
HOUSE BILL 1463

State of Washington

67th Legislature

2021 Regular Session

By Representatives Davis, Klippert, Ryu, Sutherland, Dent, Ramel, Walen, Ortiz-Self, Callan, Pollet, and Eslick

Read first time 02/02/21. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to addressing serious mental health consequences
2 of high-potency cannabis products by regulating the sale of cannabis
3 concentrates; amending RCW 69.50.375 and 69.50.325; reenacting and
4 amending RCW 69.50.357; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that high-
7 potency marijuana products are increasingly prevalent in the market.
8 Whereas the THC concentration of marijuana-infused edible products is
9 limited to 10 percent by state law and the THC concentration of
10 marijuana flower is biologically limited, there is currently no limit
11 on the potency of marijuana concentrates such as THC-infused vape
12 oils. High-potency marijuana products are readily available with a
13 THC concentration of almost 100 percent. Prior to Washington
14 legalizing marijuana sales, many of these extremely high-potency
15 products did not exist or were not widely available. By 2019, sales
16 of high-potency marijuana concentrates had grown to nearly 40 percent
17 of total sales of marijuana products.

18 (2) The legislature also finds that Washington state's most
19 prominent cannabis researchers at the University of Washington and
20 Washington State University recently released a consensus statement
21 about the health risks posed by high-potency cannabis products. That

1 statement summarizes the best available science: "Use of cannabis
2 with high THC concentration increases the chances of developing
3 cannabis use disorder or addiction to cannabis, particularly among
4 adolescents. High-potency cannabis use can have lifelong mental
5 health consequences, which often manifest in adolescence or early
6 adulthood. Daily cannabis use, particularly of high-potency products,
7 increases the risk of developing a psychotic disorder, like
8 schizophrenia, and is related to an earlier onset of symptoms
9 compared to people who do not use cannabis."

10 (3) The legislature, therefore, intends to protect public health
11 and safety by limiting the potency of cannabis concentrates and
12 raising the age of purchase for cannabis concentrates.

13 **Sec. 2.** RCW 69.50.357 and 2017 c 317 s 13 and 2017 c 131 s 1 are
14 each reenacted and amended to read as follows:

15 (1)(a) Retail outlets may not sell products or services other
16 than marijuana concentrates, useable marijuana, marijuana-infused
17 products, or paraphernalia intended for the storage or use of
18 marijuana concentrates, useable marijuana, or marijuana-infused
19 products.

20 (b) Except as provided in RCW 69.50.375(5), retail outlets may
21 not:

22 (i) Sell marijuana concentrates with a THC concentration greater
23 than 30 percent; or

24 (ii) Sell marijuana concentrates to a person who is under 25
25 years of age.

26 (c)(i) Retail outlets may receive lockable boxes, intended for
27 the secure storage of marijuana products and paraphernalia, and
28 related literature as a donation from another person or entity, that
29 is not a marijuana producer, processor, or retailer, for donation to
30 their customers.

31 (ii) Retail outlets may donate the lockable boxes and provide the
32 related literature to any person eligible to purchase marijuana
33 products under subsection (2) of this section. Retail outlets may not
34 use the donation of lockable boxes or literature as an incentive or
35 as a condition of a recipient's purchase of a marijuana product or
36 paraphernalia.

37 (iii) Retail outlets may also purchase and sell lockable boxes,
38 provided that the sales price is not less than the cost of
39 acquisition.

1 (2) Licensed marijuana retailers may not employ persons under
2 twenty-one years of age or allow persons under twenty-one years of
3 age to enter or remain on the premises of a retail outlet. However,
4 qualifying patients between eighteen and twenty-one years of age with
5 a recognition card may enter and remain on the premises of a retail
6 outlet holding a medical marijuana endorsement and may purchase
7 products for their personal medical use. Qualifying patients who are
8 under the age of eighteen with a recognition card and who accompany
9 their designated providers may enter and remain on the premises of a
10 retail outlet holding a medical marijuana endorsement, but may not
11 purchase products for their personal medical use.

12 (3)(a) Licensed marijuana retailers must ensure that all
13 employees are trained on the rules adopted to implement this chapter,
14 identification of persons under the age of twenty-one, and other
15 requirements adopted by the state liquor and cannabis board to ensure
16 that persons under the age of twenty-one are not permitted to enter
17 or remain on the premises of a retail outlet.

18 (b) Licensed marijuana retailers with a medical marijuana
19 endorsement must ensure that all employees are trained on the
20 subjects required by (a) of this subsection as well as identification
21 of authorizations and recognition cards. Employees must also be
22 trained to permit qualifying patients who hold recognition cards and
23 are between the ages of eighteen and twenty-one to enter the premises
24 and purchase marijuana for their personal medical use and to permit
25 qualifying patients who are under the age of eighteen with a
26 recognition card to enter the premises if accompanied by their
27 designated providers.

28 (4) Except for the purposes of disposal as authorized by the
29 state liquor and cannabis board, no licensed marijuana retailer or
30 employee of a retail outlet may open or consume, or allow to be
31 opened or consumed, any marijuana concentrates, useable marijuana, or
32 marijuana-infused product on the outlet premises.

33 (5) The state liquor and cannabis board must fine a licensee one
34 thousand dollars for each violation of any subsection of this
35 section. Fines collected under this section must be deposited into
36 the dedicated marijuana account created under RCW 69.50.530.

37 **Sec. 3.** RCW 69.50.375 and 2015 c 70 s 10 are each amended to
38 read as follows:

1 (1) A medical marijuana endorsement to a marijuana retail license
2 is hereby established to permit a marijuana retailer to sell
3 marijuana for medical use to qualifying patients and designated
4 providers. This endorsement also permits such retailers to provide
5 marijuana at no charge, at their discretion, to qualifying patients
6 and designated providers.

7 (2) An applicant may apply for a medical marijuana endorsement
8 concurrently with an application for a marijuana retail license.

9 (3) To be issued an endorsement, a marijuana retailer must:

10 (a) Not authorize the medical use of marijuana for qualifying
11 patients at the retail outlet or permit health care professionals to
12 authorize the medical use of marijuana for qualifying patients at the
13 retail outlet;

14 (b) Carry marijuana concentrates and marijuana-infused products
15 identified by the department under subsection (4) of this section;

16 (c) Not use labels or market marijuana concentrates, useable
17 marijuana, or marijuana-infused products in a way that make them
18 intentionally attractive to minors;

19 (d) Demonstrate the ability to enter qualifying patients and
20 designated providers in the medical marijuana authorization database
21 established in RCW 69.51A.230 and issue recognition cards and agree
22 to enter qualifying patients and designated providers into the
23 database and issue recognition cards in compliance with department
24 standards;

25 (e) Keep copies of the qualifying patient's or designated
26 provider's recognition card, or keep equivalent records as required
27 by rule of the state liquor and cannabis board or the department of
28 revenue to document the validity of tax exempt sales; and

29 (f) Meet other requirements as adopted by rule of the department
30 or the state liquor and cannabis board.

31 (4) The department, in conjunction with the state liquor and
32 cannabis board, must adopt rules on requirements for marijuana
33 concentrates, useable marijuana, and marijuana-infused products that
34 may be sold, or provided at no charge, to qualifying patients or
35 designated providers at a retail outlet holding a medical marijuana
36 endorsement. These rules must include:

37 (a) THC concentration, CBD concentration, or low THC, high CBD
38 ratios appropriate for marijuana concentrates, useable marijuana, or
39 marijuana-infused products sold to qualifying patients or designated
40 providers;

1 (b) Labeling requirements including that the labels attached to
2 marijuana concentrates, useable marijuana, or marijuana-infused
3 products contain THC concentration, CBD concentration, and THC to CBD
4 ratios;

5 (c) Other product requirements, including any additional mold,
6 fungus, or pesticide testing requirements, or limitations to the
7 types of solvents that may be used in marijuana processing that the
8 department deems necessary to address the medical needs of qualifying
9 patients;

10 (d) Safe handling requirements for marijuana concentrates,
11 useable marijuana, or marijuana-infused products; and

12 (e) Training requirements for employees.

13 (5) Only marijuana retailers who hold a medical marijuana
14 endorsement issued under this section may:

15 (a) Sell marijuana concentrates with a THC concentration greater
16 than 30 percent. Marijuana concentrates with a THC concentration
17 greater than 30 percent may be sold only to qualifying patients and
18 designated providers who are entered into the medical marijuana
19 authorization database and who hold a valid recognition card; or

20 (b) Sell marijuana concentrates to a person under 25 years of
21 age. A marijuana retailer with an endorsement may not sell marijuana
22 concentrates to a person under 25 years of age unless the person is
23 entered into the medical marijuana authorization database and holds a
24 valid recognition card.

25 (6) A marijuana retailer holding an endorsement to sell marijuana
26 to qualifying patients or designated providers must train its
27 employees on:

28 (a) Procedures regarding the recognition of valid authorizations
29 and the use of equipment to enter qualifying patients and designated
30 providers into the medical marijuana authorization database;

31 (b) Recognition of valid recognition cards; and

32 (c) Recognition of strains, varieties, THC concentration, CBD
33 concentration, and THC to CBD ratios of marijuana concentrates,
34 useable marijuana, and marijuana-infused products, available for sale
35 when assisting qualifying patients and designated providers at the
36 retail outlet.

37 **Sec. 4.** RCW 69.50.325 and 2020 c 236 s 6 are each amended to
38 read as follows:

1 (1) There shall be a marijuana producer's license regulated by
2 the board and subject to annual renewal. The licensee is authorized
3 to produce: (a) Marijuana for sale at wholesale to marijuana
4 processors and other marijuana producers; (b) immature plants or
5 clones and seeds for sale to cooperatives as described under RCW
6 69.51A.250; and (c) immature plants or clones and seeds for sale to
7 qualifying patients and designated providers as provided under RCW
8 69.51A.310. The production, possession, delivery, distribution, and
9 sale of marijuana in accordance with the provisions of this chapter
10 and the rules adopted to implement and enforce it, by a validly
11 licensed marijuana producer, shall not be a criminal or civil offense
12 under Washington state law. Every marijuana producer's license shall
13 be issued in the name of the applicant, shall specify the location at
14 which the marijuana producer intends to operate, which must be within
15 the state of Washington, and the holder thereof shall not allow any
16 other person to use the license. The application fee for a marijuana
17 producer's license shall be two hundred fifty dollars. The annual fee
18 for issuance and renewal of a marijuana producer's license shall be
19 one thousand three hundred eighty-one dollars. A separate license
20 shall be required for each location at which a marijuana producer
21 intends to produce marijuana.

22 (2) There shall be a marijuana processor's license to process,
23 package, and label marijuana concentrates, useable marijuana, and
24 marijuana-infused products for sale at wholesale to marijuana
25 processors and marijuana retailers, regulated by the board and
26 subject to annual renewal. The processing, packaging, possession,
27 delivery, distribution, and sale of marijuana, useable marijuana,
28 marijuana-infused products, and marijuana concentrates in accordance
29 with the provisions of this chapter and chapter 69.51A RCW and the
30 rules adopted to implement and enforce these chapters, by a validly
31 licensed marijuana processor, shall not be a criminal or civil
32 offense under Washington state law. Every marijuana processor's
33 license shall be issued in the name of the applicant, shall specify
34 the location at which the licensee intends to operate, which must be
35 within the state of Washington, and the holder thereof shall not
36 allow any other person to use the license. The application fee for a
37 marijuana processor's license shall be two hundred fifty dollars. The
38 annual fee for issuance and renewal of a marijuana processor's
39 license shall be one thousand three hundred eighty-one dollars. A
40 separate license shall be required for each location at which a

1 marijuana processor intends to process marijuana. A marijuana
2 processor may process, package, possess, deliver, distribute, and
3 sell marijuana concentrates with a THC concentration greater than 30
4 percent only when the marijuana concentrates are intended for sale to
5 a marijuana retailer with a medical marijuana endorsement who will
6 sell the products at retail as provided in RCW 69.50.375.

7 (3) (a) There shall be a marijuana retailer's license to sell
8 marijuana concentrates, useable marijuana, and marijuana-infused
9 products at retail in retail outlets, regulated by the board and
10 subject to annual renewal. The possession, delivery, distribution,
11 and sale of marijuana concentrates, useable marijuana, and marijuana-
12 infused products in accordance with the provisions of this chapter
13 and the rules adopted to implement and enforce it, by a validly
14 licensed marijuana retailer, shall not be a criminal or civil offense
15 under Washington state law. Every marijuana retailer's license shall
16 be issued in the name of the applicant, shall specify the location of
17 the retail outlet the licensee intends to operate, which must be
18 within the state of Washington, and the holder thereof shall not
19 allow any other person to use the license. The application fee for a
20 marijuana retailer's license shall be two hundred fifty dollars. The
21 annual fee for issuance and renewal of a marijuana retailer's license
22 shall be one thousand three hundred eighty-one dollars. A separate
23 license shall be required for each location at which a marijuana
24 retailer intends to sell marijuana concentrates, useable marijuana,
25 and marijuana-infused products.

26 (b) An individual retail licensee and all other persons or
27 entities with a financial or other ownership interest in the business
28 operating under the license are limited, in the aggregate, to holding
29 a collective total of not more than five retail marijuana licenses.

30 (c) (i) A marijuana retailer's license is subject to forfeiture in
31 accordance with rules adopted by the board pursuant to this section.

32 (ii) The board shall adopt rules to establish a license
33 forfeiture process for a licensed marijuana retailer that is not
34 fully operational and open to the public within a specified period
35 from the date of license issuance, as established by the board,
36 subject to the following restrictions:

37 (A) No marijuana retailer's license may be subject to forfeiture
38 within the first nine months of license issuance; and

39 (B) The board must require license forfeiture on or before
40 twenty-four calendar months of license issuance if a marijuana

1 retailer is not fully operational and open to the public, unless the
2 board determines that circumstances out of the licensee's control are
3 preventing the licensee from becoming fully operational and that, in
4 the board's discretion, the circumstances warrant extending the
5 forfeiture period beyond twenty-four calendar months.

6 (iii) The board has discretion in adopting rules under this
7 subsection (3)(c).

8 (iv) This subsection (3)(c) applies to marijuana retailer's
9 licenses issued before and after July 23, 2017. However, no license
10 of a marijuana retailer that otherwise meets the conditions for
11 license forfeiture established pursuant to this subsection (3)(c) may
12 be subject to forfeiture within the first nine calendar months of
13 July 23, 2017.

14 (v) The board may not require license forfeiture if the licensee
15 has been incapable of opening a fully operational retail marijuana
16 business due to actions by the city, town, or county with
17 jurisdiction over the licensee that include any of the following:

18 (A) The adoption of a ban or moratorium that prohibits the
19 opening of a retail marijuana business; or

20 (B) The adoption of an ordinance or regulation related to zoning,
21 business licensing, land use, or other regulatory measure that has
22 the effect of preventing a licensee from receiving an occupancy
23 permit from the jurisdiction or which otherwise prevents a licensed
24 marijuana retailer from becoming operational.

25 (d) The board may issue marijuana retailer licenses pursuant to
26 this chapter and RCW 69.50.335.

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