
SUBSTITUTE HOUSE BILL 1401

State of Washington

66th Legislature

2019 Regular Session

By House Commerce & Gaming (originally sponsored by Representatives Shea, Blake, Chandler, Walsh, Eslick, and Kloba)

1 AN ACT Relating to hemp production; amending RCW 69.50.204;
2 reenacting and amending RCW 69.50.101; adding a new chapter to Title
3 15 RCW; repealing RCW 15.120.005, 15.120.010, 15.120.020, 15.120.030,
4 15.120.035, 15.120.040, 15.120.050, and 15.120.060; making an
5 appropriation; providing an effective date; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature intends to:

9 (1) Authorize and establish a new licensing and regulatory
10 program for hemp production in this state in accordance with the
11 agriculture improvement act of 2018;

12 (2) Replace the industrial hemp research program in chapter
13 15.120 RCW, with the new licensing and regulatory program established
14 in this chapter, and enable hemp growers licensed under the
15 industrial hemp research program on the effective date of rules
16 implementing this chapter and regulating hemp production, to transfer
17 into the program created in this chapter; and

18 (3) Authorize the growing of hemp as a legal, agricultural
19 activity in this state. Hemp is an agricultural product that may be
20 legally grown, produced, processed, possessed, transferred,
21 commercially sold, and traded. Hemp and hemp products produced in

1 accordance with this chapter may be transferred and sold within the
2 state, outside of this state, and internationally. Nothing in this
3 chapter is intended to prevent or restrain commerce in this state
4 involving hemp or hemp products produced lawfully under the laws of
5 another state, tribe, or country.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Agriculture improvement act of 2018" means sections 7605,
10 10113, 10114, and 12619 of the agriculture improvement act of 2018,
11 P.L. 115-334.

12 (2) "Crop" means hemp grown as an agricultural commodity.

13 (3) "Cultivar" means a variation of the plant *Cannabis sativa L.*
14 that has been developed through cultivation by selective breeding.

15 (4) "Department" means the Washington state department of
16 agriculture.

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

22 (6) (a) "Industrial hemp" means all parts and varieties of the
23 genera *Cannabis*, cultivated or possessed by a grower, whether growing
24 or not, that contain a tetrahydrocannabinol concentration of 0.3
25 percent or less by dry weight that was grown under the industrial
26 hemp research program as it existed on December 31, 2019.

27 (b) "Industrial hemp" does not include plants of the genera
28 *Cannabis* that meet the definition of "marijuana" as defined in RCW
29 69.50.101.

30 (7) "Postharvest test" means a test of delta-9
31 tetrahydrocannabinol concentration levels of hemp after being
32 harvested based on ground whole plant samples without heat applied.

33 (8) "Process" means the processing, compounding, or conversion of
34 hemp into hemp commodities or products.

35 (9) "Produce" means the planting, cultivation, growing, or
36 harvesting of hemp including hemp seed.

37 NEW SECTION. **Sec. 3.** (1) The department must develop an
38 agricultural commodity program to replace the industrial hemp

1 research pilot program in chapter 15.120 RCW, in accordance with the
2 agriculture improvement act of 2018.

3 (2) The department has sole regulatory authority over the
4 production of hemp and may adopt rules to implement this chapter. All
5 rules relating to hemp, including any testing of hemp, are outside of
6 the control and authority of the liquor and cannabis board.

7 (3) If the department adopts rules implementing this chapter that
8 are effective by June 1, 2019, persons licensed to grow hemp under
9 chapter 15.120 RCW may transfer into the regulatory program
10 established in this chapter, and continue hemp production under this
11 chapter. If the department adopts rules implementing this chapter
12 that are effective after June 1, 2019, people licensed to grow hemp
13 under chapter 15.120 RCW may continue hemp production under this
14 chapter as of the effective date of the rules.

15 NEW SECTION. **Sec. 4.** (1) The department must develop the
16 state's hemp plan to conform to the agriculture improvement act of
17 2018, to include consultation with the governor and the attorney
18 general and the plan elements required in the agriculture improvement
19 act of 2018.

20 (2) Consistent with subsection (1) of this section, the state's
21 hemp plan must include the following elements:

22 (a) A practice for hemp producers to maintain relevant
23 information regarding land on which hemp is produced, including a
24 legal description of the land, for a period of not less than three
25 calendar years;

26 (b) A procedure for testing, using postdecarboxylation or other
27 similarly reliable methods, delta-9 tetrahydrocannabinol
28 concentration levels of hemp, without the application of heat;

29 (c) A procedure for the effective disposal of plants, whether
30 growing or not, that are produced in violation of this chapter, and
31 products derived from such plants;

32 (d) A procedure for enforcement of violations of the plan and for
33 corrective action plans for licensees as required under the
34 agriculture improvement act of 2018;

35 (e) A procedure for conducting annual inspections of, at a
36 minimum, a random sample of hemp producers to verify hemp is not
37 produced in violation of this chapter; and

1 (f) A certification that the state has the resources and
2 personnel to carry out the practices and procedures described in this
3 section.

4 (3) The proposal for the state's plan may include any other
5 practice or procedure established to the extent the practice or
6 procedure is consistent with the agriculture improvement act of 2018.

7 NEW SECTION. **Sec. 5.** The department must develop a postharvest
8 test protocol for testing hemp under this chapter that includes
9 testing of whole plant samples or other testing protocol identified
10 in regulations established by the United States department of
11 agriculture, including the testing procedures for delta-9
12 tetrahydrocannabinol concentration levels of hemp produced by growers
13 under the state plan.

14 NEW SECTION. **Sec. 6.** (1) The department must issue hemp
15 producer licenses to applicants qualified under this chapter and the
16 agriculture improvement act of 2018. The department may adopt rules
17 pursuant to this chapter and chapter 34.05 RCW as necessary to
18 license persons to grow hemp under a commercial hemp program.

19 (2) The plan must identify qualifications for license applicants,
20 to include adults and corporate persons and to exclude persons with
21 felony convictions as required under the agriculture improvement act
22 of 2018.

23 (3) The department must establish license fees in an amount that
24 will fund the implementation of this chapter and sustain the hemp
25 program. The department may adopt rules establishing fees for
26 tetrahydrocannabinol testing, inspections, and additional services
27 required by the United States department of agriculture. License fees
28 and any money received by the department under this chapter must be
29 deposited in the hemp regulatory account created in section 8 of this
30 act.

31 NEW SECTION. **Sec. 7.** (1) The hemp authorized for production
32 under this chapter must be propagated through certified,
33 conventionally bred pedigreed seeds as determined by the department
34 through its rule-making authority and as provided in this section.
35 Except when grown by an accredited agricultural research institution
36 or by a registered seed breeder developing a new Washington seed
37 cultivar, hemp must be grown only from seed types identified on a

1 list of approved seed cultivars to be established by the department
2 by rule.

3 (2) In addition to the hemp seed approvals identified in
4 subsection (1) of this section, until January 1, 2022, a licensed
5 hemp producer may produce hemp from any cultivar brought into this
6 state that has planting, growth, and stability records covering at
7 least three years. Any such cultivar is deemed approved for planting.

8 (3) Hemp seeds are subject to the provisions and requirements of
9 RCW 15.49.370, which establishes the general regulatory authority of
10 the department with respect to agricultural seeds. Under this
11 authority, the department may sample, inspect, analyze, and generally
12 regulate the hemp seeds used by licensed growers in this state. The
13 department may also charge fees and special assessments to licensed
14 growers, as established by rule, related to the inspection, testing,
15 and certification of hemp seeds.

16 (4) For the purposes of this chapter and RCW 15.49.370, hemp seed
17 samples collected for inspection and testing purposes must be
18 directly taken into the custody of an authorized employee of the
19 department. Following collection, the department employee must
20 package and transport the seeds in a manner that ensures that the
21 integrity of the sample is maintained until delivery to the testing
22 facility.

23 (5) The department is not responsible for:

24 (a) Determining whether a specific hemp product has been derived
25 from approved hemp cultivars; or

26 (b) Taking any enforcement action requiring the determination of
27 whether a hemp product has been derived from approved hemp cultivars.

28 NEW SECTION. **Sec. 8.** The hemp regulatory account is created in
29 the custody of the state treasurer. All receipts from licensing fees
30 established under this chapter must be deposited into the account.
31 Expenditures from the account may be used only for implementing this
32 chapter. Only the director of the state department of agriculture or
33 the director's designee may authorize expenditures from the account.
34 The account is subject to allotment procedures under chapter 43.88
35 RCW, but an appropriation is not required for expenditures.

36 NEW SECTION. **Sec. 9.** Washington State University must develop
37 and make accessible an internet-based application designed to assist

1 hemp producers by providing regional communications concerning
2 recommended planting times for hemp crops in this state.

3 NEW SECTION. **Sec. 10.** (1) There is no distance requirement,
4 limitation, or buffer zone between any licensed hemp producer or hemp
5 processing facility licensed or authorized under this chapter and any
6 marijuana producer or marijuana processor licensed under chapter
7 69.50 RCW. No rule may establish such a distance requirement,
8 limitation, or buffer zone.

9 (2) Notwithstanding subsection (1) of this section, in an effort
10 to prevent cross-pollination between hemp plants produced under this
11 chapter and marijuana plants produced under chapter 69.50 RCW, the
12 department, in consultation with the liquor and cannabis board, must
13 review the state's policy regarding cross-pollination and pollen
14 capture to ensure an appropriate policy is in place, and must modify
15 policies or establish new policies as appropriate. Under any such
16 policy, when a documented conflict involving cross-pollination exists
17 between two farms or production facilities growing or producing hemp
18 or marijuana, the farm or production facility operating first in time
19 shall have the right to continue operating and the farm or production
20 facility operating second in time must cease growing or producing
21 hemp or marijuana, as applicable.

22 NEW SECTION. **Sec. 11.** (1) The department must use expedited
23 rule making to adopt the state hemp plan submitted to the United
24 States department of agriculture upon receipt of approval of the plan
25 by the United States department of agriculture. As allowed under this
26 section, rule making by the department to adopt the approved hemp
27 plan qualifies as expedited rule making under RCW 34.05.353. Upon the
28 approval of the plan by the United States department of agriculture,
29 the department may conduct initial expedited rule making under RCW
30 34.05.353 to establish rules to allow hemp licenses to be issued
31 without delay.

32 (2) On the effective date of rules adopted by the department
33 regulating hemp production under chapter 15.--- RCW (the new chapter
34 created in section 16 of this act), a licensed hemp grower under this
35 chapter may immediately produce hemp pursuant to chapter 15.--- RCW
36 (the new chapter created in section 16 of this act) with all the
37 privileges of a hemp producer licensed under chapter 15.--- RCW (the
38 new chapter created in section 16 of this act).

1 **Sec. 12.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and
2 amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

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

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

16 (c) "CBD concentration" has the meaning provided in RCW
17 69.51A.010.

18 (d) "CBD product" means any product containing or consisting of
19 cannabidiol.

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

21 (f) "Controlled substance" means a drug, substance, or immediate
22 precursor included in Schedules I through V as set forth in federal
23 or state laws, or federal or commission rules, but does not include
24 hemp or industrial hemp as defined in ((RCW 15.120.010)) section 2 of
25 this act.

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

29 (i) that has a stimulant, depressant, or hallucinogenic effect on
30 the central nervous system substantially similar to the stimulant,
31 depressant, or hallucinogenic effect on the central nervous system of
32 a controlled substance included in Schedule I or II; or

33 (ii) with respect to a particular individual, that the individual
34 represents or intends to have a stimulant, depressant, or
35 hallucinogenic effect on the central nervous system substantially
36 similar to the stimulant, depressant, or hallucinogenic effect on the
37 central nervous system of a controlled substance included in Schedule
38 I or II.

39 (2) The term does not include:

40 (i) a controlled substance;

1 (ii) a substance for which there is an approved new drug
2 application;

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

8 (iv) any substance to the extent not intended for human
9 consumption before an exemption takes effect with respect to the
10 substance.

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

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

15 (j) "Designated provider" has the meaning provided in RCW
16 69.51A.010.

17 (k) "Dispense" means the interpretation of a prescription or
18 order for a controlled substance and, pursuant to that prescription
19 or order, the proper selection, measuring, compounding, labeling, or
20 packaging necessary to prepare that prescription or order for
21 delivery.

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

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

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

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

37 (p) "Drug enforcement administration" means the drug enforcement
38 administration in the United States Department of Justice, or its
39 successor agency.

1 (q) "Electronic communication of prescription information" means
2 the transmission of a prescription or refill authorization for a drug
3 of a practitioner using computer systems. The term does not include a
4 prescription or refill authorization verbally transmitted by
5 telephone nor a facsimile manually signed by the practitioner.

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

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

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

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

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

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

23 (u) "Lot" means a definite quantity of marijuana, marijuana
24 concentrates, useable marijuana, or marijuana-infused product
25 identified by a lot number, every portion or package of which is
26 uniform within recognized tolerances for the factors that appear in
27 the labeling.

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

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

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

4 (2) by a practitioner, or by the practitioner's authorized agent
5 under the practitioner's supervision, for the purpose of, or as an
6 incident to, research, teaching, or chemical analysis and not for
7 sale.

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

14 (1) The mature stalks of the plant, fiber produced from the
15 stalks, oil or cake made from the seeds of the plant, any other
16 compound, manufacture, salt, derivative, mixture, or preparation of
17 the mature stalks (except the resin extracted therefrom), fiber, oil,
18 or cake, or the sterilized seed of the plant which is incapable of
19 germination; or

20 (2) (~~Industrial hemp as defined in RCW 15.120.010~~) Hemp or
21 industrial hemp as defined in section 2 of this act, seeds used for
22 licensed hemp production under chapter 15.--- RCW (the new chapter
23 created in section 16 of this act).

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

27 (z) "Marijuana processor" means a person licensed by the state
28 liquor and cannabis board to process marijuana into marijuana
29 concentrates, useable marijuana, and marijuana-infused products,
30 package and label marijuana concentrates, useable marijuana, and
31 marijuana-infused products for sale in retail outlets, and sell
32 marijuana concentrates, useable marijuana, and marijuana-infused
33 products at wholesale to marijuana retailers.

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

37 (bb) "Marijuana products" means useable marijuana, marijuana
38 concentrates, and marijuana-infused products as defined in this
39 section.

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

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

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

14 (ff) "Narcotic drug" means any of the following, whether produced
15 directly or indirectly by extraction from substances of vegetable
16 origin, or independently by means of chemical synthesis, or by a
17 combination of extraction and chemical synthesis:

18 (1) Opium, opium derivative, and any derivative of opium or opium
19 derivative, including their salts, isomers, and salts of isomers,
20 whenever the existence of the salts, isomers, and salts of isomers is
21 possible within the specific chemical designation. The term does not
22 include the isoquinoline alkaloids of opium.

23 (2) Synthetic opiate and any derivative of synthetic opiate,
24 including their isomers, esters, ethers, salts, and salts of isomers,
25 esters, and ethers, whenever the existence of the isomers, esters,
26 ethers, and salts is possible within the specific chemical
27 designation.

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

29 (4) Coca leaves, except coca leaves and extracts of coca leaves
30 from which cocaine, ecgonine, and derivatives or ecgonine or their
31 salts have been removed.

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

33 (6) Cocaine base.

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

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

38 (gg) "Opiate" means any substance having an addiction-forming or
39 addiction-sustaining liability similar to morphine or being capable
40 of conversion into a drug having addiction-forming or addiction-

1 sustaining liability. The term includes opium, substances derived
2 from opium (opium derivatives), and synthetic opiates. The term does
3 not include, unless specifically designated as controlled under RCW
4 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
5 and its salts (dextromethorphan). The term includes the racemic and
6 levorotatory forms of dextromethorphan.

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

9 (ii) "Person" means individual, corporation, business trust,
10 estate, trust, partnership, association, joint venture, government,
11 governmental subdivision or agency, or any other legal or commercial
12 entity.

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

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

16 (ll) "Practitioner" means:

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

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

39 (3) A physician licensed to practice medicine and surgery, a
40 physician licensed to practice osteopathic medicine and surgery, a

1 dentist licensed to practice dentistry, a podiatric physician and
2 surgeon licensed to practice podiatric medicine and surgery, a
3 licensed physician assistant or a licensed osteopathic physician
4 assistant specifically approved to prescribe controlled substances by
5 his or her state's medical quality assurance commission or equivalent
6 and his or her supervising physician, an advanced registered nurse
7 practitioner licensed to prescribe controlled substances, or a
8 veterinarian licensed to practice veterinary medicine in any state of
9 the United States.

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

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

16 (oo) "Qualifying patient" has the meaning provided in RCW
17 69.51A.010.

18 (pp) "Recognition card" has the meaning provided in RCW
19 69.51A.010.

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

23 (rr) "Secretary" means the secretary of health or the secretary's
24 designee.

25 (ss) "State," unless the context otherwise requires, means a
26 state of the United States, the District of Columbia, the
27 Commonwealth of Puerto Rico, or a territory or insular possession
28 subject to the jurisdiction of the United States.

29 (tt) "THC concentration" means percent of delta-9
30 tetrahydrocannabinol content per dry weight of any part of the plant
31 *Cannabis*, or per volume or weight of marijuana product, or the
32 combined percent of delta-9 tetrahydrocannabinol and
33 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
34 regardless of moisture content.

35 (uu) "Ultimate user" means an individual who lawfully possesses a
36 controlled substance for the individual's own use or for the use of a
37 member of the individual's household or for administering to an
38 animal owned by the individual or by a member of the individual's
39 household.

1 (vv) "Useable marijuana" means dried marijuana flowers. The term
2 "useable marijuana" does not include either marijuana-infused
3 products or marijuana concentrates.

4 **Sec. 13.** RCW 69.50.204 and 2015 2nd sp.s. c 4 s 1203 are each
5 amended to read as follows:

6 Unless specifically excepted by state or federal law or
7 regulation or more specifically included in another schedule, the
8 following controlled substances are listed in Schedule I:

9 (a) Any of the following opiates, including their isomers,
10 esters, ethers, salts, and salts of isomers, esters, and ethers
11 whenever the existence of these isomers, esters, ethers, and salts is
12 possible within the specific chemical designation:

13 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-
14 piperidinyl]-N-phenylacetamide);

15 (2) Acetylmethadol;

16 (3) Allylprodine;

17 (4) Alphacetylmethadol, except levo-alphacetylmethadol, also
18 known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

19 (5) Alphameprodine;

20 (6) Alphamethadol;

21 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
22 ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-
23 propanilido) piperidine);

24 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
25 piperidinyl]-N-phenylpropanamide);

26 (9) Benzethidine;

27 (10) Betacetylmethadol;

28 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
29 piperidinyl]-N-phenylpropanamide);

30 (12) Beta-hydroxy-3-methylfentanyl, some trade or other names:
31 N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-
32 phenylpropanamide;

33 (13) Betameprodine;

34 (14) Betamethadol;

35 (15) Betaprodine;

36 (16) Clonitazene;

37 (17) Dextromoramide;

38 (18) Diampromide;

39 (19) Diethylthiambutene;

- 1 (20) Difenoquin;
- 2 (21) Dimenoxadol;
- 3 (22) Dimepheptanol;
- 4 (23) Dimethylthiambutene;
- 5 (24) Dioxaphetyl butyrate;
- 6 (25) Dipipanone;
- 7 (26) Ethylmethylthiambutene;
- 8 (27) Etonitazene;
- 9 (28) Etozeridine;
- 10 (29) Furethidine;
- 11 (30) Hydroxypethidine;
- 12 (31) Ketobemidone;
- 13 (32) Levomoramide;
- 14 (33) Levophenacilmorphan;
- 15 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 16 piperidyl]-N-phenylprop anamide);
- 17 (35) 3-Methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-
- 18 piperidinyl]-N-phenylpropanamide);
- 19 (36) Morpheridine;
- 20 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 21 (38) Noracymethadol;
- 22 (39) Norlevorphanol;
- 23 (40) Normethadone;
- 24 (41) Norpipanone;
- 25 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
- 26 phenethyl)-4-piperidinyl] propanamide);
- 27 (43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 28 (44) Phenadoxone;
- 29 (45) Phenampromide;
- 30 (46) Phenomorphan;
- 31 (47) Phenoperidine;
- 32 (48) Piritramide;
- 33 (49) Proheptazine;
- 34 (50) Properidine;
- 35 (51) Propiram;
- 36 (52) Racemoramide;
- 37 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
- 38 (~~propanamide~~) propanamide);
- 39 (54) Tilidine;
- 40 (55) Trimeperidine.

1 (b) Opium derivatives. Unless specifically excepted or unless
2 listed in another schedule, any of the following opium derivatives,
3 including their salts, isomers, and salts of isomers whenever the
4 existence of those salts, isomers, and salts of isomers is possible
5 within the specific chemical designation:

- 6 (1) Acetorphine;
- 7 (2) Acetyldihydrocodeine;
- 8 (3) Benzylmorphine;
- 9 (4) Codeine methylbromide;
- 10 (5) Codeine-N-Oxide;
- 11 (6) Cyprenorphine;
- 12 (7) Desomorphine;
- 13 (8) Dihydromorphine;
- 14 (9) Drotebanol;
- 15 (10) Etorphine, except hydrochloride salt;
- 16 (11) Heroin;
- 17 (12) Hydromorphenol;
- 18 (13) Methyldesorphine;
- 19 (14) Methyldihydromorphine;
- 20 (15) Morphine methylbromide;
- 21 (16) Morphine methylsulfonate;
- 22 (17) Morphine-N-Oxide;
- 23 (18) Myrophine;
- 24 (19) Nicocodeine;
- 25 (20) Nicomorphine;
- 26 (21) Normorphine;
- 27 (22) Pholcodine;
- 28 (23) Thebacon.

29 (c) Hallucinogenic substances. Unless specifically excepted or
30 unless listed in another schedule, any material, compound, mixture,
31 or preparation which contains any quantity of the following
32 hallucinogenic substances, including their salts, isomers, and salts
33 of isomers whenever the existence of those salts, isomers, and salts
34 of isomers is possible within the specific chemical designation. For
35 the purposes of this subsection only, the term "isomer" includes the
36 optical, position, and geometric isomers:

- 37 (1) Alpha-ethyltryptamine: Some trade or other names:
38 Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
39 indole; a-ET; and AET;

- 1 (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names:
2 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- 3 (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other
4 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; α -desmethyl
5 DOB; 2C-B, nexus;
- 6 (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-
7 dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 8 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 9 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name:
10 2C-T-7;
- 11 (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy- α -
12 methylphenethylamine; paramethoxyamphetamine, PMA;
- 13 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 14 (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other
15 names: 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and
16 "STP";
- 17 (10) 3,4-methylenedioxy amphetamine;
- 18 (11) 3,4-methylenedioxymethamphetamine (MDMA);
- 19 (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-
20 ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,
21 MDE, MDEA;
- 22 (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as
23 N-hydroxy- α -methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy
24 MDA;
- 25 (14) 3,4,5-trimethoxy amphetamine;
- 26 (15) α -methyltryptamine: Other name: AMT;
- 27 (16) Bufotenine: Some trade or other names: 3-(β -
28 Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-
29 indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine;
30 mappine;
- 31 (17) Diethyltryptamine: Some trade or other names: N,N-
32 Diethyltryptamine; DET;
- 33 (18) Dimethyltryptamine: Some trade or other names: DMT;
- 34 (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- 35 (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6
36 β ,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2'
37 1,2) azepino (5,4-b) indole; Tabernanthe iboga;
- 38 (21) Lysergic acid diethylamide;
- 39 (22) Marihuana or marijuana;
- 40 (23) Mescaline;

1 (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-
2 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-
3 dibenzo[b,d]pyran; synhexyl;

4 (25) Peyote, meaning all parts of the plant presently classified
5 botanically as *Lophophora Williamsii* Lemaire, whether growing or not,
6 the seeds thereof, any extract from any part of such plant, and every
7 compound, manufacture, salts, derivative, mixture, or preparation of
8 such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812
9 (c), Schedule I (c) (12));

10 (26) N-ethyl-3-piperidyl benzilate;

11 (27) N-methyl-3-piperidyl benzilate;

12 (28) Psilocybin;

13 (29) Psilocyn;

14 (30) (i) Tetrahydrocannabinols, meaning tetrahydrocannabinols
15 naturally contained in a plant of the (~~(genus)~~) genera Cannabis
16 (~~((cannabis plant))~~), as well as synthetic equivalents of the
17 substances contained in the plant, or in the resinous extractives of
18 the genera Cannabis, (~~((species))~~) and/or synthetic substances,
19 derivatives, and their isomers with similar chemical structure and
20 pharmacological activity such as the following:

21 (~~((i))~~) (A) 1 - cis - or trans tetrahydrocannabinol, and their
22 optical isomers, excluding tetrahydrocannabinol in sesame oil and
23 encapsulated in a soft gelatin capsule in a drug product approved by
24 the United States Food and Drug Administration;

25 (~~((ii))~~) (B) 6 - cis - or trans tetrahydrocannabinol, and their
26 optical isomers;

27 (~~((iii))~~) (C) 3,4 - cis - or trans tetrahydrocannabinol, and its
28 optical isomers; or

29 (~~((iv))~~) (D) That is chemically synthesized and either:

30 (~~((a))~~) (I) Has been demonstrated to have binding activity at one
31 or more cannabinoid receptors; or

32 (~~((b))~~) (II) Is a chemical analog or isomer of a compound that
33 has been demonstrated to have binding activity at one or more
34 cannabinoid receptors;

35 (Since nomenclature of these substances is not internationally
36 standardized, compounds of these structures, regardless of numerical
37 designation of atomic positions covered.)

38 (ii) Hemp and industrial hemp, as defined in section 2 of this
39 act, are excepted from the categories of controlled substances
40 identified under this section;

1 (31) Ethylamine analog of phencyclidine: Some trade or other
2 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)
3 ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

4 (32) Pyrrolidine analog of phencyclidine: Some trade or other
5 names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

6 (33) Thiophene analog of phencyclidine: Some trade or other
7 names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienyl analog of
8 phencyclidine; TPCP; TCP;

9 (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other
10 name is TCPy.

11 (d) Depressants. Unless specifically excepted or unless listed in
12 another schedule, any material, compound, mixture, or preparation
13 which contains any quantity of the following substances having a
14 depressant effect on the central nervous system, including its salts,
15 isomers, and salts of isomers whenever the existence of such salts,
16 isomers, and salts of isomers is possible within the specific
17 chemical designation.

18 (1) Gamma-hydroxybutyric acid: Some other names include GHB;
19 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;
20 sodium oxybate; sodium oxybutyrate;

21 (2) Mecloqualone;

22 (3) Methaqualone.

23 (e) Stimulants. Unless specifically excepted or unless listed in
24 another schedule, any material, compound, mixture, or preparation
25 which contains any quantity of the following substances having a
26 stimulant effect on the central nervous system, including its salts,
27 isomers, and salts of isomers:

28 (1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-
29 oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

30 (2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

31 (3) Cathinone, also known as 2-amino-1-phenyl-1-propanone,
32 alpha-aminopropiophenone, 2-aminopropiophenone and norephedrine;

33 (4) Fenethylamine;

34 (5) Methcathinone: Some other names: 2-(methylamino)-
35 propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-
36 phenylpropan-1-one; alpha-N-methylaminopropiophenone;
37 monomethylpropion; ephedrine; N-methylcathinone; methylcathinone;
38 AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and
39 salts of optical isomers;

1 (6) (+-)cis-4-methylaminorex ((-)cis-4,5-dihydro-4-methyl-5-
2 phenyl-2-oxazolamine);

3 (7) N-ethylamphetamine;

4 (8) N,N-dimethylamphetamine: Some trade or other names: N,N-
5 alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

6 The controlled substances in this section may be added,
7 rescheduled, or deleted as provided for in RCW 69.50.201.

8 NEW SECTION. **Sec. 14.** The following acts or parts of acts, as
9 now existing or hereafter amended, are each repealed, effective
10 January 1, 2020:

11 (1) RCW 15.120.005 (Intent) and 2016 sp.s. c 11 s 1;

12 (2) RCW 15.120.010 (Definitions) and 2016 sp.s. c 11 s 2;

13 (3) RCW 15.120.020 (Industrial hemp—Agricultural product—
14 Exclusively as part of industrial hemp research program) and 2016
15 sp.s. c 11 s 3;

16 (4) RCW 15.120.030 (Rule-making authority) and 2016 sp.s. c 11 s
17 4;

18 (5) RCW 15.120.035 (Rule-making authority—Monetary penalties,
19 license suspension or forfeiture, other sanctions—Rules to be
20 consistent with section 7606 of federal agricultural act of 2014) and
21 2017 c 317 s 10;

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

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

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

32 NEW SECTION. **Sec. 15.** The sum of three hundred thousand
33 dollars, or as much thereof as may be necessary, is appropriated for
34 the 2019-2021 biennium, from the general fund to the department of
35 agriculture for the purposes of this act.

1 NEW SECTION. **Sec. 16.** Sections 1 through 11 of this act
2 constitute a new chapter in Title 15 RCW.

3 NEW SECTION. **Sec. 17.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of
9 the state government and its existing public institutions, and takes
10 effect immediately.

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