
SENATE BILL 5698

State of Washington

65th Legislature

2017 Regular Session

By Senators Rivers and Lillas

1 AN ACT Relating to cannabis health and beauty aids; amending RCW
2 69.50.575, 69.50.325, and 69.50.580; and reenacting and amending RCW
3 69.50.101.

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

5 **Sec. 1.** RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each
6 reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

20 (c) "CBD concentration" has the meaning provided in RCW
21 69.51A.010.

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

2 (e) "Controlled substance" means a drug, substance, or immediate
3 precursor included in Schedules I through V as set forth in federal
4 or state laws, or federal or commission rules.

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

8 (i) that has a stimulant, depressant, or hallucinogenic effect on
9 the central nervous system substantially similar to the stimulant,
10 depressant, or hallucinogenic effect on the central nervous system of
11 a controlled substance included in Schedule I or II; or

12 (ii) with respect to a particular individual, that the individual
13 represents or intends to have a stimulant, depressant, or
14 hallucinogenic effect on the central nervous system substantially
15 similar to the stimulant, depressant, or hallucinogenic effect on the
16 central nervous system of a controlled substance included in Schedule
17 I or II.

18 (2) The term does not include:

19 (i) a controlled substance;

20 (ii) a substance for which there is an approved new drug
21 application;

22 (iii) a substance with respect to which an exemption is in effect
23 for investigational use by a particular person under Section 505 of
24 the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the
25 extent conduct with respect to the substance is pursuant to the
26 exemption; or

27 (iv) any substance to the extent not intended for human
28 consumption before an exemption takes effect with respect to the
29 substance.

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

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

34 (i) "Designated provider" has the meaning provided in RCW
35 69.51A.010.

36 (j) "Dispense" means the interpretation of a prescription or
37 order for a controlled substance and, pursuant to that prescription
38 or order, the proper selection, measuring, compounding, labeling, or
39 packaging necessary to prepare that prescription or order for
40 delivery.

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

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

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

5 (n) "Drug" means (1) a controlled substance recognized as a drug
6 in the official United States pharmacopoeia/national formulary or the
7 official homeopathic pharmacopoeia of the United States, or any
8 supplement to them; (2) controlled substances intended for use in the
9 diagnosis, cure, mitigation, treatment, or prevention of disease in
10 individuals or animals; (3) controlled substances (other than food)
11 intended to affect the structure or any function of the body of
12 individuals or animals; and (4) controlled substances intended for
13 use as a component of any article specified in (1), (2), or (3) of
14 this subsection. The term does not include devices or their
15 components, parts, or accessories.

16 (o) "Drug enforcement administration" means the drug enforcement
17 administration in the United States Department of Justice, or its
18 successor agency.

19 (p) "Electronic communication of prescription information" means
20 the transmission of a prescription or refill authorization for a drug
21 of a practitioner using computer systems. The term does not include a
22 prescription or refill authorization verbally transmitted by
23 telephone nor a facsimile manually signed by the practitioner.

24 (q) "Immediate precursor" means a substance:

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

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

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

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

38 (s) "Lot" means a definite quantity of marijuana, marijuana
39 concentrates, useable marijuana, or marijuana-infused product
40 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 (t) "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 (u) "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 (v) "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 the mature stalks of
29 the plant, fiber produced from the stalks, oil or cake made from the
30 seeds of the plant, any other compound, manufacture, salt,
31 derivative, mixture, or preparation of the mature stalks (except the
32 resin extracted therefrom), fiber, oil, or cake, or the sterilized
33 seed of the plant which is incapable of germination.

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

37 (x) "Marijuana processor" means a person licensed by the state
38 liquor and cannabis board to process marijuana into marijuana
39 concentrates, useable marijuana, and marijuana-infused products,
40 package and label marijuana concentrates, useable marijuana, and

1 marijuana-infused products for sale in retail outlets, and sell
2 marijuana concentrates, useable marijuana, and marijuana-infused
3 products at wholesale to marijuana retailers.

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

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

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

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

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

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

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

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

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

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

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

2 (6) Cocaine base.

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

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

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

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

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

22 (hh) "Plant" has the meaning provided in RCW 69.51A.010.

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

25 (jj) "Practitioner" means:

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

1 distribute, dispense, conduct research with respect to or administer
2 a controlled substance in the course of their professional practice
3 or research in this state.

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

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

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

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

25 (mm) "Qualifying patient" has the meaning provided in RCW
26 69.51A.010.

27 (nn) "Recognition card" has the meaning provided in RCW
28 69.51A.010.

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

32 (pp) "Secretary" means the secretary of health or the secretary's
33 designee.

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

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

1 combined percent of delta-9 tetrahydrocannabinol and
2 tetrahydrocannabinolic acid in any part of the plant *Cannabis*
3 regardless of moisture content.

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

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

12 (uu) "Cannabis health and beauty aid" means a product containing
13 parts of the cannabis plant and which:

- 14 (1) Is intended for use only as a topical application;
15 (2) Contains a THC concentration of not more than 0.3 percent;
16 (3) Does not cause psychoactivity; and
17 (4) Is not intended for ingestion by humans or animals.

18 **Sec. 2.** RCW 69.50.575 and 2015 2nd sp.s. c 4 s 701 are each
19 amended to read as follows:

20 (1) A cannabis health and beauty aid permit is established that
21 allows the holder to process and possess marijuana for the purposes
22 of manufacturing cannabis health and beauty aids.

23 (2) A cannabis health and beauty aid permit holder may only
24 produce cannabis health and beauty aids for sale in retail outlets
25 and in the general retail market. A cannabis health and beauty aid
26 permit holder may purchase marijuana and marijuana byproducts such as
27 stems, roots, and leaves from a marijuana producer to process into
28 cannabis health and beauty aids. Marijuana and marijuana byproducts
29 purchased from a marijuana producer may not be sold, traded, or
30 donated to any person or entity.

31 (3) In establishing a cannabis health and beauty aid permit, the
32 state liquor and cannabis board may adopt rules on the following:

- 33 (a) Application requirements;
34 (b) Permit renewal requirements;
35 (c) Conditions for permit revocation;
36 (d) Security measures to ensure marijuana is not diverted to
37 purposes other than production of cannabis health and beauty aids;
38 (e) Amounts of marijuana a permit holder may have on its
39 premises;

1 (f) Permit holder reporting requirements;

2 (g) A seed to sale traceability system that permits the state
3 liquor and cannabis board to track sales of marijuana and marijuana
4 byproducts from marijuana producers to cannabis health and beauty aid
5 permit holders. Cannabis health and beauty aid permit holders must
6 keep records of sales of cannabis health and beauty aid products to
7 retail outlets and the general retail market and make these records
8 available to the state liquor and cannabis board upon request;

9 (h) Random testing requirements of cannabis health and beauty
10 aids including requirements that cannabis health and beauty aids are
11 tested to ensure a THC level of 0.3 percent or less; and

12 (i) Additional requirements deemed necessary or appropriate by
13 the state liquor and cannabis board.

14 (4) In addition to the labeling requirements adopted in rule
15 under RCW 69.50.342, cannabis health and beauty aids must comply with
16 the labeling requirements of this subsection (4).

17 (a) Labels for cannabis health and beauty aids must not:

18 (i) Use any word, symbol, or image commonly used in or by medical
19 or pharmaceutical professions including, but not limited to:
20 Depiction of a caduceus, staff of Asclepius, bowl of Hygieia, or
21 mortar and pestle; or the use of the word "prescription" or letters
22 "RX";

23 (ii) State or imply any specific medical or therapeutic benefit;
24 or

25 (iii) Mimic a brand of over-the-counter or legend drug.

26 (b) Labels for cannabis health and beauty aids must prominently
27 display the following statement: "This product is not approved by the
28 FDA to treat, cure, or prevent any disease."

29 (5) The processing and possession of marijuana in accordance with
30 this section and the rules adopted to implement this section by a
31 cannabis health and beauty aid permit holder is not a criminal or
32 civil offense under Washington state law. Every cannabis health and
33 beauty aid permit must be issued in the name of the applicant, must
34 specify the location at which the applicant intends to operate, which
35 must be in the state of Washington, and the permit holder may not
36 allow any other person to use the permit.

37 (6) The application fee for a cannabis health and beauty aid
38 permit is two hundred fifty dollars. The annual fee for issuance and
39 renewal of a cannabis health and beauty aid permit is to be

1 determined on a sliding scale based on the amount of cannabis health
2 and beauty aid products to be annually produced by the permit holder.

3 (7) The delivery, distribution, and sale of cannabis health and
4 beauty aids are not subject to the regulations and penalties of this
5 chapter that apply to marijuana, marijuana concentrates, or
6 marijuana-infused products.

7 ~~((2) For purposes of this section, "cannabis health and beauty~~
8 ~~aid" means a product containing parts of the cannabis plant and~~
9 ~~which:~~

10 ~~(a) Is intended for use only as a topical application to provide~~
11 ~~therapeutic benefit or to enhance appearance;~~

12 ~~(b) Contains a THC concentration of not more than 0.3 percent;~~

13 ~~(c) Does not cross the blood brain barrier; and~~

14 ~~(d) Is not intended for ingestion by humans or animals.))~~

15 **Sec. 3.** RCW 69.50.325 and 2016 c 170 s 1 are each amended to
16 read as follows:

17 (1) There shall be a marijuana producer's license to produce
18 marijuana for sale at wholesale to marijuana processors and other
19 marijuana producers and to produce marijuana plants for sale to
20 cooperatives as described under RCW 69.51A.250, regulated by the
21 state liquor and cannabis board and subject to annual renewal.
22 Marijuana producers may also sell at wholesale marijuana and
23 marijuana byproducts such as stems, roots, and leaves to cannabis
24 health and beauty aid permit holders. The production, possession,
25 delivery, distribution, and sale of marijuana in accordance with the
26 provisions of this chapter and the rules adopted to implement and
27 enforce it, by a validly licensed marijuana producer, shall not be a
28 criminal or civil offense under Washington state law. Every marijuana
29 producer's license shall be issued in the name of the applicant,
30 shall specify the location at which the marijuana producer intends to
31 operate, which must be within the state of Washington, and the holder
32 thereof shall not allow any other person to use the license. The
33 application fee for a marijuana producer's license shall be two
34 hundred fifty dollars. The annual fee for issuance and renewal of a
35 marijuana producer's license shall be one thousand dollars. A
36 separate license shall be required for each location at which a
37 marijuana producer intends to produce marijuana.

38 (2) There shall be a marijuana processor's license to process,
39 package, and label marijuana concentrates, useable marijuana, and

1 marijuana-infused products for sale at wholesale to marijuana
2 processors and marijuana retailers, regulated by the state liquor and
3 cannabis board and subject to annual renewal. The processing,
4 packaging, possession, delivery, distribution, and sale of marijuana,
5 useable marijuana, marijuana-infused products, and marijuana
6 concentrates in accordance with the provisions of this chapter and
7 chapter 69.51A RCW and the rules adopted to implement and enforce
8 these chapters, by a validly licensed marijuana processor, shall not
9 be a criminal or civil offense under Washington state law. Every
10 marijuana processor's license shall be issued in the name of the
11 applicant, shall specify the location at which the licensee intends
12 to operate, which must be within the state of Washington, and the
13 holder thereof shall not allow any other person to use the license.
14 The application fee for a marijuana processor's license shall be two
15 hundred fifty dollars. The annual fee for issuance and renewal of a
16 marijuana processor's license shall be one thousand dollars. A
17 separate license shall be required for each location at which a
18 marijuana processor intends to process marijuana.

19 (3) There shall be a marijuana retailer's license to sell
20 marijuana concentrates, useable marijuana, and marijuana-infused
21 products at retail in retail outlets, regulated by the state liquor
22 and cannabis board and subject to annual renewal. The possession,
23 delivery, distribution, and sale of marijuana concentrates, useable
24 marijuana, and marijuana-infused products in accordance with the
25 provisions of this chapter and the rules adopted to implement and
26 enforce it, by a validly licensed marijuana retailer, shall not be a
27 criminal or civil offense under Washington state law. Every marijuana
28 retailer's license shall be issued in the name of the applicant,
29 shall specify the location of the retail outlet the licensee intends
30 to operate, which must be within the state of Washington, and the
31 holder thereof shall not allow any other person to use the license.
32 The application fee for a marijuana retailer's license shall be two
33 hundred fifty dollars. The annual fee for issuance and renewal of a
34 marijuana retailer's license shall be one thousand dollars. A
35 separate license shall be required for each location at which a
36 marijuana retailer intends to sell marijuana concentrates, useable
37 marijuana, and marijuana-infused products.

38 **Sec. 4.** RCW 69.50.580 and 2015 2nd sp.s. c 4 s 801 are each
39 amended to read as follows:

1 (1) Applicants for a marijuana producer's, marijuana processor's,
2 marijuana researcher's ~~((or))~~, marijuana retailer's license, or
3 cannabis health and beauty aid permit under this chapter must display
4 a sign provided by the state liquor and cannabis board on the outside
5 of the premises to be licensed notifying the public that the premises
6 are subject to an application for such license or permit. The sign
7 must:

8 (a) Contain text with content sufficient to notify the public of
9 the nature of the pending license or permit application, the date of
10 the application, the name of the applicant, and contact information
11 for the state liquor and cannabis board;

12 (b) Be conspicuously displayed on, or immediately adjacent to,
13 the premises subject to the application and in the location that is
14 most likely to be seen by the public;

15 (c) Be of a size sufficient to ensure that it will be readily
16 seen by the public; and

17 (d) Be posted within seven business days of the submission of the
18 application to the state liquor and cannabis board.

19 (2) The state liquor and cannabis board must adopt such rules as
20 are necessary for the implementation of this section, including rules
21 pertaining to the size of the sign and the text thereon, the textual
22 content of the sign, the fee for providing the sign, and any other
23 requirements necessary to ensure that the sign provides adequate
24 notice to the public.

25 (3)(a) A city, town, or county may adopt an ordinance requiring
26 individual notice by an applicant for a marijuana producer's,
27 marijuana processor's, marijuana researcher's, or marijuana
28 retailer's license under this chapter, sixty days prior to issuance
29 of the license, to any elementary or secondary school, playground,
30 recreation center or facility, child care center, church, public
31 park, public transit center, library, or any game arcade admission to
32 which is not restricted to persons aged twenty-one years or older,
33 that is within one thousand feet of the perimeter of the grounds of
34 the establishment seeking licensure. The notice must provide the
35 contact information for the liquor and cannabis board where any of
36 the owners or operators of these entities may submit comments or
37 concerns about the proposed business location.

1 (b) For the purposes of this subsection, "church" means a
2 building erected for and used exclusively for religious worship and
3 schooling or other activity in connection therewith.

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