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**HOUSE BILL 1019**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Kloba and MacEwen

Prefiled 12/10/20.

1 AN ACT Relating to residential marijuana agriculture; amending  
2 RCW 69.50.4013, 69.50.505, and 69.50.101; reenacting and amending RCW  
3 69.50.101; prescribing penalties; providing an effective date; and  
4 providing an expiration date.

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

6 **Sec. 1.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to  
7 read as follows:

8 (1) It is unlawful for any person to possess a controlled  
9 substance unless the substance was obtained directly from, or  
10 pursuant to, a valid prescription or order of a practitioner while  
11 acting in the course of his or her professional practice, or except  
12 as otherwise authorized by this chapter.

13 (2) Except as provided in RCW 69.50.4014, any person who violates  
14 this section is guilty of a class C felony punishable under chapter  
15 9A.20 RCW.

16 (3)(a) The possession, by a person twenty-one years of age or  
17 older, of useable marijuana, marijuana concentrates, or marijuana-  
18 infused products in amounts that do not exceed those set forth in RCW  
19 69.50.360(3) is not a violation of this section, this chapter, or any  
20 other provision of Washington state law.

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

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

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

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

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

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

21 (b) The act of delivering marijuana or a marijuana product as  
22 authorized under this subsection (4) must meet one of the following  
23 requirements:

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

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

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

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

37 (7)(a) It is not a violation of this section, this chapter, or  
38 any other provision of Washington state law for a person twenty-one  
39 years of age or older to produce or possess no more than six plants

1 on the premises of the housing unit occupied by the person, provided  
2 the person complies with the requirements of this subsection.

3 (b) It is not a violation of this section, this chapter, or any  
4 other provision of Washington state law for a person twenty-one years  
5 of age or older to produce or possess marijuana, including all stalks  
6 and roots, produced from no more than six plants grown by the person  
7 on the premises of the housing unit occupied by the person, subject  
8 to the limitations provided in (c) of this subsection, if the person  
9 complies with the requirements of this subsection.

10 (c) The quantity of marijuana and marijuana products a person may  
11 produce or possess under this subsection is subject to the following  
12 limits:

13 (i) A person may possess useable marijuana in an amount not to  
14 exceed what is produced by the person's plants in addition to useable  
15 marijuana obtained in the manner and according to the limits  
16 specified in RCW 69.50.360(3). However, a person may not possess  
17 marijuana capable of being processed into useable marijuana,  
18 marijuana-infused products, or marijuana concentrates, unless the  
19 person possesses fewer than sixteen ounces of useable marijuana,  
20 irrespective of source;

21 (ii) A person may not produce or possess a total of more than  
22 sixteen ounces of marijuana-infused products in solid form,  
23 irrespective of source;

24 (iii) A person may not produce or possess a total of more than  
25 seventy-two ounces of marijuana-infused products in liquid form,  
26 irrespective of source; and

27 (iv) A person may not produce or possess a total of more than  
28 seven grams of marijuana concentrates, irrespective of source.

29 (d) No more than fifteen plants may be grown at any one time on  
30 the premises of a single housing unit, regardless of the number of  
31 residents living on the premises of the housing unit.

32 (e) All plants grown under this subsection must be clearly marked  
33 with the name, residential address, and date of birth of the person  
34 growing the plants, and the date on which the plants were planted.

35 (f) All marijuana capable of being processed into useable  
36 marijuana, marijuana-infused products, or marijuana concentrate must  
37 be clearly marked with the name, date of birth, and residential  
38 address of the person who grew the plants from which the marijuana is  
39 derived, the date on which the plants were planted, and the date on  
40 which the plants were harvested.

1 (g) All containers containing more than one ounce of useable  
2 marijuana must be clearly marked with the name, date of birth,  
3 residential address of the person who grew the plants from which the  
4 useable marijuana is derived, the date on which the plants were  
5 planted, and the date on which the plants were harvested. Any  
6 containers containing one ounce or less of useable marijuana are not  
7 required to be labeled.

8 (h) Any extraction or separation of resin from marijuana and any  
9 production or processing of any form of marijuana concentrates or  
10 marijuana-infused products must be performed in accordance with rules  
11 adopted under RCW 69.51A.270.

12 (i) This subsection (7) does not apply to plants or useable  
13 marijuana possessed or delivered other than on the premises of the  
14 housing unit at which the plants were grown.

15 (j) Nothing in this subsection (7) prevents or restricts a  
16 property owner from prohibiting the cultivation of plants by a renter  
17 or lessee upon or within the property under the terms of a rental  
18 agreement, lease, or other contract.

19 (k) The production, possession, delivery, and acquisition of  
20 plants or marijuana capable of being processed into useable  
21 marijuana, marijuana-infused products, or marijuana concentrate, and  
22 useable marijuana under this subsection (7) may not form the basis of  
23 a seizure or forfeiture action pursuant to RCW 69.50.505.

24 (l) A person twenty-one years of age or older who possesses  
25 marijuana in compliance with this subsection (7) is considered an  
26 ultimate user who may not sell marijuana, useable marijuana,  
27 marijuana concentrate, or marijuana-infused products produced from  
28 the person's plants, and is not required to obtain a registration  
29 under RCW 69.50.302 or a license under RCW 69.50.325.

30 (m) No production, processing, or possession of plants or  
31 marijuana from those plants, as authorized in this subsection (7),  
32 may occur in a housing unit that is used to provide early childhood  
33 education and early learning services by a family day care provider  
34 as defined in RCW 43.216.010 or a foster family home as defined in  
35 RCW 74.15.020.

36 (n) For purposes of this subsection (7), "housing unit" has the  
37 meaning provided in RCW 69.51A.010.

38 (8)(a) The production, processing, or possession of plants or  
39 marijuana from those plants, as authorized in subsection (7) of this

1 section, may not result in marijuana being readily smelled from a  
2 public place or the private property of another housing unit.

3 (b) It is unlawful for a person to produce or possess plants or  
4 marijuana from those plants, as otherwise authorized under subsection  
5 (7) of this section, if the plants or marijuana are visible within  
6 the ordinary public view. For purposes of this subsection, "ordinary  
7 public view" means within the sight line with normal visual range of  
8 a person, unassisted by any elevating devices, visual aids, or manned  
9 or unmanned aircraft, from a public street or sidewalk adjacent to  
10 real property, or from within an adjacent property.

11 (c) A violation of (a) or (b) of this subsection is a class 3  
12 civil infraction punishable as provided in chapter 7.80 RCW.

13 (9) The board has no authority or responsibility to investigate  
14 or enforce requirements in subsection (7) or (8) of this section.  
15 Nothing in this subsection limits the board's authority to enforce  
16 state laws related to commercial marijuana production, processing, or  
17 sales, when there is evidence of a violation of another provision of  
18 this chapter.

19 **Sec. 2.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read  
20 as follows:

21 (1) The following are subject to seizure and forfeiture and no  
22 property right exists in them:

23 (a) All controlled substances which have been manufactured,  
24 distributed, dispensed, acquired, or possessed in violation of this  
25 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,  
26 as defined in RCW 64.44.010, used or intended to be used in the  
27 manufacture of controlled substances;

28 (b) All raw materials, products, and equipment of any kind which  
29 are used, or intended for use, in manufacturing, compounding,  
30 processing, delivering, importing, or exporting any controlled  
31 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

32 (c) All property which is used, or intended for use, as a  
33 container for property described in (a) or (b) of this subsection;

34 (d) All conveyances, including aircraft, vehicles, or vessels,  
35 which are used, or intended for use, in any manner to facilitate the  
36 sale, delivery, or receipt of property described in (a) or (b) of  
37 this subsection, except that:

38 (i) No conveyance used by any person as a common carrier in the  
39 transaction of business as a common carrier is subject to forfeiture

1 under this section unless it appears that the owner or other person  
2 in charge of the conveyance is a consenting party or privy to a  
3 violation of this chapter or chapter 69.41 or 69.52 RCW;

4 (ii) No conveyance is subject to forfeiture under this section by  
5 reason of any act or omission established by the owner thereof to  
6 have been committed or omitted without the owner's knowledge or  
7 consent;

8 (iii) No conveyance is subject to forfeiture under this section  
9 if used in the receipt of only an amount of marijuana for which  
10 possession constitutes a misdemeanor under RCW 69.50.4014;

11 (iv) A forfeiture of a conveyance encumbered by a bona fide  
12 security interest is subject to the interest of the secured party if  
13 the secured party neither had knowledge of nor consented to the act  
14 or omission; and

15 (v) When the owner of a conveyance has been arrested under this  
16 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the  
17 person is arrested may not be subject to forfeiture unless it is  
18 seized or process is issued for its seizure within ten days of the  
19 owner's arrest;

20 (e) All books, records, and research products and materials,  
21 including formulas, microfilm, tapes, and data which are used, or  
22 intended for use, in violation of this chapter or chapter 69.41 or  
23 69.52 RCW;

24 (f) All drug paraphernalia ((21)) other than paraphernalia  
25 possessed, sold, or used solely to facilitate marijuana-related  
26 activities that are not violations of this chapter;

27 (g) All moneys, negotiable instruments, securities, or other  
28 tangible or intangible property of value furnished or intended to be  
29 furnished by any person in exchange for a controlled substance in  
30 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
31 or intangible personal property, proceeds, or assets acquired in  
32 whole or in part with proceeds traceable to an exchange or series of  
33 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
34 and all moneys, negotiable instruments, and securities used or  
35 intended to be used to facilitate any violation of this chapter or  
36 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable  
37 instruments, securities, or other tangible or intangible property  
38 encumbered by a bona fide security interest is subject to the  
39 interest of the secured party if, at the time the security interest  
40 was created, the secured party neither had knowledge of nor consented

1 to the act or omission. No personal property may be forfeited under  
2 this subsection (1)(g), to the extent of the interest of an owner, by  
3 reason of any act or omission which that owner establishes was  
4 committed or omitted without the owner's knowledge or consent; and

5 (h) All real property, including any right, title, and interest  
6 in the whole of any lot or tract of land, and any appurtenances or  
7 improvements which are being used with the knowledge of the owner for  
8 the manufacturing, compounding, processing, delivery, importing, or  
9 exporting of any controlled substance, or which have been acquired in  
10 whole or in part with proceeds traceable to an exchange or series of  
11 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
12 if such activity is not less than a class C felony and a substantial  
13 nexus exists between the commercial production or sale of the  
14 controlled substance and the real property. However:

15 (i) No property may be forfeited pursuant to this subsection  
16 (1)(h), to the extent of the interest of an owner, by reason of any  
17 act or omission committed or omitted without the owner's knowledge or  
18 consent;

19 (ii) The bona fide gift of a controlled substance, legend drug,  
20 or imitation controlled substance shall not result in the forfeiture  
21 of real property;

22 (iii) The acquisition, delivery, production, or possession of  
23 marijuana, useable marijuana, marijuana concentrates, or marijuana-  
24 infused products, including in the manner and in the amount provided  
25 in RCW 69.50.4013(7), shall not result in the forfeiture of real  
26 property unless the marijuana is possessed for commercial purposes  
27 that are unlawful under Washington state law, the amount possessed is  
28 five or more plants or one pound or more of marijuana except as  
29 provided in RCW 69.50.4013, and a substantial nexus exists between  
30 the possession of marijuana and the real property. In such a case,  
31 the intent of the offender shall be determined by the preponderance  
32 of the evidence, including the offender's prior criminal history, the  
33 amount of marijuana possessed by the offender, the sophistication of  
34 the activity or equipment used by the offender, whether the offender  
35 was licensed to produce, process, or sell marijuana, or was an  
36 employee of a licensed producer, processor, or retailer, and other  
37 evidence which demonstrates the offender's intent to engage in  
38 unlawful commercial activity;

39 (iv) The unlawful sale of marijuana or a legend drug shall not  
40 result in the forfeiture of real property unless the sale was forty

1 grams or more in the case of marijuana or one hundred dollars or more  
2 in the case of a legend drug, and a substantial nexus exists between  
3 the unlawful sale and the real property; and

4 (v) A forfeiture of real property encumbered by a bona fide  
5 security interest is subject to the interest of the secured party if  
6 the secured party, at the time the security interest was created,  
7 neither had knowledge of nor consented to the act or omission.

8 (2) Real or personal property subject to forfeiture under this  
9 chapter may be seized by any ((board)) commission inspector or law  
10 enforcement officer of this state upon process issued by any superior  
11 court having jurisdiction over the property. Seizure of real property  
12 shall include the filing of a lis pendens by the seizing agency. Real  
13 property seized under this section shall not be transferred or  
14 otherwise conveyed until ninety days after seizure or until a  
15 judgment of forfeiture is entered, whichever is later(~~(:—PROVIDED,~~  
16 ~~That~~)). However, real property seized under this section may be  
17 transferred or conveyed to any person or entity who acquires title by  
18 foreclosure or deed in lieu of foreclosure of a security interest.  
19 Seizure of personal property without process may be made if:

20 (a) The seizure is incident to an arrest or a search under a  
21 search warrant or an inspection under an administrative inspection  
22 warrant;

23 (b) The property subject to seizure has been the subject of a  
24 prior judgment in favor of the state in a criminal injunction or  
25 forfeiture proceeding based upon this chapter;

26 (c) A ((board)) commission inspector or law enforcement officer  
27 has probable cause to believe that the property is directly or  
28 indirectly dangerous to health or safety; or

29 (d) The ((board)) commission inspector or law enforcement officer  
30 has probable cause to believe that the property was used or is  
31 intended to be used in violation of this chapter.

32 (3) In the event of seizure pursuant to subsection (2) of this  
33 section, proceedings for forfeiture shall be deemed commenced by the  
34 seizure. The law enforcement agency under whose authority the seizure  
35 was made shall cause notice to be served within fifteen days  
36 following the seizure on the owner of the property seized and the  
37 person in charge thereof and any person having any known right or  
38 interest therein, including any community property interest, of the  
39 seizure and intended forfeiture of the seized property. Service of  
40 notice of seizure of real property shall be made according to the



1 rules of civil procedure. However, the state may not obtain a default  
2 judgment with respect to real property against a party who is served  
3 by substituted service absent an affidavit stating that a good faith  
4 effort has been made to ascertain if the defaulted party is  
5 incarcerated within the state, and that there is no present basis to  
6 believe that the party is incarcerated within the state. Notice of  
7 seizure in the case of property subject to a security interest that  
8 has been perfected by filing a financing statement in accordance with  
9 chapter 62A.9A RCW, or a certificate of title, shall be made by  
10 service upon the secured party or the secured party's assignee at the  
11 address shown on the financing statement or the certificate of title.  
12 The notice of seizure in other cases may be served by any method  
13 authorized by law or court rule including but not limited to service  
14 by certified mail with return receipt requested. Service by mail  
15 shall be deemed complete upon mailing within the fifteen day period  
16 following the seizure.

17 (4) If no person notifies the seizing law enforcement agency in  
18 writing of the person's claim of ownership or right to possession of  
19 items specified in subsection (1)(d), (g), or (h) of this section  
20 within forty-five days of the service of notice from the seizing  
21 agency in the case of personal property and ninety days in the case  
22 of real property, the item seized shall be deemed forfeited. The  
23 community property interest in real property of a person whose spouse  
24 or domestic partner committed a violation giving rise to seizure of  
25 the real property may not be forfeited if the person did not  
26 participate in the violation.

27 (5) If any person notifies the seizing law enforcement agency in  
28 writing of the person's claim of ownership or right to possession of  
29 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)  
30 of this section within forty-five days of the service of notice from  
31 the seizing agency in the case of personal property and ninety days  
32 in the case of real property, the person or persons shall be afforded  
33 a reasonable opportunity to be heard as to the claim or right. The  
34 notice of claim may be served by any method authorized by law or  
35 court rule including, but not limited to, service by first-class  
36 mail. Service by mail shall be deemed complete upon mailing within  
37 the forty-five day period following service of the notice of seizure  
38 in the case of personal property and within the ninety-day period  
39 following service of the notice of seizure in the case of real  
40 property. The hearing shall be before the chief law enforcement

1 officer of the seizing agency or the chief law enforcement officer's  
2 designee, except where the seizing agency is a state agency as  
3 defined in RCW 34.12.020(4), the hearing shall be before the chief  
4 law enforcement officer of the seizing agency or an administrative  
5 law judge appointed under chapter 34.12 RCW, except that any person  
6 asserting a claim or right may remove the matter to a court of  
7 competent jurisdiction. Removal of any matter involving personal  
8 property may only be accomplished according to the rules of civil  
9 procedure. The person seeking removal of the matter must serve  
10 process against the state, county, political subdivision, or  
11 municipality that operates the seizing agency, and any other party of  
12 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-  
13 five days after the person seeking removal has notified the seizing  
14 law enforcement agency of the person's claim of ownership or right to  
15 possession. The court to which the matter is to be removed shall be  
16 the district court when the aggregate value of personal property is  
17 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
18 before the seizing agency and any appeal therefrom shall be under  
19 Title 34 RCW. In all cases, the burden of proof is upon the law  
20 enforcement agency to establish, by a preponderance of the evidence,  
21 that the property is subject to forfeiture.

22 The seizing law enforcement agency shall promptly return the  
23 article or articles to the claimant upon a determination by the  
24 administrative law judge or court that the claimant is the present  
25 lawful owner or is lawfully entitled to possession thereof of items  
26 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of  
27 this section.

28 (6) In any proceeding to forfeit property under this title, where  
29 the claimant substantially prevails, the claimant is entitled to  
30 reasonable attorneys' fees reasonably incurred by the claimant. In  
31 addition, in a court hearing between two or more claimants to the  
32 article or articles involved, the prevailing party is entitled to a  
33 judgment for costs and reasonable attorneys' fees.

34 (7) When property is forfeited under this chapter the (~~board~~)  
35 commission or seizing law enforcement agency may:

36 (a) Retain it for official use or upon application by any law  
37 enforcement agency of this state release such property to such agency  
38 for the exclusive use of enforcing the provisions of this chapter;

39 (b) Sell that which is not required to be destroyed by law and  
40 which is not harmful to the public;

1 (c) Request the appropriate sheriff or director of public safety  
2 to take custody of the property and remove it for disposition in  
3 accordance with law; or

4 (d) Forward it to the drug enforcement administration for  
5 disposition.

6 (8)(a) When property is forfeited, the seizing agency shall keep  
7 a record indicating the identity of the prior owner, if known, a  
8 description of the property, the disposition of the property, the  
9 value of the property at the time of seizure, and the amount of  
10 proceeds realized from disposition of the property.

11 (b) Each seizing agency shall retain records of forfeited  
12 property for at least seven years.

13 (c) Each seizing agency shall file a report including a copy of  
14 the records of forfeited property with the state treasurer each  
15 calendar quarter.

16 (d) The quarterly report need not include a record of forfeited  
17 property that is still being held for use as evidence during the  
18 investigation or prosecution of a case or during the appeal from a  
19 conviction.

20 (9)(a) By January 31st of each year, each seizing agency shall  
21 remit to the state treasurer an amount equal to ten percent of the  
22 net proceeds of any property forfeited during the preceding calendar  
23 year. Money remitted shall be deposited in the state general fund.

24 (b) The net proceeds of forfeited property is the value of the  
25 forfeitable interest in the property after deducting the cost of  
26 satisfying any bona fide security interest to which the property is  
27 subject at the time of seizure; and in the case of sold property,  
28 after deducting the cost of sale, including reasonable fees or  
29 commissions paid to independent selling agents, and the cost of any  
30 valid landlord's claim for damages under subsection (15) of this  
31 section.

32 (c) The value of sold forfeited property is the sale price. The  
33 value of retained forfeited property is the fair market value of the  
34 property at the time of seizure, determined when possible by  
35 reference to an applicable commonly used index, such as the index  
36 used by the department of licensing for valuation of motor vehicles.  
37 A seizing agency may use, but need not use, an independent qualified  
38 appraiser to determine the value of retained property. If an  
39 appraiser is used, the value of the property appraised is net of the

1 cost of the appraisal. The value of destroyed property and retained  
2 firearms or illegal property is zero.

3 (10) Forfeited property and net proceeds not required to be paid  
4 to the state treasurer shall be retained by the seizing law  
5 enforcement agency exclusively for the expansion and improvement of  
6 controlled substances related law enforcement activity. Money  
7 retained under this section may not be used to supplant preexisting  
8 funding sources.

9 (11) Controlled substances listed in Schedule I, II, III, IV, and  
10 V that are possessed, transferred, sold, or offered for sale in  
11 violation of this chapter are contraband and shall be seized and  
12 summarily forfeited to the state. Controlled substances listed in  
13 Schedule I, II, III, IV, and V, which are seized or come into the  
14 possession of the ((~~board~~)) commission, the owners of which are  
15 unknown, are contraband and shall be summarily forfeited to the  
16 ((~~board~~)) commission.

17 (12) Species of plants from which controlled substances in  
18 Schedules I and II may be derived which have been planted or  
19 cultivated in violation of this chapter, or of which the owners or  
20 cultivators are unknown, or which are wild growths, may be seized and  
21 summarily forfeited to the ((~~board~~)) commission.

22 (13) The failure, upon demand by a ((~~board~~)) commission inspector  
23 or law enforcement officer, of the person in occupancy or in control  
24 of land or premises upon which the species of plants are growing or  
25 being stored to produce an appropriate registration or proof that he  
26 or she is the holder thereof constitutes authority for the seizure  
27 and forfeiture of the plants.

28 (14) Upon the entry of an order of forfeiture of real property,  
29 the court shall forward a copy of the order to the assessor of the  
30 county in which the property is located. Orders for the forfeiture of  
31 real property shall be entered by the superior court, subject to  
32 court rules. Such an order shall be filed by the seizing agency in  
33 the county auditor's records in the county in which the real property  
34 is located.

35 (15)(a) A landlord may assert a claim against proceeds from the  
36 sale of assets seized and forfeited under subsection (7)(b) of this  
37 section, only if:

38 (i) A law enforcement officer, while acting in his or her  
39 official capacity, directly caused damage to the complaining

1 landlord's property while executing a search of a tenant's residence;  
2 and

3 (ii) The landlord has applied any funds remaining in the tenant's  
4 deposit, to which the landlord has a right under chapter 59.18 RCW,  
5 to cover the damage directly caused by a law enforcement officer  
6 prior to asserting a claim under the provisions of this section;

7 (A) Only if the funds applied under (a)(ii) of this subsection  
8 are insufficient to satisfy the damage directly caused by a law  
9 enforcement officer, may the landlord seek compensation for the  
10 damage by filing a claim against the governmental entity under whose  
11 authority the law enforcement agency operates within thirty days  
12 after the search;

13 (B) Only if the governmental entity denies or fails to respond to  
14 the landlord's claim within sixty days of the date of filing, may the  
15 landlord collect damages under this subsection by filing within  
16 thirty days of denial or the expiration of the sixty-day period,  
17 whichever occurs first, a claim with the seizing law enforcement  
18 agency. The seizing law enforcement agency must notify the landlord  
19 of the status of the claim by the end of the thirty-day period.  
20 Nothing in this section requires the claim to be paid by the end of  
21 the sixty-day or thirty-day period.

22 (b) For any claim filed under (a)(ii) of this subsection, the law  
23 enforcement agency shall pay the claim unless the agency provides  
24 substantial proof that the landlord either:

25 (i) Knew or consented to actions of the tenant in violation of  
26 this chapter or chapter 69.41 or 69.52 RCW; or

27 (ii) Failed to respond to a notification of the illegal activity,  
28 provided by a law enforcement agency under RCW 59.18.075, within  
29 seven days of receipt of notification of the illegal activity.

30 (16) The landlord's claim for damages under subsection (15) of  
31 this section may not include a claim for loss of business and is  
32 limited to:

33 (a) Damage to tangible property and clean-up costs;

34 (b) The lesser of the cost of repair or fair market value of the  
35 damage directly caused by a law enforcement officer;

36 (c) The proceeds from the sale of the specific tenant's property  
37 seized and forfeited under subsection (7)(b) of this section; and

38 (d) The proceeds available after the seizing law enforcement  
39 agency satisfies any bona fide security interest in the tenant's

1 property and costs related to sale of the tenant's property as  
2 provided by subsection (9)(b) of this section.

3 (17) Subsections (15) and (16) of this section do not limit any  
4 other rights a landlord may have against a tenant to collect for  
5 damages. However, if a law enforcement agency satisfies a landlord's  
6 claim under subsection (15) of this section, the rights the landlord  
7 has against the tenant for damages directly caused by a law  
8 enforcement officer under the terms of the landlord and tenant's  
9 contract are subrogated to the law enforcement agency.

10 **Sec. 3.** RCW 69.50.101 and 2020 c 133 s 2 are each amended to  
11 read as follows:

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

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

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

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

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

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

26 (d) "CBD concentration" has the meaning provided in RCW  
27 69.51A.010.

28 (e) "CBD product" means any product containing or consisting of  
29 cannabidiol.

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

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

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

38 (i) that has a stimulant, depressant, or hallucinogenic effect on  
39 the central nervous system substantially similar to the stimulant,

1 depressant, or hallucinogenic effect on the central nervous system of  
2 a controlled substance included in Schedule I or II; or

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

9 (2) The term does not include:

10 (i) a controlled substance;

11 (ii) a substance for which there is an approved new drug  
12 application;

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

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

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

24 (j) "Department" means the department of health.

25 (k) "Designated provider" has the meaning provided in RCW  
26 69.51A.010.

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

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

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

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

36 (p) "Drug" means (1) a controlled substance recognized as a drug  
37 in the official United States pharmacopoeia/national formulary or the  
38 official homeopathic pharmacopoeia of the United States, or any  
39 supplement to them; (2) controlled substances intended for use in the  
40 diagnosis, cure, mitigation, treatment, or prevention of disease in

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

7 (q) "Drug enforcement administration" means the drug enforcement  
8 administration in the United States Department of Justice, or its  
9 successor agency.

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

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

18 (t) "Immediate precursor" means a substance:

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

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

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

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

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

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



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

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

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

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

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

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

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

34 (aa) "Marijuana processor" means a person licensed by the board  
35 to process marijuana into marijuana concentrates, useable marijuana,  
36 and marijuana-infused products, package and label marijuana  
37 concentrates, useable marijuana, and marijuana-infused products for  
38 sale in retail outlets, and sell marijuana concentrates, useable  
39 marijuana, and marijuana-infused products at wholesale to marijuana  
40 retailers.

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

4 (cc) "Marijuana products" means useable marijuana, marijuana  
5 concentrates, and marijuana-infused products as defined in this  
6 section.

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

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

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

19 (gg) "Narcotic drug" means any of the following, whether produced  
20 directly or indirectly by extraction from substances of vegetable  
21 origin, or independently by means of chemical synthesis, or by a  
22 combination of extraction and chemical synthesis:

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

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

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

34 (4) Coca leaves, except coca leaves and extracts of coca leaves  
35 from which cocaine, ecgonine, and derivatives or ecgonine or their  
36 salts have been removed.

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

38 (6) Cocaine base.

39 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
40 thereof.

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

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

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

14 (jj) "Person" means individual, corporation, business trust,  
15 estate, trust, partnership, association, joint venture, government,  
16 governmental subdivision or agency, or any other legal or commercial  
17 entity.

18 (kk) "Plant" has the meaning provided in RCW 69.51A.010.

19 (ll) "Poppy straw" means all parts, except the seeds, of the  
20 opium poppy, after mowing.

21 (mm) "Practitioner" means:

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

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

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

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

20 (oo) "Production" includes the manufacturing, planting,  
21 cultivating, growing, or harvesting of a controlled substance.

22 (pp) "Qualifying patient" has the meaning provided in RCW  
23 69.51A.010.

24 (qq) "Recognition card" has the meaning provided in RCW  
25 69.51A.010.

26 (rr) "Retail outlet" means a location licensed by the board for  
27 the retail sale of marijuana concentrates, useable marijuana, and  
28 marijuana-infused products.

29 (ss) "Secretary" means the secretary of health or the secretary's  
30 designee.

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

35 (uu) "THC concentration" means percent of delta-9  
36 tetrahydrocannabinol content per dry weight of any part of the plant  
37 *Cannabis*, or per volume or weight of marijuana product, or the  
38 combined percent of delta-9 tetrahydrocannabinol and  
39 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
40 regardless of moisture content.

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

6 (ww) "Useable marijuana" means dried marijuana flowers. The term  
7 "useable marijuana" does not include either marijuana-infused  
8 products or marijuana concentrates.

9 (xx) "Youth access" means the level of interest persons under the  
10 age of twenty-one may have in a vapor product, as well as the degree  
11 to which the product is available or appealing to such persons, and  
12 the likelihood of initiation, use, or addiction by adolescents and  
13 young adults.

14 (yy) "Commercial activity" means an activity related to or  
15 connected with buying, selling, or bartering.

16 **Sec. 4.** RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are  
17 each reenacted and amended to read as follows:

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

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

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

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

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

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

32 (d) "CBD concentration" has the meaning provided in RCW  
33 69.51A.010.

34 (e) "CBD product" means any product containing or consisting of  
35 cannabidiol.

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

37 (g) "Controlled substance" means a drug, substance, or immediate  
38 precursor included in Schedules I through V as set forth in federal

1 or state laws, or federal or commission rules, but does not include  
2 hemp or industrial hemp as defined in RCW 15.140.020.

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

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

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

16 (2) The term does not include:

17 (i) a controlled substance;

18 (ii) a substance for which there is an approved new drug  
19 application;

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

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

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

31 (j) "Department" means the department of health.

32 (k) "Designated provider" has the meaning provided in RCW  
33 69.51A.010.

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

39 (m) "Dispenser" means a practitioner who dispenses.

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

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

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

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

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

23 (s) "Immature plant or clone" means a plant or clone that has no  
24 flowers, is less than twelve inches in height, and is less than  
25 twelve inches in diameter.

26 (t) "Immediate precursor" means a substance:

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

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

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

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

1 (v) "Lot" means a definite quantity of marijuana, marijuana  
2 concentrates, useable marijuana, or marijuana-infused product  
3 identified by a lot number, every portion or package of which is  
4 uniform within recognized tolerances for the factors that appear in  
5 the labeling.

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

10 (x) "Manufacture" means the production, preparation, propagation,  
11 compounding, conversion, or processing of a controlled substance,  
12 either directly or indirectly or by extraction from substances of  
13 natural origin, or independently by means of chemical synthesis, or  
14 by a combination of extraction and chemical synthesis, and includes  
15 any packaging or repackaging of the substance or labeling or  
16 relabeling of its container. The term does not include the  
17 preparation, compounding, packaging, repackaging, labeling, or  
18 relabeling of a controlled substance:

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

22 (2) by a practitioner, or by the practitioner's authorized agent  
23 under the practitioner's supervision, for the purpose of, or as an  
24 incident to, research, teaching, or chemical analysis and not for  
25 sale.

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

32 (1) The mature stalks of the plant, fiber produced from the  
33 stalks, oil or cake made from the seeds of the plant, any other  
34 compound, manufacture, salt, derivative, mixture, or preparation of  
35 the mature stalks (except the resin extracted therefrom), fiber, oil,  
36 or cake, or the sterilized seed of the plant which is incapable of  
37 germination; or

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



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

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

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

14 (cc) "Marijuana products" means useable marijuana, marijuana  
15 concentrates, and marijuana-infused products as defined in this  
16 section.

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

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

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

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

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

38 (2) Synthetic opiate and any derivative of synthetic opiate,  
39 including their isomers, esters, ethers, salts, and salts of isomers,  
40 esters, and ethers, whenever the existence of the isomers, esters,

1 ethers, and salts is possible within the specific chemical  
2 designation.

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

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

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

8 (6) Cocaine base.

9 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
10 thereof.

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

13 (hh) "Opiate" means any substance having an addiction-forming or  
14 addiction-sustaining liability similar to morphine or being capable  
15 of conversion into a drug having addiction-forming or addiction-  
16 sustaining liability. The term includes opium, substances derived  
17 from opium (opium derivatives), and synthetic opiates. The term does  
18 not include, unless specifically designated as controlled under RCW  
19 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan  
20 and its salts (dextromethorphan). The term includes the racemic and  
21 levorotatory forms of dextromethorphan.

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

24 (jj) "Person" means individual, corporation, business trust,  
25 estate, trust, partnership, association, joint venture, government,  
26 governmental subdivision or agency, or any other legal or commercial  
27 entity.

28 (kk) "Plant" has the meaning provided in RCW 69.51A.010.

29 (ll) "Poppy straw" means all parts, except the seeds, of the  
30 opium poppy, after mowing.

31 (mm) "Practitioner" means:

32 (1) A physician under chapter 18.71 RCW; a physician assistant  
33 under chapter 18.71A RCW; an osteopathic physician and surgeon under  
34 chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW  
35 who is certified by the optometry board under RCW 18.53.010 subject  
36 to any limitations in RCW 18.53.010; a dentist under chapter 18.32  
37 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a  
38 veterinarian under chapter 18.92 RCW; a registered nurse, advanced  
39 registered nurse practitioner, or licensed practical nurse under  
40 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW

1 who is licensed under RCW 18.36A.030 subject to any limitations in  
2 RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific  
3 investigator under this chapter, licensed, registered or otherwise  
4 permitted insofar as is consistent with those licensing laws to  
5 distribute, dispense, conduct research with respect to or administer  
6 a controlled substance in the course of their professional practice  
7 or research in this state.

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

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

23 (nn) "Prescription" means an order for controlled substances  
24 issued by a practitioner duly authorized by law or rule in the state  
25 of Washington to prescribe controlled substances within the scope of  
26 his or her professional practice for a legitimate medical purpose.

27 (oo) "Production" includes the manufacturing, planting,  
28 cultivating, growing, or harvesting of a controlled substance.

29 (pp) "Qualifying patient" has the meaning provided in RCW  
30 69.51A.010.

31 (qq) "Recognition card" has the meaning provided in RCW  
32 69.51A.010.

33 (rr) "Retail outlet" means a location licensed by the board for  
34 the retail sale of marijuana concentrates, useable marijuana, and  
35 marijuana-infused products.

36 (ss) "Secretary" means the secretary of health or the secretary's  
37 designee.

38 (tt) "State," unless the context otherwise requires, means a  
39 state of the United States, the District of Columbia, the

1 Commonwealth of Puerto Rico, or a territory or insular possession  
2 subject to the jurisdiction of the United States.

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

9 (vv) "Ultimate user" means an individual who lawfully possesses a  
10 controlled substance for the individual's own use or for the use of a  
11 member of the individual's household or for administering to an  
12 animal owned by the individual or by a member of the individual's  
13 household.

14 (ww) "Useable marijuana" means dried marijuana flowers. The term  
15 "useable marijuana" does not include either marijuana-infused  
16 products or marijuana concentrates.

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

22 (yy) "Commercial activity" means an activity related to or  
23 connected with buying, selling, or bartering.

24 NEW SECTION. **Sec. 5.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 6.** Section 3 of this act expires July 1,  
29 2022.

30 NEW SECTION. **Sec. 7.** Section 4 of this act takes effect July 1,  
31 2022.

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**SENATE BILL 5004**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Keiser and Warnick

Prefiled 12/08/20.

1 AN ACT Relating to providing a tax exemption for medical  
2 marijuana patients; amending RCW 69.50.535; and providing an  
3 effective date.

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

5 **Sec. 1.** RCW 69.50.535 and 2015 2nd sp.s. c 4 s 205 are each  
6 amended to read as follows:

7 (1)(a) There is levied and collected a marijuana excise tax equal  
8 to thirty-seven percent of the selling price on each retail sale in  
9 this state of marijuana concentrates, useable marijuana, and  
10 marijuana-infused products. This tax is separate and in addition to  
11 general state and local sales and use taxes that apply to retail  
12 sales of tangible personal property, and is not part of the total  
13 retail price to which general state and local sales and use taxes  
14 apply. The tax must be separately itemized from the state and local  
15 retail sales tax on the sales receipt provided to the buyer.

16 (b) The tax levied in this section must be reflected in the price  
17 list or quoted shelf price in the licensed marijuana retail store and  
18 in any advertising that includes prices for all useable marijuana,  
19 marijuana concentrates, or marijuana-infused products.

20 (2)(a) The tax levied by subsection (1) of this section does not  
21 apply to sales, by a marijuana retailer with a medical marijuana

1 endorsement to qualifying patients or designated providers who have  
2 been issued a recognition card, of marijuana concentrates, useable  
3 marijuana, or marijuana-infused products, identified by the  
4 department in rules adopted under RCW 69.50.375(4) in chapter 246-70  
5 WAC as being compliant marijuana products.

6 (b) Each seller making exempt sales under this subsection (2)  
7 must maintain information establishing eligibility for the exemption  
8 in the form and manner required by the board.

9 (c) The board must provide a separate tax reporting line on the  
10 excise tax form for exemption amounts claimed under this subsection  
11 (2).

12 (3) All revenues collected from the marijuana excise tax imposed  
13 under this section must be deposited each day in the dedicated  
14 marijuana account.

15 ~~((3))~~ (4) The tax imposed in this section must be paid by the  
16 buyer to the seller. Each seller must collect from the buyer the full  
17 amount of the tax payable on each taxable sale. The tax collected as  
18 required by this section is deemed to be held in trust by the seller  
19 until paid to the board. If any seller fails to collect the tax  
20 imposed in this section or, having collected the tax, fails to pay it  
21 as prescribed by the board, whether such failure is the result of the  
22 seller's own acts or the result of acts or conditions beyond the  
23 seller's control, the seller is, nevertheless, personally liable to  
24 the state for the amount of the tax.

25 ~~((4))~~ (5) The definitions in this subsection apply throughout  
26 this section unless the context clearly requires otherwise.

27 ~~(a) ("Board" means the state liquor and cannabis board.~~

28 ~~(b))~~ "Retail sale" has the same meaning as in RCW 82.08.010.

29 ~~((e))~~ (b) "Selling price" has the same meaning as in RCW  
30 82.08.010, except that when product is sold under circumstances where  
31 the total amount of consideration paid for the product is not  
32 indicative of its true value, "selling price" means the true value of  
33 the product sold.

34 ~~((d))~~ (c) "Product" means marijuana, marijuana concentrates,  
35 useable marijuana, and marijuana-infused products.

36 ~~((e))~~ (d) "True value" means market value based on sales at  
37 comparable locations in this state of the same or similar product of  
38 like quality and character sold under comparable conditions of sale  
39 to comparable purchasers. However, in the absence of such sales of  
40 the same or similar product, true value means the value of the

1 product sold as determined by all of the seller's direct and indirect  
2 costs attributable to the product.

3 ~~((+5))~~ (6)(a) The board must regularly review the tax level  
4 established under this section and make recommendations, in  
5 consultation with the department of revenue, to the legislature as  
6 appropriate regarding adjustments that would further the goal of  
7 discouraging use while undercutting illegal market prices.

8 (b) The ~~((state liquor and cannabis))~~ board must report, in  
9 compliance with RCW 43.01.036, to the appropriate committees of the  
10 legislature every two years. The report at a minimum must include the  
11 following:

12 (i) The specific recommendations required under (a) of this  
13 subsection;

14 (ii) A comparison of gross sales and tax collections prior to and  
15 after any marijuana tax change;

16 (iii) The increase or decrease in the volume of legal marijuana  
17 sold prior to and after any marijuana tax change;

18 (iv) Increases or decreases in the number of licensed marijuana  
19 producers, processors, and retailers;

20 (v) The number of illegal and noncompliant marijuana outlets the  
21 board requires to be closed;

22 (vi) Gross marijuana sales and tax collections in Oregon; and

23 (vii) The total amount of reported sales and use taxes exempted  
24 for qualifying patients. The department of revenue must provide the  
25 data of exempt amounts to the board.

26 (c) The board is not required to report to the legislature as  
27 required in (b) of this subsection after January 1, 2025.

28 ~~((+6))~~ (7) The legislature does not intend and does not  
29 authorize any person or entity to engage in activities or to conspire  
30 to engage in activities that would constitute per se violations of  
31 state and federal antitrust laws including, but not limited to,  
32 agreements among retailers as to the selling price of any goods sold.

33 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2022.

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