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HOUSE BILL 2334

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State of Washington

65th Legislature

2018 Regular Session

By Representative Sawyer

Prefiled 12/28/17.

1 AN ACT Relating to the regulation of the use of cannabinoid  
2 additives in marijuana products; reenacting and amending RCW  
3 69.50.101; and adding a new section to chapter 69.50 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50  
6 RCW to read as follows:

7 (a) Licensed marijuana producers and licensed marijuana  
8 processors may use a CBD product as an additive for the purpose of  
9 enhancing the cannabidiol concentration of any product authorized for  
10 production, processing, and sale under this chapter. Except as  
11 otherwise provided in subsection (b) of this section, such CBD  
12 product additives must be lawfully produced by, or purchased from, a  
13 producer or processor licensed under this chapter.

14 (b) Subject to the requirements set forth in (1) through (3) of  
15 this subsection, and for the purpose of enhancing the cannabidiol  
16 concentration of any product authorized for production, processing,  
17 or sale under this chapter, licensed marijuana producers and licensed  
18 marijuana processors may use a CBD product obtained from a source not  
19 licensed under this chapter, provided the CBD product:

20 (1) Has a THC level of .3 percent or less on a dry weight basis;

1 (2) Has been tested for contaminants and toxins by an accredited  
2 testing laboratory licensed under this chapter and in accordance with  
3 testing standards established under this chapter and the applicable  
4 administrative rules; and

5 (3) Has been explicitly approved by the liquor and cannabis board  
6 for use by licensed producers and processors following a finding  
7 that:

8 (i) The CBD product has been properly tested in accordance with  
9 the requirements of (2) of this subsection; and

10 (ii) The laboratory test results show that the CBD product meets  
11 the legal standards for product safety and purity established in this  
12 chapter and by administrative rule.

13 (c) The liquor and cannabis board may enact rules necessary to  
14 implement the requirements of this section.

15 **Sec. 2.** RCW 69.50.101 and 2017 c 317 s 5, 2017 c 212 s 11, and  
16 2017 c 153 s 1 are each reenacted and amended to read as follows:

17 The definitions in this section apply throughout this chapter  
18 unless the context clearly requires otherwise.

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

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

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

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

30 (c) "CBD concentration" has the meaning provided in RCW  
31 69.51A.010.

32 (d) "Commission" means the pharmacy quality assurance commission.

33 (e) "Controlled substance" means a drug, substance, or immediate  
34 precursor included in Schedules I through V as set forth in federal  
35 or state laws, or federal or commission rules, but does not include  
36 industrial hemp as defined in RCW 15.120.010.

37 (f)(1) "Controlled substance analog" means a substance the  
38 chemical structure of which is substantially similar to the chemical  
39 structure of a controlled substance in Schedule I or II and:

1 (i) that has a stimulant, depressant, or hallucinogenic effect on  
2 the central nervous system substantially similar to the stimulant,  
3 depressant, or hallucinogenic effect on the central nervous system of  
4 a controlled substance included in Schedule I or II; or

5 (ii) with respect to a particular individual, that the individual  
6 represents or intends to have a stimulant, depressant, or  
7 hallucinogenic effect on the central nervous system substantially  
8 similar to the stimulant, depressant, or hallucinogenic effect on the  
9 central nervous system of a controlled substance included in Schedule  
10 I or II.

11 (2) The term does not include:

12 (i) a controlled substance;

13 (ii) a substance for which there is an approved new drug  
14 application;

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

20 (iv) any substance to the extent not intended for human  
21 consumption before an exemption takes effect with respect to the  
22 substance.

23 (g) "Deliver" or "delivery" means the actual or constructive  
24 transfer from one person to another of a substance, whether or not  
25 there is an agency relationship.

26 (h) "Department" means the department of health.

27 (i) "Designated provider" has the meaning provided in RCW  
28 69.51A.010.

29 (j) "Dispense" means the interpretation of a prescription or  
30 order for a controlled substance and, pursuant to that prescription  
31 or order, the proper selection, measuring, compounding, labeling, or  
32 packaging necessary to prepare that prescription or order for  
33 delivery.

34 (k) "Dispenser" means a practitioner who dispenses.

35 (l) "Distribute" means to deliver other than by administering or  
36 dispensing a controlled substance.

37 (m) "Distributor" means a person who distributes.

38 (n) "Drug" means (1) a controlled substance recognized as a drug  
39 in the official United States pharmacopoeia/national formulary or the  
40 official homeopathic pharmacopoeia of the United States, or any

1 supplement to them; (2) controlled substances intended for use in the  
2 diagnosis, cure, mitigation, treatment, or prevention of disease in  
3 individuals or animals; (3) controlled substances (other than food)  
4 intended to affect the structure or any function of the body of  
5 individuals or animals; and (4) controlled substances intended for  
6 use as a component of any article specified in (1), (2), or (3) of  
7 this subsection. The term does not include devices or their  
8 components, parts, or accessories.

9 (o) "Drug enforcement administration" means the drug enforcement  
10 administration in the United States Department of Justice, or its  
11 successor agency.

12 (p) "Electronic communication of prescription information" means  
13 the transmission of a prescription or refill authorization for a drug  
14 of a practitioner using computer systems. The term does not include a  
15 prescription or refill authorization verbally transmitted by  
16 telephone nor a facsimile manually signed by the practitioner.

17 (q) "Immature plant or clone" means a plant or clone that has no  
18 flowers, is less than twelve inches in height, and is less than  
19 twelve inches in diameter.

20 (r) "Immediate precursor" means a substance:

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

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

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

28 (s) "Isomer" means an optical isomer, but in subsection (ee)(5)  
29 of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4),  
30 the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and  
31 (42), and 69.50.210(c) the term includes any positional isomer; and  
32 in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term  
33 includes any positional or geometric isomer.

34 (t) "Lot" means a definite quantity of marijuana, marijuana  
35 concentrates, useable marijuana, or marijuana-infused product  
36 identified by a lot number, every portion or package of which is  
37 uniform within recognized tolerances for the factors that appear in  
38 the labeling.

39 (u) "Lot number" must identify the licensee by business or trade  
40 name and Washington state unified business identifier number, and the

1 date of harvest or processing for each lot of marijuana, marijuana  
2 concentrates, useable marijuana, or marijuana-infused product.

3 (v) "Manufacture" means the production, preparation, propagation,  
4 compounding, conversion, or processing of a controlled substance,  
5 either directly or indirectly or by extraction from substances of  
6 natural origin, or independently by means of chemical synthesis, or  
7 by a combination of extraction and chemical synthesis, and includes  
8 any packaging or repackaging of the substance or labeling or  
9 relabeling of its container. The term does not include the  
10 preparation, compounding, packaging, repackaging, labeling, or  
11 relabeling of a controlled substance:

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

15 (2) by a practitioner, or by the practitioner's authorized agent  
16 under the practitioner's supervision, for the purpose of, or as an  
17 incident to, research, teaching, or chemical analysis and not for  
18 sale.

19 (w) "Marijuana" or "marihuana" means all parts of the plant  
20 *Cannabis*, whether growing or not, with a THC concentration greater  
21 than 0.3 percent on a dry weight basis; the seeds thereof; the resin  
22 extracted from any part of the plant; and every compound,  
23 manufacture, salt, derivative, mixture, or preparation of the plant,  
24 its seeds or resin. The term does not include:

25 (1) The mature stalks of the plant, fiber produced from the  
26 stalks, oil or cake made from the seeds of the plant, any other  
27 compound, manufacture, salt, derivative, mixture, or preparation of  
28 the mature stalks (except the resin extracted therefrom), fiber, oil,  
29 or cake, or the sterilized seed of the plant which is incapable of  
30 germination; or

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

32 (x) "Marijuana concentrates" means products consisting wholly or  
33 in part of the resin extracted from any part of the plant *Cannabis*  
34 and having a THC concentration greater than ten percent.

35 (y) "Marijuana processor" means a person licensed by the state  
36 liquor and cannabis board to process marijuana into marijuana  
37 concentrates, useable marijuana, and marijuana-infused products,  
38 package and label marijuana concentrates, useable marijuana, and  
39 marijuana-infused products for sale in retail outlets, and sell

1 marijuana concentrates, useable marijuana, and marijuana-infused  
2 products at wholesale to marijuana retailers.

3 (z) "Marijuana producer" means a person licensed by the state  
4 liquor and cannabis board to produce and sell marijuana at wholesale  
5 to marijuana processors and other marijuana producers.

6 (aa) "Marijuana products" means useable marijuana, marijuana  
7 concentrates, and marijuana-infused products as defined in this  
8 section.

9 (bb) "Marijuana researcher" means a person licensed by the state  
10 liquor and cannabis board to produce, process, and possess marijuana  
11 for the purposes of conducting research on marijuana and marijuana-  
12 derived drug products.

13 (cc) "Marijuana retailer" means a person licensed by the state  
14 liquor and cannabis board to sell marijuana concentrates, useable  
15 marijuana, and marijuana-infused products in a retail outlet.

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

22 (ee) "Narcotic drug" means any of the following, whether produced  
23 directly or indirectly by extraction from substances of vegetable  
24 origin, or independently by means of chemical synthesis, or by a  
25 combination of extraction and chemical synthesis:

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

31 (2) Synthetic opiate and any derivative of synthetic opiate,  
32 including their isomers, esters, ethers, salts, and salts of isomers,  
33 esters, and ethers, whenever the existence of the isomers, esters,  
34 ethers, and salts is possible within the specific chemical  
35 designation.

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

37 (4) Coca leaves, except coca leaves and extracts of coca leaves  
38 from which cocaine, ecgonine, and derivatives or ecgonine or their  
39 salts have been removed.

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

1 (6) Cocaine base.

2 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
3 thereof.

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

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

15 (gg) "Opium poppy" means the plant of the species *Papaver*  
16 *somniferum* L., except its seeds.

17 (hh) "Person" means individual, corporation, business trust,  
18 estate, trust, partnership, association, joint venture, government,  
19 governmental subdivision or agency, or any other legal or commercial  
20 entity.

21 (ii) "Plant" has the meaning provided in RCW 69.51A.010.

22 (jj) "Poppy straw" means all parts, except the seeds, of the  
23 opium poppy, after mowing.

24 (kk) "Practitioner" means:

25 (1) A physician under chapter 18.71 RCW; a physician assistant  
26 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
27 chapter 18.57 RCW; an osteopathic physician assistant under chapter  
28 18.57A RCW who is licensed under RCW 18.57A.020 subject to any  
29 limitations in RCW 18.57A.040; an optometrist licensed under chapter  
30 18.53 RCW who is certified by the optometry board under RCW 18.53.010  
31 subject to any limitations in RCW 18.53.010; a dentist under chapter  
32 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;  
33 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
34 registered nurse practitioner, or licensed practical nurse under  
35 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW  
36 who is licensed under RCW 18.36A.030 subject to any limitations in  
37 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific  
38 investigator under this chapter, licensed, registered or otherwise  
39 permitted insofar as is consistent with those licensing laws to  
40 distribute, dispense, conduct research with respect to or administer

1 a controlled substance in the course of their professional practice  
2 or research in this state.

3 (2) 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 controlled substance in  
6 the course of professional practice or research in this state.

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

18 (ll) "Prescription" means an order for controlled substances  
19 issued by a practitioner duly authorized by law or rule in the state  
20 of Washington to prescribe controlled substances within the scope of  
21 his or her professional practice for a legitimate medical purpose.

22 (mm) "Production" includes the manufacturing, planting,  
23 cultivating, growing, or harvesting of a controlled substance.

24 (nn) "Qualifying patient" has the meaning provided in RCW  
25 69.51A.010.

26 (oo) "Recognition card" has the meaning provided in RCW  
27 69.51A.010.

28 (pp) "Retail outlet" means a location licensed by the state  
29 liquor and cannabis board for the retail sale of marijuana  
30 concentrates, useable marijuana, and marijuana-infused products.

31 (qq) "Secretary" means the secretary of health or the secretary's  
32 designee.

33 (rr) "State," unless the context otherwise requires, means a  
34 state of the United States, the District of Columbia, the  
35 Commonwealth of Puerto Rico, or a territory or insular possession  
36 subject to the jurisdiction of the United States.

37 (ss) "THC concentration" means percent of delta-9  
38 tetrahydrocannabinol content per dry weight of any part of the plant  
39 *Cannabis*, or per volume or weight of marijuana product, or the  
40 combined percent of delta-9 tetrahydrocannabinol and



1 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
2 regardless of moisture content.

3 (tt) "Ultimate user" means an individual who lawfully possesses a  
4 controlled substance for the individual's own use or for the use of a  
5 member of the individual's household or for administering to an  
6 animal owned by the individual or by a member of the individual's  
7 household.

8 (uu) "Useable marijuana" means dried marijuana flowers. The term  
9 "useable marijuana" does not include either marijuana-infused  
10 products or marijuana concentrates.

11 (vv) "CBD product" means any product containing or consisting of  
12 cannabidiol.

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