requires the Health Care Authority (HCA) to adopt rules establishing maximum personal use amounts of controlled substances by October 1, 2022;

(9) Defines personal use amount in statute as the amounts established by the HCA;

(10) Requires the HCA to establish the substance use recovery services advisory committee to make recommendations for implementation of a substance use recovery services plan, including recommended reforms to the law;

(11) Authorizes the presiding judge of the superior court of any county in the state to appoint court commissioners to assist the court with adult criminal cases, including the authority to conduct

resentencing hearings and vacate convictions pursuant to *State v. Blake*;

(12) Clarifies a person may be released from confinement if *State v. Blake* results in vacation of the person's conviction or resentencing and the person has served a term of confinement in excess of the new sentence;

(13) If the legislature does not act by July 1, 2023, institutes provisions removing criminal penalties for possession of a personal use amount of a controlled substance, counterfeit substance, or legend drug for persons 21 years of age or older and creating a civil infraction for using controlled substances in public.

--- END ---