Title 69
FOOD, DRUGS, COSMETICS, AND POISONS

Chapters

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Chapter 69.04 RCW
INTRASTATE COMMERCE IN DRUGS AND COSMETICS

Sections

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69.04.001 Statement of purpose. This chapter is intended to enact state legislation (1) which safeguards the public health and promotes the public welfare by protecting the consuming public from (a) potential injury by product use; (b) products that are adulterated; or (c) products that have been produced under unsanitary conditions, and the purchasing public from injury by merchandising deceit flowing from intrastate commerce in food, drugs, devices, and cosmetics; and (2) which is uniform, as provided in this chapter, with the federal food, drug, and cosmetic act; and with the federal trade commission act, to the extent it expressly outlaws the false advertisement of food, drugs, devices, and cosmetics; and (3) which thus promotes uniformity of such law and its administration and enforcement, in and throughout the United States. [1991 c 162 s 1; 1945 c 257 s 2; Rem. Supp. 1945 s 6163-51.]

Conformity with federal regulations: RCW 69.04.190 and 69.04.200.

69.04.002 Introductory. For the purposes of this chapter, terms shall apply as herein defined unless the context clearly indicates otherwise. [1945 c 257 s 3; Rem. Supp. 1945 s 6163-52.]

69.04.003 "Federal act" defined. The term "federal act" means the federal food, drug, and cosmetic act, approved on June 25, 1938. (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.) [1945 c 257 s 4; Rem. Supp. 1945 s 6163-53.]

69.04.004 "Intrastate commerce." The term "intrastate commerce" means any and all commerce within the state of Washington and subject to the jurisdiction thereof; and includes the operation of any business or service establishment. [1945 c 257 s 5; Rem. Supp. 1945 s 6163-54.]

69.04.005 "Sale." The term "sale" means any and every sale and includes (1) manufacture, processing, packing, canning, bottling, or any other production, preparation, or putting up; (2) exposure, offer, or any other proffer; (3) holding, storing, or any other possessing; (4) dispensing, giving, delivering, serving, or any other supplying; and (5) applying, administering, or any other using. [1945 c 257 s 6; Rem. Supp. 1945 s 6163-55.]

69.04.006 "Director." The term "director" means the director of the department of agriculture of the state of Washington and his or her duly authorized representatives. [2012 c 117 s 328; 1945 c 257 s 7; Rem. Supp. 1945 s 6163-56.]

Director of agriculture, general duties: Chapter 43.23 RCW.

69.04.007 "Person." The term "person" includes individual, partnership, corporation, and association. [1945 c 257 s 8; Rem. Supp. 1945 s 6163-57.]

69.04.008 "Food." The term "food" means (1) articles used for food or drink for people or other animals, (2) bottled water, (3) chewing gum, and (4) articles used for components of any such article. [1992 c 34 s 2; 1945 c 257 s 9; Rem. Supp. 1945 s 6163-58.]

Additional notes found at www.leg.wa.gov

69.04.009 "Drugs." The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of human beings or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories. [2009 c 549 s 1018; 1945 c 257 s 10; Rem. Supp. 1945 s 6163-59. Prior: 1907 c 211 s 2.]

69.04.010 "Device." The term "device" (except when used in RCW 69.04.016 and in RCW *69.04.040(10), **69.04.270, 69.04.690, and in RCW 69.04.470 as used in the sentence "(as compared with other words, statements, designs, or devices, in the labeling)") means instruments, apparatus, and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; or (2) to affect the structure or any function of the body of human beings or other animals. [2009 c 549 s 1019; 1945 c 257 s 11; Rem. Supp. 1945 s 6163-60.]

Reviser's note: *(1) RCW 69.04.040 was amended by 2018 c 236 s 601, deleting subsection (10).

**(2) RCW 69.04.270 was repealed by 2018 c 236 s 801.

69.04.011 "Cosmetic." The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap. [1945 c 257 s 12; Rem. Supp. 1945 s 6163-61.]

69.04.012 "Official compendium." The term "official compendium" mean the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them. [1945 c 257 s 13; Rem. Supp. 1945 s 6163-62.]

69.04.013 "Label." The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper. [1945 c 257 s 14; Rem. Supp. 1945 s 6163-63.]

69.04.014 "Immediate container." The term "immediate container" does not include package liners. [1945 c 257 s 15; Rem. Supp. 1945 s 6163-64.]

69.04.015 "Labeling." The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article. [1945 c 257 s 16; Rem. Supp. 1945 s 6163-65.]

Crimes relating to labeling: Chapter 9.16 RCW, RCW 69.40.055.

69.04.016 "Misleading labeling or advertisement," how determined. If any article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual. [1945 c 257 s 17; Rem. Supp. 1945 s 6163-66.]

Crimes relating to advertising: Chapter 9.04 RCW.

69.04.017 "Antiseptic" as germicide. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body. [1945 c 257 s 18; Rem. Supp. 1945 s 6163-67.]

69.04.018 "New drug" defined. The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions: PROVIDED, That no drug in use on the *effective date of this chapter shall be regarded as a new drug. [1945 c 257 s 19; Rem. Supp. 1945 s 6163-68.]

Additional notes found at www.leg.wa.gov

69.04.019 "Advertisement." The term "advertisement" means all representations, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics. [1945 c 257 s 20; Rem. Supp. 1945 s 6163-69.]

69.04.020 "Contaminated with filth." The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations. [1945 c 257 s 21; Rem. Supp. 1945 s 6163-70.]

69.04.040 Prohibited acts. The following acts and the causing thereof are hereby prohibited:

(1) The sale in intrastate commerce of any drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any drug, device, or cosmetic in intrastate commerce.

(3) The receipt in intrastate commerce of any drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

(4) The introduction or delivery for introduction into intrastate commerce of any new drug in violation of RCW 69.04.570.

(5) The dissemination within this state, in any manner or by any means or through any medium, of any false advertisement.

(6) The refusal to permit (a) entry and the taking of a sample or specimen or the making of any investigation or examination as authorized by RCW 69.04.780; or (b) access to or copying of any record as authorized by RCW 69.04.810.

(7) The refusal to permit entry or inspection as authorized by RCW 69.04.820.

(8) The removal, mutilation, or violation of an embargo notice as authorized by RCW 69.04.110.

(9) The giving of a guaranty or undertaking in intrastate commerce, referred to in RCW 69.04.080, that is false.

(10) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a drug, device, or cosmetic, or the doing of any other act with respect to a drug, device, or cosmetic, or the labeling or advertisement thereof, which results in a violation of this chapter.

(11) The using in intrastate commerce, in the labeling or advertisement of any drug, of any representation or suggestion that an application with respect to such drug is effective under section 505 of the federal act or under RCW 69.04.570, or that such drug complies with the provisions of either such section. [2018 c 236 s 601; 1945 c 257 s 22; Rem. Supp. 1945 s 6163-71. Prior: 1917 c 168 s 1; 1907 c 211 s 1; 1901 c 94 s 1.]

69.04.050 Remedy by injunction. (1) In addition to the remedies hereinafter provided the director is hereby authorized to apply to the superior court of Thurston county for, and such court shall have jurisdiction upon prompt hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of RCW 69.04.040; without proof that an adequate remedy at law does not exist.

(2) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals (a) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and (b) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction. [1945 c 257 s 23; Rem. Supp. 1945 s 6163-72.]

Injunctions, generally: Chapter 7.40 RCW.

69.04.060 Criminal penalty for violations. Except as otherwise provided in this chapter, any person who violates any provision of RCW 69.04.040 is guilty of a misdemeanor and shall on conviction thereof be subject to the following penalties:

(1) A fine of not more than two hundred dollars; or

(2) If the violation is committed after a conviction of such person under this section has become final, imprisonment for not more than thirty days, or a fine of not more than five hundred dollars, or both such imprisonment and fine. [2013 c 290 s 1; 2003 c 53 s 314; 1945 c 257 s 24; Rem. Supp. 1945 s 6163-73. Prior: 1907 c 211 s 12; 1901 c 94 s 11.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.04.070 Additional penalty. Notwithstanding the provisions of RCW 69.04.060, a person who violates RCW 69.04.040 with intent to defraud or mislead is guilty of a misdemeanor and the penalty shall be imprisonment for not more than ninety days, or a fine of not more than one thousand dollars, or both such imprisonment and fine. [2003 c 53 s 315; 1945 c 257 s 25; Rem. Supp. 1945 s 6163-74.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.04.080 Avoidance of penalty. No person shall be subject to the penalties of RCW 69.04.060:

(1) For having violated RCW 69.04.040(3), if he or she establishes that he or she received and sold such article in good faith, unless he or she refuses on request of the director to furnish the name and address of the person in the state of Washington from whom he or she received such article and copies of all available documents pertaining to his or her receipt thereof; or

(2) For having violated RCW 69.04.040 (1), (3), or (4), if he or she establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he or she received such article in good faith, to the effect that such article complies with this chapter; or

(3) For having violated RCW 69.04.040(5), if he or she establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he or she received such advertisement in good faith, to the effect that such advertisement complies with this chapter; or

(4) For having violated RCW 69.04.040(9), if he or she establishes that he or she gave such guaranty or undertaking in good faith and in reliance on a guaranty or undertaking to him or her, which guaranty or undertaking was to the same effect and was signed by, and contained the name and address of, a person in the state of Washington. [2012 c 117 s 329; 1945 c 257 s 26; Rem. Supp. 1945 s 6163-75.]

69.04.090 Liability of disseminator of advertisement. No publisher, radio broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW 69.04.060 by reason of his or her dissemination of any false advertisement, unless he or she has refused on the request of the director to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency in the state of Washington, who caused him or her to disseminate such false advertisement. [2012 c 117 s 330; 1945 c 257 s 27; Rem. Supp. 1945 s 6163-76.]

69.04.100 Condemnation of adulterated or misbranded article. Whenever the director shall find in intrastate commerce an article subject to this chapter which is so adulterated or misbranded that it is unfit or unsafe for human use and its immediate condemnation is required to protect the public health, such article is hereby declared to be a nuisance and the director is hereby authorized forthwith to destroy such article or to render it unsalable for human use. [1945 c 257 s 28; Rem. Supp. 1945 s 6163-77.]

69.04.110 Embargo of articles. Whenever the director shall find, or shall have probable cause to believe, that an article subject to this chapter is in intrastate commerce in violation of this chapter, and that its embargo under this section is required to protect the consuming or purchasing public, due to its being adulterated or misbranded, or to otherwise protect the public from injury, or possible injury, he or she is hereby authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director shall find that such article does not involve a violation of this chapter, such embargo shall be forthwith removed. [1991 c 162 s 3; 1975 1st ex.s. c 7 s 25; 1945 c 257 s 29; Rem. Supp. 1945 s 6163-78.]

69.04.120 Procedure on embargo. When the director has embargoed an article, he or she shall, forthwith and without delay and in no event later than thirty days after the affixing of notice of its embargo, petition the superior court for an order affirming the embargo. The court then has jurisdiction,

for cause shown and after prompt hearing to any claimant of the embargoed article, to issue an order which directs the removal of the embargo or the destruction or the correction and release of the article. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for a bond as the court finds indicated in the circumstances. [1991 c 162 s 4; 1983 c 95 s 8; 1945 c 257 s 30; Rem. Supp. 1945 s 6163-79.]

69.04.130 Petitions may be consolidated. Two or more petitions under RCW 69.04.120, which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by such claimant. [1945 c 257 s 31; Rem. Supp. 1945 s 6163-80.]

69.04.140 Claimant entitled to sample. The claimant in any proceeding by petition under RCW 69.04.120 shall be entitled to receive a representative sample of the article subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon. [1945 c 257 s 32; Rem. Supp. 1945 s 6163-81.]

69.04.150 Damages not recoverable if probable cause existed. No state court shall allow the recovery of damages from administrative action for condemnation under RCW 69.04.100 or for embargo under RCW 69.04.110, if the court finds that there was probable cause for such action. [1945 c 257 s 33; Rem. Supp. 1945 s 6163-82.]

69.04.160 Prosecutions. (1) It shall be the duty of each state attorney, county attorney, or city attorney to whom the director reports any violation of this chapter, or regulations promulgated under it, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of this chapter is reported by the director to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the director, either orally or in writing, with regard to such contemplated proceeding. [2012 c 117 s 331; 1945 c 257 s 34; Rem. Supp. 1945 s 6163-83.]

69.04.170 Minor infractions. Nothing in this chapter shall be construed as requiring the director to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever he or she believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [2012 c 117 s 332; 1945 c 257 s 35; Rem. Supp. 1945 s 6163-84.]

69.04.180 Proceedings to be in name of state. All such proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the state of Washington. [1945 c 257 s 36; Rem. Supp. 1945 s 6163-85.]

69.04.370 Right of access for inspection. Any officer or employee duly designated by the director shall have access to any factory or establishment, the operator of which holds a permit from the director, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator. [1945 c 257 s 55; Rem. Supp. 1945 s 6163-104.]

69.04.410 Drugs—Adulteration by harmful substances. A drug or device shall be deemed to be adulterated (1) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one that is harmless and suitable for use in drugs for such purposes, as provided by regulations promulgated under section 504 of the federal act. [1945 c 257 s 59; Rem. Supp. 1945 s 6163-108. Prior: 1923 c 36 s 1; 1907 c 211 s 3; 1901 c 94 s 3.]

69.04.420 Drugs—Adulteration for failure to comply with compendium standard. If a drug or device purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, it shall be deemed to be adulterated. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium or prescribed by regulations promulgated under section 501(b) of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this section because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia. [1945 c 257 s 60; Rem. Supp. 1945 s 6163-109.]

69.04.430 Drugs—Adulteration for lack of represented purity or quality. If a drug or device is not subject to the provisions of RCW 69.04.420 and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess, it shall be deemed to be adulterated. [1945 c 257 s 61; Rem. Supp. 1945 s 6163-110.]

69.04.440 Drugs—Adulteration by admixture or substitution of ingredients. A drug shall be deemed to be adulterated if any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor. [1945 c 257 s 62; Rem. Supp. 1945 s 6163-111.]

69.04.450 Drugs—Misbranding by false labeling. A drug or device shall be deemed to be misbranded if its labeling is false or misleading in any particular. [1945 c 257 s 63; Rem. Supp. 1945 s 6163-112. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.460 Packaged drugs—Misbranding. If a drug or device is in package form, it shall be deemed to be misbranded unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director. [1945 c 257 s 64; Rem. Supp. 1945 s 6163-113. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.470 Drugs—Misbranding by lack of prominent label. A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1945 c 257 s 65; Rem. Supp. 1945 s 6163-114. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.480 Drugs—Misbranding for failure to state content of habit forming drug. A drug or device shall be deemed to be misbranded if it is for use by human beings and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, beta eucaine, bromal, cannabis, as that term is defined in RCW 69.50.101, carbromal, chloral, coca, cocaine, codeine, heroin, morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative has been designated as habit forming by regulations promulgated under section 502(d) of the federal act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming." [2022 c 16 s 47; 2009 c 549 s 1023; 1945 c 257 s 66; Rem. Supp. 1945 s 6163-115. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.04.490 Drugs—Misbranding by failure to show usual name and ingredients. If a drug is not designated solely by a name recognized in an official compendium it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamime, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: PROVIDED, That to the extent that compliance with the requirements of clause (2) of this section is impracticable, exemptions shall be established by regulations promulgated by the director. [1945 c 257 s 67; Rem. Supp. 1945 s 6163-116. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.500 Drugs—Misbranding by failure to give directions for use and warnings. A drug or device shall be deemed to be misbranded unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: PROVIDED, That where any requirement of clause (1) of this section as applied to any drug or device, is not necessary for the protection of the public health, the director shall promulgate regulations exempting such drug or device from such requirements. Such regulations shall include the exemptions prescribed under section 502(f)(1) of the federal act, insofar as such exemptions are applicable hereunder. [1945 c 257 s 68; Rem. Supp. 1945 s 6163-117. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.510 Drugs—Misbranding for improper packaging and labeling. A drug or device shall be deemed to be misbranded if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: PROVIDED, That the method of packing may be modified with the consent of the director, as permitted under section 502(g) of the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia. [1945 c 257 s 69; Rem. Supp. 1945 s 6163-118. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.520 Drugs—Misbranding for failure to show possibility of deterioration. If a drug or device has been found by the secretary of agriculture of the United States to be a drug liable to deterioration, it shall be deemed to be misbranded unless it is packaged in such form and manner, and its label bears a statement of such precautions, as required in an official compendium or by regulations promulgated under section 502(h) of the federal act for the protection of the public health. [1945 c 257 s 70; Rem. Supp. 1945 s 6163-119. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.530 Drugs—Misbranding by misleading representation. A drug shall be deemed to be misbranded if (1) its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug; or (4) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof. [1945 c 257 s 71; Rem. Supp. 1945 s 6163-120. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.540 Drugs—Misbranding by sale without prescription of drug requiring it. A drug or device shall be deemed to be misbranded if it is a drug which by label provides, or which the federal act or any applicable law requires by label to provide, in effect, that it shall be used only upon the prescription of a physician, dentist, or veterinarian, unless it is dispensed at retail on a written prescription signed by a physician, dentist, or veterinarian, who is licensed by law to administer such a drug. [1945 c 257 s 72; Rem. Supp. 1945 s 6163-121. Prior: 1923 c 36 s 2; 1907 c 211 s 4.]

69.04.550 Drugs exempt if in transit for completion purposes. A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 s 73; Rem. Supp. 1945 s 6163-122.]

69.04.560 Dispensing of certain drugs exempt. A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the requirements of RCW 69.04.450 through 69.04.540. [1945 c 257 s 74; Rem. Supp. 1945 s 6163-123.]

69.04.565 DMSO (dimethyl sulfoxide) authorized. Notwithstanding any other provision of state law, DMSO (dimethyl sulfoxide) may be introduced into intrastate commerce as long as (1) it is manufactured or distributed by persons licensed pursuant to chapter 18.64 RCW or chapter 18.92 RCW, and (2) it is used, or intended to be used, in the treatment of human beings or animals for any ailment or adverse condition: PROVIDED, That DMSO intended for topical application, consistent with rules governing purity and labeling promulgated by the pharmacy quality assurance commission, shall not be considered a legend drug and may be sold by any retailer. [2013 c 19 s 50; 1981 c 50 s 1.]

DMSO use by health facilities, physicians: RCW 70.54.190.

69.04.570 Introduction of new drug. Except as permitted by chapter 69.77 RCW, no person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with respect to such drug: PROVIDED, That the requirement of subsection (2) of this section shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act: PROVIDED FURTHER, That if the director finds that the requirement of subsection (2) of this section as applied to any drug or class of drugs, is not necessary for the protection of the public health, he or she shall promulgate regulations of exemption accordingly. [2017 c 212 s 10; 2012 c 117 s 338; 1945 c 257 s 75; Rem. Supp. 1945 s 6163-124.]

69.04.580 Application for introduction. An application under RCW 69.04.570 shall be filed with the director, and subject to any waiver by the director, shall include (1) full reports of investigations which have been made to show whether or not the drug, subject to the application, is safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) such samples of such drug and of the articles used as components thereof as the director may require; and (6) specimens of the labeling proposed to be used for such drug. [1945 c 257 s 76; Rem. Supp. 1945 s 6163-125.]

69.04.590 Effective date of application. An application filed under RCW 69.04.570 shall become effective on the sixtieth day after the filing thereof, unless the director (1) makes such application effective prior to such day; or (2) issues an order with respect to such application pursuant to RCW 69.04.600. [1945 c 257 s 77; Rem. Supp. 1945 s 6163-126.]

69.04.600 Denial of application. If the director finds, upon the basis of the information before him or her and after due notice and opportunity for hearing to the applicant, that the drug, subject to the application, is not safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, he or she shall, prior to such effective date, issue an order refusing to permit such application to become effective and stating the findings upon which it is based. [2012 c 117 s 339; 1945 c 257 s 78; Rem. Supp. 1945 s 6163-127.]

69.04.610 Revocation of denial. An order refusing to permit an application under RCW 69.04.570 to become effective may be suspended or revoked by the director, for cause and by order stating the findings upon which it is based. [1945 c 257 s 79; Rem. Supp. 1945 s 6163-128.]

69.04.620 Service of order of denial. Orders of the director issued under RCW 69.04.600 shall be served (1) in person by a duly authorized representative of the director or (2) by mailing the order by registered mail addressed to the applicant or respondent at his or her address last known to the director. [2012 c 117 s 340; 1945 c 257 s 80; Rem. Supp. 1945 s 6163-129.]

69.04.630 Drug for investigational use exempt. A drug shall be exempt from the operation of RCW 69.04.570 which is intended, and introduced or delivered for introduction into intrastate commerce, solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs and which is plainly labeled "For investigational use only." [1945 c 257 s 81; Rem. Supp. 1945 s 6163-130.]

69.04.640 Court review of denial. The superior court of Thurston county shall have jurisdiction to review and to affirm, modify, or set aside any order issued under RCW 69.04.600, upon petition seasonably made by the person to whom the order is addressed and after prompt hearing upon due notice to both parties. [1945 c 257 s 82; Rem. Supp. 1945 s 6163-131.]

69.04.650 Dispensing of certain drugs exempt. A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the operation of RCW 69.04.570 through 69.04.640. [1945 c 257 s 83; Rem. Supp. 1945 s 6163-132.]

69.04.660 Federally licensed drugs exempt. The provisions of RCW 69.04.570 shall not apply to any drug which is licensed under the federal virus, serum, and toxin act of July 1, 1902; or under the federal virus, serums, toxins, antitoxins, and analogous products act of March 4, 1913. [1945 c 257 s 84; Rem. Supp. 1945 s 6163-133.]

69.04.670 Cosmetics—Adulteration by injurious substances. A cosmetic shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: PROVIDED, That this provision shall not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying direction should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (5) the term "hair dye" shall not include eyelash dyes or eyebrow dyes; or (2) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (3) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (4) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (5) if it is not a hair dye and it bears or contains a coal tar color other than one that is harmless and suitable for use in cosmetics, as provided by regulations promulgated under section 604 of the federal act. [1945 c 257 s 85; Rem. Supp. 1945 s 6163-134.]

69.04.680 Cosmetics—Misbranding by false label, etc. A cosmetic shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if in package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (b) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the director. [1945 c 257 s 86; Rem. Supp. 1945 s 6163-135.]

69.04.690 Cosmetics—Misbranding by lack of prominent label. A cosmetic shall be deemed to be misbranded (1) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or (2) if its container is so made, formed, or filled as to be misleading. [1945 c 257 s 87; Rem. Supp. 1945 s 6163-136.]

69.04.700 Cosmetics exempt if in transit for completion purposes. A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 s 88; Rem. Supp. 1945 s 6163-137.]

69.04.710 Advertisement, when deemed false. An advertisement of a drug, device, or cosmetic shall be deemed to be false, if it is false or misleading in any particular. [2018 c 236 s 602; 1945 c 257 s 89; Rem. Supp. 1945 s 6163-138.]

69.04.720 Advertising of cure of certain diseases deemed false. The advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, *venereal disease, shall also be deemed to be false; except that no advertisement not in violation of RCW 69.04.710 shall be deemed to be false under this section if it is disseminated only to members of the medical, veterinary, dental, pharmacal, and other legally recognized professions dealing with the healing arts, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: PROVIDED, That whenever the director determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interest of public health: PROVIDED FURTHER, That this section shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious. [1945 c 257 s 90; Rem. Supp. 1945 s 6163-139.]

***Reviser's note:** The term "venereal disease" was changed to "sexually transmitted disease" by 1988 c 206.

69.04.730 Enforcement, where vested—Regulations. The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director: PROVIDED, HOWEVER, That the director shall designate the pharmacy quality assurance commission to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof. [2013 c 19 s 51; 1947 c 25 s 91 (passed notwithstanding veto); 1945 c 257 s 91 (vetoed); Rem. Supp. 1947 s 6163-139a.]

69.04.740 Regulations to conform with federal regulations. The purpose of this chapter being to promote uniformity of state legislation with the federal act, the director is hereby authorized (1) to adopt, insofar as applicable, the regulations from time to time promulgated under the federal act; and (2) to make the regulations promulgated under this chapter conform, insofar as practicable, with those promulgated under the federal act. [1945 c 257 s 92; Rem. Supp. 1945 s 6163-140.]

69.04.750 Hearings. Hearings authorized or required by this chapter shall be conducted by the director or his or her duly authorized representative designated for the purpose. [2012 c 117 s 341; 1945 c 257 s 93; Rem. Supp. 1945 s 6163-141.]

69.04.761 Hearing on proposed regulation—Procedure. The director shall hold a public hearing upon a proposal to promulgate any new or amended regulation under this chapter. The procedure to be followed concerning such hearings shall comply in all respects with chapter 34.05 RCW (Administrative Procedure Act) as now enacted or hereafter amended. [1963 c 198 s 13.]

69.04.770 Review on petition prior to effective date. The director shall have jurisdiction to review and to affirm, modify, or set aside any order issued under *RCW 69.04.760, promulgating a new or amended regulation under this chapter, upon petition made at any time prior to the effective date of such regulation, by any person adversely affected by such order. [1945 c 257 s 95; Rem. Supp. 1945 s 6163-143.]

***Reviser's note:** RCW 69.04.760 was repealed by 1963 c 198 s 15. Later enactment, see RCW 69.04.761.

69.04.780 Investigations—Samples—Right of entry—Verified statements. The director shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to this chapter. The director shall have the right (1) to take a sample or specimen of any such article, for examination under this chapter, upon tendering the market price therefor to the person having such article in custody; and (2) to enter any place or establishment within this state, at reasonable times, for the purpose of taking a sample or specimen of any such article, for such examination.

The director and the director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. Such department personnel are empowered to administer oaths of verification on the statements. [1991 c 162 s 6; 1945 c 257 s 96; Rem. Supp. 1945 s 6163-144.]

69.04.790 Owner may obtain part of sample. Where a sample or specimen of any such article is taken for examination under this chapter, the director shall, upon request, provide a part thereof for examination by any person named on the label of such article, or the owner thereof, or his or her attorney or agent; except that the director is authorized, by regulation, to make such reasonable exceptions from, and to impose such reasonable terms and conditions relating to, the operation of this section as he or she finds necessary for the proper administration of the provisions of this chapter. [2012 c 117 s 342; 1945 c 257 s 97; Rem. Supp. 1945 s 6163-145.]

69.04.800 Access to records of other agencies. For the purpose of enforcing the provisions of this chapter, pertinent records of any administrative agency of the state government shall be open to inspection by the director. [1945 c 257 s 98; Rem. Supp. 1945 s 6163-146.]

69.04.810 Access to records of intrastate carriers. For the purpose of enforcing the provisions of this chapter, carriers engaged in intrastate commerce, and persons receiving drugs, devices, or cosmetics in intrastate commerce or holding such articles so received, shall, upon the request of the director, permit the director at reasonable times, to have access to and to copy all records showing the movement in

intrastate commerce of any drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and the copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of drug, device, or cosmetic to which such request relates: PROVIDED, That evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: PROVIDED FURTHER, That carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of drugs, devices, or cosmetics in the usual course of business as carriers. [2018 c 236 s 603; 1990 c 202 s 9; 1945 c 257 s 99; Rem. Supp. 1945 s 6163-147.]

69.04.820 Right of entry to factories, warehouses, vehicles, etc. For the purpose of enforcing the provisions of this chapter, the director is authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment subject to this chapter, or to enter any vehicle being used to transport or hold drugs, devices, or cosmetics in intrastate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling, and advertisements therein. [2018 c 236 s 604; 1945 c 257 s 100; Rem. Supp. 1945 s 6163-148.]

69.04.830 Publication of reports of judgments, orders and decrees. The director may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof. [1945 c 257 s 101; Rem. Supp. 1945 s 6163-149.]

69.04.840 Dissemination of information. The director may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the director, imminent danger to health or gross deception of, or fraud upon, the consumer. Nothing in this section shall be construed to prohibit the director from collecting, reporting, and illustrating the results of his or her examinations and investigations under this chapter. [2012 c 117 s 343; 1945 c 257 s 102; Rem. Supp. 1945 s 6163-150.]

69.04.850 Construction—1945 c 257. This chapter and the rules adopted hereunder shall be so interpreted and construed as to effectuate its general purpose to secure uniformity with federal acts and regulations relating to adulterating, misbranding and false advertising of drugs, devices, and cosmetics. [2018 c 236 s 605; 1945 c 257 s 104; Rem. Supp. 1945 s 6163-152.]

69.04.860 Effective date of chapter—1945 c 257. This chapter shall take effect ninety days after the date of its enactment, and all state laws or parts of laws in conflict with this chapter are then repealed: PROVIDED, That the provisions of section 91 shall become effective on the enactment of this chapter, and thereafter the director is hereby authorized to conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this chapter as the director shall direct: PROVIDED FURTHER, That all other provisions of this chapter to the extent that they may relate to the enforcement of such sections, shall take effect on the date of the enactment of this chapter. [1945 c 257 s 105; Rem. Supp. 1945 s 6163-153.]

Reviser's note: 1945 c 257 s 91 referred to herein was vetoed by the governor but was subsequently reenacted as 1947 c 25 notwithstanding the veto. Section 91 is codified as RCW 69.04.730. For effective date of section 91 see preface 1947 session laws.

69.04.880 Civil penalty. Whenever the director finds that a person has committed a violation of a provision of this chapter, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each and every such violation shall be a separate and distinct offense. Imposition of the civil penalty shall be subject to a hearing in conformance with chapter 34.05 RCW. [1991 c 162 s 2.]

Chapter 69.05 RCW
CRUELTY FREE COSMETICS ACT

Sections

69.05.010 Definitions. ***(Effective January 1, 2025.)*** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Cosmetic" means articles intended:

(i) To be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; or

(ii) For use as a component of any articles under (a)(i) of this subsection.

(b) "Cosmetic" does not include soap.

(2) "Cosmetic animal testing" means the internal or external application or exposure of any cosmetic product, or any cosmetic ingredient or nonfunctional constituent, to the skin, eyes, or any other body part of a live, nonhuman vertebrate.

(3) "Cosmetic ingredient" means any single chemical entity or mixture used as a component in the manufacture of a cosmetic product, as defined in 21 C.F.R. Sec. 700.3(e) on January 1, 2025.

(4) "Cosmetic product" means a finished cosmetic, the manufacture of which has been completed.

(5) "Manufacture" has the same meaning as "to manufacture" in RCW 82.04.120.

(6) "Manufacturer" means any entity required to specify conspicuously its name and place of business on the label of a cosmetic in package form under 21 C.F.R. Sec. 701.12 on January 1, 2025.

(7) "Nonfunctional constituent" means any incidental ingredient as defined in 21 C.F.R. Sec. 701.3(1) on January 1, 2025.

(8) "Supplier" means any entity that provides, whether directly or through a third party, any cosmetic ingredient used by a manufacturer in the formulation of a cosmetic product. [2024 c 107 s 1.]

69.05.020 Sales of cosmetics tested on animals—Prohibited. ***(Effective January 1, 2025.)*** Beginning January 1, 2025, it is unlawful for a manufacturer to sell or offer for sale in this state a cosmetic if the cosmetic was developed or manufactured using cosmetic animal testing that was conducted or contracted for by the manufacturer or any supplier of the manufacturer. [2024 c 107 s 2.]

69.05.030 Sales of cosmetics tested on animals—Exception to prohibition. ***(Effective January 1, 2025.)*** RCW 69.05.020 does not apply with respect to cosmetic animal testing:

(1) Conducted outside of the United States in order to comply with a requirement of a foreign regulatory authority if no evidence derived from the testing was relied upon to substantiate the safety of the cosmetic ingredient or cosmetic product being sold by the manufacturer in Washington;

(2) Conducted for any cosmetic or cosmetic ingredient subject to regulation under 21 U.S.C. Sec. 351 et seq., of the federal food, drug, and cosmetic act;

(3) Conducted for a cosmetic ingredient intended to be used in a product that is not a cosmetic product and is conducted under a requirement of a federal, state, or foreign regulatory authority if no evidence derived from the testing was relied upon to substantiate the safety of a cosmetic sold in Washington by a cosmetics manufacturer, unless all of the following apply:

(a) There is documented evidence of the noncosmetic intent of the test; and

(b) There is a history of use of the ingredient outside of cosmetics at least 12 months before the reliance; or

(4) Requested, required, or conducted by a federal or state regulatory authority and each of the following apply:

(a) There is no nonanimal alternative method or strategy recognized by any federal or state agency or the organization for economic cooperation and development for the relevant safety endpoints for the cosmetic ingredient or nonfunctional constituent;

(b) The cosmetic ingredient or nonfunctional constituent poses a risk of causing a specific human health problem that is substantiated and the need to conduct cosmetic animal testing is justified and supported by a detailed research protocol proposed as the basis for the evaluation of the cosmetics ingredient or nonfunctional constituent; and

(c) That the cosmetic ingredient or nonfunctional constituent is in wide use and, in the case of a cosmetic ingredient, cannot be replaced by another cosmetic ingredient capable of performing a similar function. [2024 c 107 s 3.]

69.05.040 Sales of cosmetics tested on animals—Prohibition application. ***(Effective January 1, 2025.)*** RCW 69.05.020 does not apply to:

(1) A cosmetic if the cosmetic in its final form was tested on animals before January 1, 2025, even if the cosmetic is manufactured on or after January 1, 2025, if no new animal testing in violation of this chapter occurs after January 1, 2025, by or on behalf of the manufacturer;

(2) An ingredient in a cosmetic if the ingredient was tested on animals before January 1, 2025, even if the ingredient is manufactured on or after January 1, 2025, if no new animal testing in violation of this chapter occurs after January 1, 2025, by or on behalf of the manufacturer; or

(3) A cosmetic manufacturer reviewing, assessing, or retaining evidence from a cosmetic animal test. [2024 c 107 s 4.]

69.05.050 Preemption. ***(Effective January 1, 2025.)*** No county or political subdivision of the state may establish or continue any prohibition on or relating to cosmetic animal testing that is not identical to the prohibitions set forth in this chapter. [2024 c 107 s 5.]

69.05.060 Penalty. ***(Effective January 1, 2025.)*** A manufacturer that sells or offers for sale a cosmetic in violation of this chapter commits a civil violation punishable by a fine of not more than $5,000 for each violation. [2024 c 107 s 6.]

69.05.900 Short title. ***(Effective January 1, 2025.)*** This chapter may be known and cited as the cruelty free cosmetics act. [2024 c 107 s 7.]

69.05.901 Effective date—2024 c 107. This act takes effect January 1, 2025. [2024 c 107 s 9.]

Chapter 69.06 RCW
FOOD AND BEVERAGE ESTABLISHMENT WORKERS' PERMITS

Sections

69.06.010 Food and beverage service worker's permit—Filing, duration—Minimum training requirements. It shall be unlawful for any person to be employed in the handling of unwrapped or unpackaged food unless he or she shall furnish and place on file with the person in charge of such establishment, a food and beverage service worker's permit, as prescribed by the state board of health. Such permit shall be kept on file by the employer or kept by the employee on his or her person and open for inspection at all reasonable hours by authorized public health officials. Such permit shall be returned to the employee upon termination of employment. Initial permits, including limited duty permits, shall be

valid for two years from the date of issuance. Subsequent renewal permits shall be valid for three years from the date of issuance, except an employee may be granted a renewal permit that is valid for five years from the date of issuance if the employee demonstrates that he or she has obtained additional food safety training prior to renewal of the permit. Rules establishing minimum training requirements must be adopted by the state board of health and developed by the department of health in conjunction with local health jurisdictions and representatives of the food service industry. [1998 c 136 s 1; 1987 c 223 s 5; 1957 c 197 s 1.]

Additional notes found at www.leg.wa.gov

69.06.020 Permit exclusive and valid throughout state—Fee. The permit provided in RCW 69.06.010 or 69.06.070 shall be valid in every city, town and county in the state, for the period for which it is issued, and no other health certificate shall be required of such employees by any municipal corporation or political subdivision of the state. The cost of the permit shall be uniform throughout the state and shall be in that amount set by the state board of health. The cost of the permit shall reflect actual costs of food worker training and education, administration of the program, and testing of applicants. The state board of health shall periodically review the costs associated with the permit program and adjust the fee accordingly. The board shall also ensure that the fee is not set at an amount that would prohibit low-income persons from obtaining permits. [1998 c 136 s 3; 1987 c 223 s 6; 1957 c 197 s 2.]

69.06.030 Diseased persons—May not work—Employer may not hire. It shall be unlawful for any person afflicted with any contagious or infectious disease that may be transmitted by food or beverage to work in or about any place where unwrapped or unpackaged food and/or beverage products are prepared or sold, or offered for sale for human consumption and it shall be unlawful for any person knowingly to employ a person so afflicted. Nothing in this section eliminates any authority or requirement to control or suppress communicable diseases pursuant to chapter 70.05 RCW and *RCW 43.20.050(2)(e). [1998 c 136 s 4; 1957 c 197 s 3.]

***Reviser's note:** RCW 43.20.050 was amended by 2009 c 495 s 1, changing subsection (2)(e) to subsection (2)(f).

69.06.040 Application of chapter to retail food establishments. This chapter shall apply to any retail establishment engaged in the business of food handling or food service. [1987 c 223 s 7; 1957 c 197 s 4.]

69.06.045 Application of chapter to temporary food service establishments. As used in this section, "temporary food service establishment" means a food service establishment operating at a fixed location for a period of time of not more than twenty-one consecutive days in conjunction with a single event or celebration. This chapter applies to temporary food service establishments with the following exceptions:

(1) Only the operator or person in charge of a temporary food service establishment shall be required to secure a food and beverage service workers' permit; and

(2) The operator or person in charge of a temporary food service establishment shall secure a valid food and beverage service workers' permit before commencing the food handling operation. [1987 c 223 s 8.]

69.06.050 Permit to be secured within fourteen days from time of employment. Individuals under this chapter must obtain a food and beverage service workers' permit within fourteen days from commencement of employment. Individuals under this chapter may work for up to fourteen calendar days without a food and beverage service workers' permit, provided that they receive information or training regarding safe food handling practices from the employer prior to commencement of employment. Documentation that the information or training has been provided to the individual must be kept on file by the employer. [1998 c 136 s 5; 1957 c 197 s 5.]

69.06.060 Penalty. Any violation of the provisions of this chapter shall be a misdemeanor. [1957 c 197 s 6.]

69.06.070 Limited duty permit. The local health officer may issue a limited duty permit when necessary to reasonably accommodate a person with a disability. The limited duty permit must specify the activities that the permit holder may perform, and must include only activities having low public health risk. [1998 c 136 s 2.]

69.06.080 Chapter not applicable to persons who meet requirements of RCW 70.128.250. Except for the food safety training standards adopted by the state board of health under RCW 69.06.010, the provisions of this chapter do not apply to persons who work in adult family homes and successfully complete training and continuing education as required by RCW 70.128.250. [2005 c 505 s 7.]

Chapter 69.07 RCW
WASHINGTON FOOD PROCESSING ACT

Sections

69.07.005 Legislative declaration. The processing of food intended for public consumption is important and vital to the health and welfare both immediate and future and is hereby declared to be a business affected with the public interest. The provisions of this chapter [1991 c 137] are enacted to safeguard the consuming public from unsafe, adulterated, or misbranded food by requiring licensing of all food processing plants as defined in this chapter and setting forth the requirements for such licensing. [1991 c 137 s 1.]

69.07.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the state liquor and cannabis board.

(2) "Cannabis" has the definition in RCW 69.50.101.

(3) "Cannabis-infused edible" has the same meaning as "cannabis-infused products" as defined in RCW 69.50.101, but limited to products intended for oral consumption.

(4) "Cannabis-infused edible processing" means processing, packaging, or making cannabis-infused edibles using cannabis, cannabis extract, or cannabis concentrates as an ingredient. The term does not include preparation of cannabis as an ingredient including, but not limited to, processing cannabis extracts or cannabis concentrates.

(5) "Cannabis processor" has the definition in RCW 69.50.101.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Director" means the director of the department.

(8) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component.

(9) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state.

(10) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing.

(11) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants.

(12) "Hemp extract" means a substance or compound intended for human ingestion that is derived from, or made by, processing hemp. The term does not include hemp seeds or hemp seed-derived ingredients that are generally recognized as safe by the United States food and drug administration.

(13) "Hemp extract certification" means a certification issued by the department to a hemp processor manufacturing hemp extract for export to other states, which certifies the hemp processor's compliance with Washington state's inspection and sanitation requirements.

(14) "Hemp processor" has same meaning as defined in RCW 15.140.020.

(15) "Person" means an individual, partnership, corporation, or association.

(16) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media. [2022 c 16 s 48; 2021 c 104 s 5. Prior: 2017 c 138 s 1; 1992 c 34 s 3; 1991 c 137 s 2; 1967 ex.s. c 121 s 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2021 c 104: See note following RCW 15.140.020.

Additional notes found at www.leg.wa.gov

69.07.020 Enforcement—Rules—Adoption—Contents—Standards. (1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods.

(3) The department may adopt rules specific to cannabis-infused edibles. Such rules must be written and interpreted to be consistent with rules adopted by the board and the department of health.

(4) The department may adopt rules specific to hemp extract certification to implement RCW 69.07.220. [2022 c

16 s 49; 2021 c 104 s 7; 2017 c 138 s 2; 1969 c 68 s 1; 1967 ex.s. c 121 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2021 c 104: See note following RCW 15.140.020.

69.07.040 Food processing license—Waiver if licensed under chapter 15.36 RCW—Expiration date—Application, contents—Fee. (1) It is unlawful for any person to operate a food processing plant or process foods in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates. Application for a license shall be on a form prescribed by the director and accompanied by the license fee. The license fee is determined by computing the gross annual sales for the accounting year immediately preceding the license year. If the license is for a new operator, the license fee shall be based on an estimated gross annual sales for the initial license period.

If gross annual sales are:	The license fee is:
$0 to $50,000	$ 92.00
$50,001 to $500,000	$ 147.00
$500,001 to $1,000,000	$ 262.00
$1,000,001 to $5,000,000	$ 427.00
$5,000,001 to $10,000,000	$ 585.00
Greater than $10,000,000	$ 862.00

(2) Applications under this section must include:

(a) The full name of the applicant for the license and the location of the food processing plant he or she intends to operate, and if the applicant is an individual, receiver, trustee, firm, partnership, association, or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation;

(b) The principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant; and

(c) The type of food to be processed and the method or nature of processing operation or preservation of that food and any other necessary information.

(3) Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted by the department, the applicant shall be issued a license or renewal.

(4) Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. Wherever a license holder wishes to engage in processing a type of food product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities or has a high potential for harm, the licensee must submit an amendment to the current license application. In such a case, the licensee may engage in processing the new type of food product only after the amendment has been approved by the department.

(5) If upon investigation by the director, it is determined that a person is processing food for retail sale and is not under permit, license, or inspection by a local health authority, then that person may be considered a food processor and subject to the provisions of this chapter.

(6) The director may waive the licensure requirements of this chapter for a person's operations at a facility if the person has obtained a milk processing plant license under chapter 15.36 RCW to conduct the same or a similar operation at the facility. [2015 3rd sp.s. c 27 s 7; 1995 c 374 s 21. Prior: 1993 sp.s. c 19 s 11; 1993 c 212 s 2; 1992 c 160 s 3; 1991 c 137 s 3; 1988 c 5 s 1; 1969 c 68 s 2; 1967 ex.s. c 121 s 4.]

Findings—Intent—2015 3rd sp.s. c 27: See note following RCW 15.36.051.

Additional notes found at www.leg.wa.gov

69.07.050 Renewal of license—Additional fee, when. If the application for renewal of any license provided for under this chapter is not filed prior to the expiration date as established by rule by the director, an additional fee of ten percent of the cost of the license shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he or she has not operated a food processing plant or processed foods subsequent to the expiration of his or her license. [1992 c 160 s 4; 1991 c 137 s 4; 1988 c 5 s 2; 1967 ex.s. c 121 s 5.]

69.07.060 Denial, suspension, or revocation of license—Grounds. The director may, subsequent to a hearing thereon, deny, suspend, or revoke any license provided for in this chapter if he or she determines that an applicant has committed any of the following acts:

(1) Refused, neglected, or failed to comply with the provisions of this chapter, the rules and regulations adopted hereunder, or any lawful order of the director.

(2) Refused, neglected, or failed to keep and maintain records required by this chapter, or to make such records available when requested pursuant to the provisions of this chapter.

(3) Refused the department access to any portion or area of the food processing plant for the purpose of carrying out the provisions of this chapter.

(4) Refused the department access to any records required to be kept under the provisions of this chapter.

(5) Refused, neglected, or failed to comply with any provisions of the food safety and security act under chapter 15.130 RCW, or any rules adopted thereunder.

The provisions of this section requiring that a hearing be conducted before an action may be taken against a license do not apply to an action taken under RCW 69.07.065. [2018 c 236 s 712; 2012 c 117 s 345; 1991 c 137 s 5; 1979 c 154 s 19; 1967 ex.s. c 121 s 6.]

Additional notes found at www.leg.wa.gov

69.07.065 Suspension of license summarily—Reinstatement. (1) Whenever the director finds an establishment operating under conditions that constitute an immediate danger to public health or whenever the licensee or any employee of the licensee actively prevents the director or the director's representative, during an on-site inspection, from determining whether such a condition exists, the director may sum-

marily suspend, pending a hearing, a license provided for in this chapter.

(2) Whenever a license is summarily suspended, the holder of the license shall be notified in writing that the license is, upon service of the notice, immediately suspended and that prompt opportunity for a hearing will be provided.

(3) Whenever a license is summarily suspended, food processing operations shall immediately cease. However, the director may reinstate the license when the condition that caused the suspension has been abated to the director's satisfaction. [1991 c 137 s 6.]

69.07.070 Rules and regulations, hearings subject to Administrative Procedure Act. The adoption of any rules and regulations under the provisions of this chapter, or the holding of a hearing in regard to a license issued or which may be issued under the provisions of this chapter shall be subject to the applicable provisions of chapter 34.05 RCW, the Administrative Procedure Act, as enacted or hereafter amended. [1967 ex.s. c 121 s 7.]

69.07.080 Inspections by department—Access—When. For purpose of determining whether the rules adopted pursuant to RCW 69.07.020, as now or hereafter amended are complied with, the department shall have access for inspection purposes to any part, portion or area of a food processing plant, and any records required to be kept under the provisions of this chapter or rules and regulations adopted hereunder. Such inspection shall, when possible, be made during regular business hours or during any working shift of said food processing plant. The department may, however, inspect such food processing plant at any time when it has received information that an emergency affecting the public health has arisen and such food processing plant is or may be involved in the matters causing such emergency. [1969 c 68 s 3; 1967 ex.s. c 121 s 8.]

69.07.085 Sanitary certificates—Fee. The department may issue sanitary certificates to food processors under this chapter subject to such requirements as it may establish by rule. The fee for issuance shall be seventy-five dollars per certificate. Fees collected under this section shall be deposited in the agricultural local fund. [2015 3rd sp.s. c 27 s 8; 1995 c 374 s 23; 1988 c 254 s 9.]

Findings—Intent—2015 3rd sp.s. c 27: See note following RCW 15.36.051.

Additional notes found at www.leg.wa.gov

69.07.095 Authority of director and personnel. The director or the director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. The department personnel are empowered to administer oaths of verification on the statement. [1991 c 137 s 7.]

69.07.100 Establishments exempted from provisions of chapter. (1) The provisions of this chapter shall not apply to establishments issued a permit or licensed under the provisions of:

(a) Chapter 69.25 RCW, the Washington wholesome eggs and egg products act;

(b) Chapter 69.28 RCW, the Washington state honey act;

(c) Chapter 16.49 RCW, the meat inspection act;

(d) Chapter 77.65 RCW, relating to the limited fish seller endorsement for wild-caught seafood;

(e) Chapter 69.22 RCW, relating to cottage food operations;

(f) Title 66 RCW, relating to alcoholic beverage control; and

(g) Chapter 69.30 RCW, the sanitary control of shellfish act.

(2) If any such establishments process foods not specifically provided for in the above entitled acts, the establishments are subject to the provisions of this chapter.

(3) The provisions of this chapter do not apply to restaurants or food service establishments. [2017 3rd sp.s. c 8 s 55; 2011 c 281 s 13; 2002 c 301 s 10; 1995 c 374 s 22; 1988 c 5 s 4; 1983 c 3 s 168; 1967 ex.s. c 121 s 10.]

Finding—Intent—Effective date—2017 3rd sp.s. c 8: See notes following RCW 77.08.010.

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

Additional notes found at www.leg.wa.gov

69.07.103 Poultry—Slaughter, preparation, sale—One thousand or fewer—Special permit—Rules—Fee. (1) A special permit issued by the department under this section is required for the slaughter, preparation, and sale of one thousand or fewer poultry in a calendar year by a poultry producer for the sale of whole raw poultry directly to the ultimate consumer at the producer's farm. Activities conducted under the permit are exempt from any other licensing requirements of this chapter.

(2)(a) The department must adopt by rule requirements for the permit. The requirements must be generally patterned after those established by the state board of health for temporary food service establishments, but must be tailored specifically to poultry slaughter, preparation, and sale activities. The requirements must include, but are not limited to, those for: Cooling procedures, when applicable; sanitary facilities, equipment, and utensils; clean water; washing and other hygienic practices; and waste and wastewater disposal.

(b) A permit expires December 31st and may be issued for either one or two years as requested by the permit applicant upon payment of the applicable fee in accordance with subsection (4) of this section.

(3) The department shall conduct such inspections as are reasonably necessary to ensure compliance with permit requirements.

(4) The fee for a special permit is seventy-five dollars for one year, or one hundred twenty-five dollars for two years. [2009 c 114 s 1; 2003 c 397 s 2.]

69.07.110 Enforcement of chapter. The department may use all the civil remedies provided for in the food safety and security act under chapter 15.130 RCW in carrying out and enforcing the provisions of this chapter. [2018 c 236 s 713; 1967 ex.s. c 121 s 11.]

69.07.120 Disposition of money into food processing inspection account. All moneys received by the department under the provisions of this chapter, RCW 15.130.410, and chapter 69.22 RCW shall be paid into the food processing inspection account hereby created within the agricultural local fund established in RCW 43.23.230 and shall be used solely to carry out the provisions of this chapter, RCW 15.130.410, and chapters 69.22 and 15.130 RCW. [2018 c 236 s 714; 2014 c 98 s 3; 2011 c 281 s 12; 1992 c 160 s 5; 1967 ex.s. c 121 s 12.]

Findings—Intent—2014 c 98: "The legislature finds that the availability of affordable, fresh, and nourishing foods is essential for individuals to maintain a healthy lifestyle. The legislature also finds that new methods of purchasing and delivering fresh, nourishing foods are emerging and lowering the costs of these foods. The legislature further finds that some of the new business models for purchasing and delivering fresh, nourishing foods are being inappropriately classified as food service establishments. Therefore, it is the intent of the legislature to establish a direct seller license for businesses that sell and collect payment only through a website for prepackaged foods obtained from a food processor either licensed or inspected, or both, by a state or federal regulatory agency and that deliver the food directly to consumers without any interim storage." [2014 c 98 s 1.]

69.07.135 Unlawful to sell or distribute food from unlicensed processor. It shall be unlawful to resell, to offer for resale, or to distribute for resale in intrastate commerce any food processed in a food processing plant, which has not obtained a license, as provided for in this chapter, once notification by the director has been given to the person or persons reselling, offering, or distributing food for resale, that said food is from an unlicensed processing operation. [1991 c 137 s 8.]

69.07.140 Violations—Warning notice. Nothing in this chapter shall be construed as requiring the department to report for prosecution violations of this chapter when it believes that the public interest will best be served by a suitable notice of warning in writing. [1967 ex.s. c 121 s 14.]

69.07.150 Violations—Penalties. (1)(a) Except as provided in (b) of this subsection, any person violating any provision of this chapter or any rule or regulation adopted hereunder is guilty of a misdemeanor.

(b) A second or subsequent violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to subsection (1) of this section, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each violation shall be a separate and distinct offense. [2003 c 53 s 316; 1991 c 137 s 9; 1967 ex.s. c 121 s 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.07.160 Authority of director and department under the food safety and security act not impaired by this chapter. The authority granted to the director and to the department under the provisions of the food safety and security act under chapter 15.130 RCW shall not be deemed to be reduced or otherwise impaired as a result of any provision or provisions of the Washington Food Processing Act (chapter 69.07 RCW). [2018 c 236 s 715; 1969 c 68 s 4.]

69.07.170 Definitions. As used in RCW 69.07.180 and 69.07.190:

(1) "Artesian water" means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. "Artesian water" shall meet the requirements of "natural water."

(2) "Bottled water" means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(3) "Carbonated water" or "sparkling water" means bottled water containing carbon dioxide.

(4) "Department" means the department of agriculture.

(5) "Distilled water" means bottled water that has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

(6) "Drinking water" means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration, activated carbon or particulate, and ozonization or an equivalent disinfection process, or that meets the requirements of the federal safe drinking water act of 1974 as amended and complies with all department of health rules regarding drinking water.

(7) "Mineral water" means bottled water that contains not less than five hundred parts per million total dissolved solids. "Natural mineral water" shall meet the requirements of "natural water."

(8) "Natural water" means bottled spring, mineral, artesian, or well water that is derived from an underground formation and may be derived from a public water system as defined in RCW 70A.125.010 only if that supply has a single source such as an actual spring, artesian well, or pumped well, and has not undergone any treatment that changes its original chemical makeup except ozonization or an equivalent disinfection process.

(9) "Plant operator" means a person who owns or operates a bottled water plant.

(10) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water that meets this definition and is vaporized, then condensed, may be labeled "distilled water."

(11) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

(12) "Water dealer" means a person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

(13) "Well water" means water from a hole bored, drilled, or otherwise constructed in the ground that taps the water of an aquifer. "Well water" shall meet the requirements of "natural water." [2021 c 65 s 63; 1992 c 34 s 1.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Additional notes found at www.leg.wa.gov

69.07.180 Bottled water labeling standards. All bottled water must conform to applicable federal and state labeling laws and be labeled in compliance with the following standards:

(1) Mineral water may be labeled "mineral water." Bottled water to which minerals are added shall be labeled so as to disclose that minerals are added, and may not be labeled "natural mineral water."

(2) Spring water may be labeled "spring water" or "natural spring water."

(3) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas or from which the gas is mechanically separated and later reintroduced at a level not higher than naturally occurring in the water may bear on its label the words "naturally carbonated" or "naturally sparkling."

(4) Bottled water that contains carbon dioxide other than that naturally occurring in the source of the product shall be labeled with the words "carbonated," "carbonation added," or "sparkling" if the carbonation is obtained from a natural or manufactured source.

(5) Well water may be labeled "well water" or "natural well water."

(6) Artesian water may be labeled "artesian water" or "natural artesian water."

(7) Purified water may be labeled "purified water" and the method of preparation shall be stated on the label, except that purified water produced by distillation may be labeled as "distilled water."

(8) Drinking water may be labeled "drinking water."

(9) The use of the word "spring," or any derivative of "spring" other than in a trademark, trade name, or company name, to describe water that is not spring water is prohibited.

(10) A product meeting more than one of the definitions in RCW 69.07.170 may be identified by any of the applicable product types defined in RCW 69.07.170, except where otherwise specifically prohibited.

(11) Supplemental printed information and graphics may appear on the label but shall not imply properties of the product or preparation methods that are not factual. [1992 c 34 s 6.]

Additional notes found at www.leg.wa.gov

69.07.190 Bottled soft drinks, soda, or seltzer exempt from bottled water labeling requirements. Bottled soft drinks, soda, or seltzer products commonly recognized as soft drinks and identified on the product identity panel with a common or usual name other than one of those specified in RCW 69.07.170 are exempt from the requirements of RCW 69.07.180. Water that is not in compliance with the requirements of RCW 69.07.180 may not be identified, labeled, or advertised as "artesian water," "bottled water," "distilled water," "natural water," "purified water," "spring water," or "well water." [1992 c 34 s 7.]

Additional notes found at www.leg.wa.gov

69.07.200 Cannabis-infused edible processing. (1) In addition to the requirements administered by the board under chapter 69.50 RCW, the department shall regulate cannabis-infused edible processing the same as other food processing under this chapter, except:

(a) The department shall not consider foods containing cannabis to be adulterated when produced in compliance with chapter 69.50 RCW and the rules adopted by the board;

(b) Initial issuance and renewal for an annual cannabis-infused edible endorsement in lieu of a food processing license under RCW 69.07.040 must be made through the business licensing system under chapter 19.02 RCW;

(c) Renewal of the endorsement must coincide with renewal of the endorsement holder's cannabis processor license;

(d) The department shall adopt a penalty schedule specific to cannabis processors, which may have values equivalent to the penalty schedule adopted by the board. Such penalties are in addition to any penalties imposed under the penalty schedule adopted by the board; and

(e) The department shall notify the board of violations by cannabis processors under this chapter.

(2) A cannabis processor that processes, packages, or makes cannabis-infused edibles must obtain an annual cannabis-infused edible endorsement, as provided in this subsection (2).

(a) The cannabis processor must apply for issuance and renewal for the endorsement from the department through the business licensing system under chapter 19.02 RCW.

(b) The cannabis processor must have a valid cannabis processor license before submitting an application for initial endorsement. The application and initial endorsement fees total eight hundred ninety-five dollars. Applicants for endorsement otherwise must meet the same requirements as applicants for a food processing license under this chapter including, but not limited to, successful completion of inspection by the department.

(c) Annual renewal of the endorsement must coincide with renewal of the endorsement holder's cannabis processor license. The endorsement renewal fee is eight hundred ninety-five dollars.

(d) A cannabis processor must obtain a separate endorsement for each location at which the cannabis processor intends to process cannabis-infused edibles. Premises used for cannabis-infused edible processing may not be used for processing food that does not use cannabis as an ingredient, with the exception of edibles produced solely for tasting samples or internal product testing.

(3) The department may deny, suspend, or revoke a cannabis-infused edible endorsement on the same grounds as the department may deny, suspend, or revoke a food processor's license under this chapter.

(4) Information about processors otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department. [2022 c 16 s 50; 2017 c 138 s 4.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2017 c 138 s 4: "Section 4 of this act takes effect April 1, 2018." [2017 c 138 s 6.]

69.07.210 Cannabis-infused edible processing—Implementation. The department of agriculture, state liquor and cannabis board, and department of revenue shall take the necessary steps to ensure that RCW 69.07.200 is implemented on its effective date. [2017 c 138 s 5.]

69.07.220 Hemp extract certification. (1) Until such time as hemp extract is federally authorized for use as a food ingredient, hemp extract is not an approved food ingredient in Washington state. A hemp processor who wishes to engage in the production of hemp extract for use as a food ingredient in another state that allows its use as a food ingredient may apply for a hemp extract certification to certify the hemp processor's compliance with Washington's inspection and good manufacturing practices requirements. The department shall regulate hemp extract processing the same as other food processing under chapters 15.130, 69.07, and 69.22 RCW with the exceptions contained in subsections (2) through (6) of this section.

(2) The department's oversight is limited to certifying a hemp processor's compliance with applicable inspection and good manufacturing practices requirements as adopted by the department under chapter 15.130 RCW.

(3) The department must issue a hemp extract certification in lieu of a food processing license under RCW 69.07.040 to a hemp processor who meets the application requirements described in subsection (4) of this section. A hemp processor holding a hemp extract certification must apply for renewal of the certification annually.

(4) The application, initial certification, and renewal fees must be in an amount established by the department. Applicants for certification otherwise must meet the same requirements as applicants for a food processing license under chapter 69.07 RCW including, but not limited to, successful completion of an inspection by the department.

(5) The department may deny, suspend, or revoke a hemp extract certification on the same grounds as the department may deny, suspend, or revoke a food processor's license under this chapter.

(6) At such time as federal authorization of hemp extracts as a food ingredient occurs, the department must cease issuance of certifications under this chapter. At renewal, hemp processors certified under this section must apply for a food processor license in accordance with RCW 69.07.040. [2021 c 104 s 6.]

Intent—2021 c 104: See note following RCW 15.140.020.

69.07.900 Chapter is cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy. [1967 ex.s. c 121 s 16.]

69.07.920 Short title. This chapter shall be known and designated as the Washington food processing act. [1967 ex.s. c 121 s 18.]

Chapter 69.10 RCW
FOOD STORAGE WAREHOUSES

Sections

69.10.005 Definitions. For the purpose of this chapter:

(1) "Food storage warehouse" means any premises, establishment, building, room area, facility, or place, in whole or in part, where food is stored, kept, or held for wholesale distribution to other wholesalers or to retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer. Food storage warehouses include, but are not limited to, facilities where food is kept or held refrigerated or frozen and include facilities where food is stored to the account of another firm and/or is owned by the food storage warehouse. "Food storage warehouse" does not include grain elevators or fruit and vegetable storage and packing houses that store, pack, and ship fresh fruit and vegetables even though they may use refrigerated or controlled atmosphere storage practices in their operation. However, this chapter applies to multiple food storage operations that also distribute or ripen fruits and vegetables.

(2) "Department" means the Washington department of agriculture.

(3) "Director" means the director of the Washington department of agriculture.

(4) "Food" means the same as defined in the food safety and security act under chapter 15.130 RCW.

(5) "Independent sanitation consultant" means an individual, partnership, cooperative, or corporation that by reason of education, certification, and experience has satisfactorily demonstrated expertise in food and dairy sanitation and is approved by the director to advise on such areas including, but not limited to: Principles of cleaning and sanitizing food processing plants and equipment; rodent, insect, bird, and other pest control; principles of hazard analysis critical control point; basic food product labeling; principles of proper food storage and protection; proper personnel work practices and attire; sanitary design, construction, and installation of food plant facilities, equipment, and utensils; and other pertinent food safety issues. [2018 c 236 s 716; 1995 c 374 s 8.]

69.10.010 Inspection of food storage warehouses—Powers of director. The director or his or her representative may inspect food storage warehouses for compliance with the provisions of chapter 15.130 RCW and the rules adopted under chapter 15.130 RCW as deemed necessary by the director. Any food storage warehouse found to not be in substantial compliance with chapter 15.130 RCW and the rules adopted under chapter 15.130 RCW will be reinspected as deemed necessary by the director to determine compliance. This does not preclude the director from using any other remedies as provided under chapter 15.130 RCW to gain compliance or to embargo products as provided under RCW 15.130.520 to protect the public from adulterated foods. [2018 c 236 s 717; 1995 c 374 s 9.]

69.10.015 Annual license required—Director's duties—Fee—Application—Renewal. (1) Except as provided in this section and RCW 69.10.020, it shall be unlawful for any person to operate a food storage warehouse in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. Application for a license or license renewal shall be on a form prescribed by the director and accompanied by the license fee. The license fee is two hundred dollars.

(2) For a food storage warehouse that has been inspected on at least an annual basis for compliance with the provisions of the current good manufacturing practices (Title 21 C.F.R. part 110) by a federal agency or by a state agency acting on behalf of and under contract with a federal agency and that is not exempted from licensure by RCW 69.10.020, the annual license fee for the warehouse is twenty-five dollars.

(3) The application shall include the full name of the applicant for the license and the location of the food storage warehouse he or she intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association, or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation must be given on the application. The application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted under this chapter by the department, the applicant shall be issued a license or renewal thereof. The director shall waive licensure under this chapter for firms that are licensed under the provisions of chapter 69.07 or 15.36 RCW. [2015 3rd sp.s. c 27 s 9; 1995 c 374 s 10.]

Findings—Intent—2015 3rd sp.s. c 27: See note following RCW 15.36.051.

69.10.020 Exemption from licensure—Independent inspection—Report to department. (1) A food storage warehouse that is inspected for compliance with the current good manufacturing practices (Title 21 C.F.R. part 110) on at least an annual basis by an independent sanitation consultant approved by the department is not required to be licensed under this chapter. A report identifying the inspector and the inspecting entity, the date of the inspection, and any violations noted on such inspection shall be forwarded to the department by the food storage warehouse within sixty days of the completion of the inspection. An inspection shall be conducted and an inspection report for a food storage warehouse shall be filed with the department at least once every twelve months or the warehouse shall be licensed under this chapter and inspected by the department for a period of two years.

(2) A food storage warehouse used to store alcohol beverages manufactured or distributed under a license issued pursuant to chapter 66.24 RCW is not required to be licensed under this chapter, provided alcohol beverages are the only food stored in the warehouse. [2018 c 96 s 1; 1995 c 374 s 11.]

69.10.025 Application for renewal of license after expiration date—Additional fee. If the application for renewal of any license provided for under this chapter is not filed prior to the expiration date as established by rule by the director, an additional fee of ten percent of the cost of the license shall be assessed and added to the original fee and must be paid by the applicant before the renewal license is issued. [1995 c 374 s 12.]

69.10.030 Director may deny, suspend, or revoke license—Actions by applicant—Hearing required. The director may, subsequent to a hearing thereon, deny, suspend, or revoke any license provided for in this chapter if he or she determines that an applicant has committed any of the following acts:

(1) Refused, neglected, or failed to comply with the provisions of this chapter, the rules adopted under this chapter, or any lawful order of the director;

(2) Refused, neglected, or failed to keep and maintain records required by this chapter, or to make such records available if requested pursuant to the provisions of this chapter;

(3) Refused the department access to any portion or area of the food storage warehouse for the purpose of carrying out the provisions of this chapter;

(4) Refused the department access to any records required to be kept under the provisions of this chapter;

(5) Refused, neglected, or failed to comply with any provisions of the food safety and security act under chapter 15.130 RCW, or any rules adopted under chapter 15.130 RCW.

The provisions of this section requiring that a hearing be conducted before an action may be taken against a license do not apply to an action taken under RCW 69.10.035. [2018 c 236 s 718; 1995 c 374 s 13.]

69.10.035 Immediate danger to public health—Summarily suspending license—Written notification—Hearing—Reinstatement of license. (1) Whenever the director finds a food storage warehouse operating under conditions that constitute an immediate danger to public health or whenever the licensee or any employee of the licensee actively prevents the director or the director's representative, during an on-site inspection, from determining whether such a condition exists, the director may summarily suspend, pending a hearing, a license provided for in this chapter.

(2) Whenever a license is summarily suspended, the holder of the license shall be notified in writing that the license is, upon service of the notice, immediately suspended and that prompt opportunity for a hearing will be provided.

(3) Whenever a license is summarily suspended, food distribution operations shall immediately cease. However, the director may reinstate the license if the condition that caused the suspension has been abated to the director's satisfaction. [1995 c 374 s 14.]

69.10.040 Unlicensed food storage warehouse—Unlawful to sell, offer for sale, or distribute in intrastate commerce. It is unlawful to sell, offer for sale, or distribute in intrastate commerce food from or stored in a food storage warehouse that is required to be licensed under this chapter

but that has not obtained a license, once notification by the director has been given to the persons selling, offering, or distributing food for sale, that the food is in or from such an unlicensed food storage warehouse. [1995 c 374 s 15.]

69.10.045 Disposition of moneys received under this chapter. All moneys received by the department under provisions of this chapter, except moneys collected for civil penalties levied under this chapter, shall be paid into an account created in the agricultural local fund established in RCW 43.23.230 and shall be used solely to carry out provisions of this chapter and chapter 15.130 RCW. All moneys collected for civil penalties levied under this chapter shall be deposited in the state general fund. [2018 c 236 s 719; 1995 c 374 s 16.]

69.10.050 Civil remedies—Restrictions on civil penalties—Fee limitations for inspections and analyses. (1) Except as provided in subsection (2) of this section, the department may use all the civil remedies provided under chapter 15.130 RCW in carrying out and enforcing the provisions of this chapter.

(2) Civil penalties are intended to be used to obtain compliance and shall not be collected if a warehouse successfully completes a mutually agreed upon compliance agreement with the department. A warehouse that enters into a compliance agreement with the department shall pay only for inspections conducted by the department and any laboratory analyses as required by the inspections as outlined and agreed to in the compliance agreement. In no event shall the fee for these inspections and analyses exceed four hundred dollars per inspection or one thousand dollars in total. [2018 c 236 s 720; 1995 c 374 s 17.]

69.10.055 Rules. (1) The department shall enforce and carry out the provisions of this chapter and may adopt the necessary rules to carry out its purpose.

(2) The adoption of rules under the provisions of this chapter are subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act. [1995 c 374 s 18.]

69.10.060 Director and deputies, assistants, and inspectors authorized to act—May take verified statements. The director or director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. The department personnel are empowered to administer oaths of verification on the statement. [1995 c 374 s 19.]

69.10.900 Effective date—1995 c 374 ss 1-47, 50-53, and 59-68. See note following RCW 15.36.012.

Chapter 69.22 RCW
COTTAGE FOOD OPERATIONS

Sections

69.22.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

(2) "Cottage food products" means nonpotentially hazardous baked goods; baked candies and candies made on a stovetop; jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. Sec. 150 as it existed on July 22, 2011; and other nonpotentially hazardous foods identified by the director in rule. No ingredient containing a tetrahydrocannabinol concentration of 0.3 percent or greater may be included as an ingredient in any cottage food product.

(3) "Department" means the department of agriculture.

(4) "Director" means the director of the department.

(5) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

(6) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use.

(7) "Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

(8) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of Clostridium botulinum. [2015 c 203 s 1; 2011 c 281 s 1.]

69.22.020 Requirements—Authority of director. (1) The director may adopt, by rule, requirements for cottage food operations. These requirements may include, but are not limited to:

(a) The application and renewal of permits under RCW 69.22.030;

(b) Inspections as provided under RCW 69.22.040;

(c) Sanitary procedures;

(d) Facility, equipment, and utensil requirements;

(e) Labeling specificity beyond the requirements of this section;

(f) Requirements for clean water sources and waste and wastewater disposal; and

(g) Requirements for washing and other hygienic practices.

(2) A cottage food operation must package and properly label for sale to the consumer any food it produces, and the

food may not be repackaged, sold, or used as an ingredient in other foods by a food processing plant, or sold by a food service establishment.

(3) A cottage food operation must place on the label of any food it produces or packages, at a minimum, the following information:

(a) The name and permit number issued under RCW 69.22.030 of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight;

(d) The net weight or net volume of the cottage food product;

(e) Allergen labeling as specified by the director in rule;

(f) If any nutritional claim is made, appropriate labeling as specified by the director in rule;

(g) The following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been subject to standard inspection criteria."

(4) Cottage food products may only be sold directly to the consumer and may not be sold by internet, mail order, or for retail sale outside the state.

(5) Cottage food products must be stored only in the primary domestic residence. [2020 c 171 s 1; 2011 c 281 s 2.]

69.22.030 Permits, permit renewals. (1) All cottage food operations must be permitted every two years by the department on forms developed by the department. All permits and permit renewals must be made on forms developed by the director and be accompanied by an inspection fee as provided in RCW 69.22.040, a $75 public health review fee, and a $30 processing fee. All fees must be deposited into the food processing inspection account created in RCW 69.07.120.

(2) In addition to the provision of any information required by the director on forms developed under subsection (1) of this section and the payment of all fees, an applicant for a permit or a permit renewal as a cottage food operation must also provide documentation that all individuals to be involved in the preparation of cottage food products have secured a food and beverage service worker's permit under chapter 69.06 RCW.

(3) All cottage food operations permitted under this section must include a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants to the director the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspections under this chapter. [2023 c 352 s 2; 2011 c 281 s 3.]

69.22.040 Basic hygiene inspections. (1) The permitted area of all cottage food operations must be inspected for basic hygiene by the director both before initial permitting under RCW 69.22.030 and annually after initial permitting. In addition, the director may inspect the permitted area of a cottage food operation at any time in response to a foodborne outbreak or other public health emergency.

(2) When conducting an annual basic hygiene inspection, the director shall, at a minimum, inspect for the following:

(a) That the permitted cottage food operator understands that no person other than the permittee, or a person under the direct supervision of the permittee, may be engaged in the processing, preparing, packaging, or handling of any cottage food products or be in the home kitchen during the preparation, packaging, or handling of any cottage food products;

(b) That no cottage food preparation, packaging, or handling is occurring in the home kitchen concurrent with any other domestic activities such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment;

(c) That no infants, small children, or pets are in the home kitchen during the preparation, packaging, or handling of any cottage food products;

(d) That all food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products are washed, rinsed, and sanitized before each use;

(e) That all food preparation and food and equipment storage areas are maintained free of rodents and insects; and

(f) That all persons involved in the preparation and packaging of cottage food products:

(i) Have obtained a food and beverage service worker's permit under chapter 69.06 RCW;

(ii) Are not going to work in the home kitchen when ill;

(iii) Wash their hands before any food preparation and food packaging activities; and

(iv) Avoid bare hand contact with ready-to-eat foods through the use of single-service gloves, bakery papers, tongs, or other utensils.

(3) The department shall charge an inspection fee of one hundred twenty-five dollars for any initial or annual basic hygiene inspection, which must be deposited into the food processing inspection account created in RCW 69.07.120. An additional inspection fee must be collected for each visit to a cottage food operation for the purposes of conducting an inspection for compliance.

(4) The director may contract with local health jurisdictions to conduct the inspections required under this section. [2011 c 281 s 4.]

69.22.050 Annual gross sales. (1)(a) Except as provided in (b) of this subsection, the annual gross sales of cottage food products may not exceed $35,000. The determination of the maximum annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(b) Every four years, the department shall review the cap on annual gross sales established in (a) of this subsection and increase the cap by expedited rule making, in accordance with RCW 34.05.353, based on that year's average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(2) If gross sales exceed the maximum allowable annual gross sales amount established under subsection (1) of this section, the cottage food operation must either obtain a food

processing plant license under chapter 69.07 RCW or cease operations.

(3) A cottage food operation exceeding the maximum allowable annual gross sales amount established under subsection (1) of this section is not entitled to a full or partial refund of any fees paid under RCW 69.22.030 or 69.22.040.

(4) The director may request in writing documentation to verify the annual gross sales figure. [2023 c 352 s 1; 2015 c 196 s 1; 2011 c 281 s 5.]

69.22.060 Access to permitted areas of domestic residence housing cottage food operations—Authority of director. (1) For the purpose of determining compliance with this chapter, the director may access, for inspection purposes, the permitted area of a domestic residence housing a cottage food operation permitted by the director under this chapter. This authority includes the authority to inspect any records required to be kept under the provisions of this chapter.

(2) All inspections must be made at reasonable times and, when possible, during regular business hours.

(3) Should the director be denied access to the permitted area of a domestic residence housing a cottage food operation where access was sought for the purposes of enforcing or administering this chapter, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to the permitted area of a domestic residence housing a permitted cottage food operation, upon which the court may issue a search warrant for the purposes requested.

(4) Any access under this section must be limited to the permitted area and further limited to the purpose of enforcing or administering this chapter. [2011 c 281 s 6.]

69.22.070 Cottage foods operations permit—Denial, suspension, or revocation. (1) After conducting a hearing, the director may deny, suspend, or revoke any permit provided for in this chapter if it is determined that a permittee has committed any of the following acts:

(a) Refused, neglected, or failed to comply with the provisions of this chapter, any rules adopted to administer this chapter, or any lawful order of the director;

(b) Refused, neglected, or failed to keep and maintain records required by this chapter, or to make the records available when requested pursuant to the provisions of this chapter;

(c) Consistent with RCW 69.22.060, refused the director access to the permitted area of a domestic residence housing a cottage food operation for the purpose of carrying out the provisions of this chapter;

(d) Consistent with RCW 69.22.060, refused the department access to any records required to be kept under the provisions of this chapter; or

(e) Exceeded the annual income limits provided in RCW 69.22.050.

(2) The director may summarily suspend a permit issued under this chapter if the director finds that a cottage food operation is operating under conditions that constitute an immediate danger to public health or if the director is denied access to the permitted area of a domestic residence housing a cottage food operation and records where the access was sought for the purposes of enforcing or administering this chapter. [2011 c 281 s 7.]

69.22.080 Application of administrative procedure act. The rights, remedies, and procedures respecting the administration of this chapter, including rule making, emergency actions, and permit suspension, revocation, or denial are governed by chapter 34.05 RCW. [2011 c 281 s 8.]

69.22.090 Penalties. (1)(a) Any person engaging in a cottage food operation without a valid permit issued under RCW 69.22.030 or otherwise violating any provision of this chapter, or any rule adopted under this chapter, is guilty of a misdemeanor.

(b) A second or subsequent violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to subsection (1) of this section, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each violation shall be a separate and distinct offense. [2011 c 281 s 9.]

69.22.100 Exemption—Provisions of chapter 69.07 RCW or permitting and inspection by local health jurisdiction. Except as otherwise provided in this chapter, cottage food operations with a valid permit under RCW 69.22.030 are not subject to the provisions of chapter 69.07 RCW or to permitting and inspection by a local health jurisdiction. [2011 c 281 s 10.]

69.22.110 Application of other state or federal laws or local unit of government ordinances not affected. Nothing in this chapter affects the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government. [2011 c 281 s 11.]

Chapter 69.25 RCW

WASHINGTON WHOLESOME EGGS AND EGG PRODUCTS ACT

Sections

69.25.010 Legislative finding. Eggs and egg products are an important source of the state's total supply of food, and are used in food in various forms. They are consumed throughout the state and the major portion thereof moves in intrastate commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, unadulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, unadulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is also essential to protect the health and welfare of consumers, promote food safety, advance animal welfare, and protect against the negative fiscal effects on the state associated with the lack of effective regulation of egg production and sales. It is hereby found that all egg products and the qualities of eggs which are regulated under this chapter are either in intrastate commerce, or substantially affect such commerce, and that regulation by the director, as contemplated by this chapter, is appropriate to protect the health and welfare of consumers. [2019 c 276 s 2; 1975 1st ex.s. c 201 s 2.]

Finding—Purpose—2019 c 276: "The legislature finds that the purpose of this act is to improve the regulation of egg production and sales in order to protect the health and welfare of consumers, promote food safety, advance animal welfare, and protect against the negative fiscal effects on the state associated with the lack of effective regulation of egg production and sales." [2019 c 276 s 1.]

Construction—2019 c 276: See note following RCW 69.25.065.

69.25.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly otherwise requires.

(1) "Adulterated" applies to any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, such article is not considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b) If it bears or contains any added poisonous or added deleterious substance (other than one which is: (i) A pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the director, make such article unfit for human food;

(c) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical that renders it adulterated within the meaning of RCW 15.130.200(2);

(d) If it bears or contains any food additive that renders it adulterated within the meaning of RCW 15.130.200(2);

(e) If it bears or contains any color additive that renders it adulterated within the meaning of RCW 15.130.200(2); however, an article which is not otherwise deemed adulterated under (c), (d), or (e) of this subsection are nevertheless deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the director in official plants;

(f) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(g) If it consists in whole or in part of any damaged egg or eggs to the extent that the egg meat or white is leaking, or it has been contacted by egg meat or white leaking from other eggs;

(h) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(i) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(j) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(k) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under chapter 15.130 RCW; or

(l) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has

been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(2) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.

(3) "At retail" means any transaction in intrastate commerce between a retailer and a consumer.

(4) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(5) "Cage-free housing system" means an indoor or outdoor controlled environment for egg-laying hens within which:

(a) Hens are free to roam unrestricted except by external walls;

(b) Hens are provided enrichments that allow them to exhibit natural behaviors including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and

(c) Farm employees can provide care while standing somewhere within the hens' usable floor space.

(6) "Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place.

(7) "Capable of use as human food" applies to any egg or egg product unless it is denatured, or otherwise identified, as required by regulations prescribed by the director, to deter its use as human food.

(8) "Check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(9) "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(10) "Consumer" means any person who purchases eggs or egg products for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs or egg products for serving to guests or patrons thereof, or for its own use in cooking or baking.

(11) "Container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(12) "Department" means the department of agriculture of the state of Washington.

(13) "Director" means the director of the department or his duly authorized representative.

(14) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(15) "Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea, or any other specie of fowl.

(16) "Egg handler" or "dealer" means any person who produces, contracts for or obtains possession or control of any eggs or egg products for the purpose of sale to another dealer or retailer, or for processing and sale to a dealer, retailer or consumer. For the purpose of this chapter, "sell" or "sale" includes the following: Offer for sale, expose for sale, have in possession for sale, exchange, barter, trade, or as an inducement for the sale of another product.

(17) "Egg-laying hen" means any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production.

(18)(a) "Egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion, or historically have not been, in the judgment of the director, considered by consumers as products of the egg food industry, and which may be exempted by the director under such conditions as the director may prescribe to assure that the egg ingredients are not adulterated and are not represented as egg products.

(b) The following products are not included in the definition of "egg product" if they are prepared from eggs or egg products that have been either inspected by the United States department of agriculture or by the department under a cooperative agreement with the United States department of agriculture: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, eggnog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, balut and other similar ethnic delicacies, and sandwiches containing eggs or egg products.

(19) "Immediate container" means any consumer package, or any other container in which egg products, not consumer-packaged, are packed.

(20) "Incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(21) "Inedible" means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(22) "Inspection" means the application of such inspection methods and techniques as are deemed necessary by the director to carry out the provisions of this chapter.

(23) "Inspector" means any employee or official of the department authorized to inspect eggs or egg products under the authority of this chapter.

(24) "Intrastate commerce" means any eggs or egg products in intrastate commerce, whether such eggs or egg products are intended for sale, held for sale, offered for sale, sold, stored, transported, or handled in this state in any manner and prepared for eventual distribution in this state, whether at wholesale or retail.

(25) "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(26) "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(27) "Misbranded" applies to egg products that are not labeled and packaged in accordance with the requirements

prescribed by regulations of the director under RCW 69.25.100.

(28) "Official certificate" means any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under this chapter.

(29) "Official device" means any device prescribed or authorized by the director for use in applying any official mark.

(30) "Official inspection legend" means any symbol prescribed by regulations of the director showing that egg products were inspected in accordance with this chapter.

(31) "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article under this chapter.

(32) "Official plant" means any plant which is licensed under the provisions of this chapter, at which inspection of the processing of egg products is maintained by the United States department of agriculture or by the state under cooperative agreements with the United States department of agriculture or by the state.

(33) "Official standards" means the standards of quality, grades, and weight classes for eggs, adopted under the provisions of this chapter.

(34) "Pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful, viable microorganisms by such processes as may be prescribed by regulations of the director.

(35) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof, or assignee for the benefit of creditors.

(36) "Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" have the same meaning for purposes of this chapter as defined in chapter 15.130 RCW.

(37) "Plant" means any place of business where egg products are processed.

(38) "Processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(39) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(40) "Retailer" means any person in intrastate commerce who sells eggs or egg products to a consumer.

(41) "Shipping container" means any container used in packaging a product packed in an immediate container.

(42) "Usable floor space" means the total square footage of floor space provided to each egg-laying hen, calculated by dividing the total square footage of floor space in an enclosure by the number of hens in that enclosure. "Usable floor space" includes ground space and elevated level or nearly level platforms to accommodate egg flow upon which hens can roost, but does not include perches or ramps. [2019 c 276 s 3. Prior: 2013 c 144 s 44; prior: 2011 c 306 s 1; 1995 c 374 s 25; 1982 c 182 s 42; 1975 1st ex.s. c 201 s 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Finding—Purpose—2019 c 276: See note following RCW 69.25.010.

Construction—2019 c 276: See note following RCW 69.25.065.

Additional notes found at www.leg.wa.gov

69.25.030 Purpose—Certain federal rules adopted by reference—Hearing, notice by director—Adoption of rules by director. The purpose of this chapter is to promote uniformity of state legislation and regulations with the federal egg products inspection act, 21 U.S.C. sec. 1031, et seq., and regulations adopted thereunder. In accord with such declared purpose, any regulations adopted under the federal egg products inspection act relating to eggs and egg products, as defined in *RCW 69.25.020 (11) and (12), in effect on July 1, 1975, are hereby deemed to have been adopted under the provisions hereof. Further, to promote such uniformity, any regulations adopted hereafter under the provisions of the federal egg products inspection act relating to eggs and egg products, as defined in *RCW 69.25.020 (11) and (12), and published in the federal register, shall be deemed to have been adopted under the provisions of this chapter in accord with chapter 34.05 RCW, as now or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal egg products inspection act, give public notice that a hearing will be held to determine if such regulations shall not be applicable under the provisions of this chapter. Such hearing shall be in accord with the requirements of chapter 34.05 RCW, as now or hereafter amended.

The director, in addition to the foregoing, may adopt any rule and regulation necessary to carry out the purpose and provisions of this chapter. [1975 1st ex.s. c 201 s 4.]

***Reviser's note:** RCW 69.25.020 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsections (11) and (12) to subsections (15) and (13), respectively, effective August 1, 2012. RCW 69.25.020 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsections (15) and (13) to subsections (16) and (14), respectively. RCW 69.25.020 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsections (16) and (14) to subsections (18) and (15), respectively.

69.25.040 Application of administrative procedure act. The adoption, amendment, modification, or revocation of any rules or regulations under the provisions of this chapter, or the holding of a hearing in regard to a license issued or which may be issued or denied under the provisions of this chapter, shall be subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, as now or hereafter amended. [1975 1st ex.s. c 201 s 5.]

69.25.050 Egg handler's or dealer's license and number—Branch license—Application, fee, posting required, procedure. (1)(a) No person may act as an egg handler or dealer without first obtaining an annual license and permanent dealer's number from the department.

(b) Application for an egg dealer license and renewal or egg dealer branch license must be made through the business licensing system as provided under chapter 19.02 RCW and expires on the business license expiration date. The annual egg dealer license fee is thirty dollars and the annual egg dealer branch license fee is fifteen dollars. A copy of the business license issued under chapter 19.02 RCW must be posted at each location where the licensee operates. The application must include the full name of the applicant for the license, the location of each facility the applicant intends to operate, and,

if applicable, documentation of compliance with RCW 69.25.065 or 69.25.103.

(2) If an applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership or the names of the officers of the association or corporation must be given on the application. The application must further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant and any other necessary information prescribed by the director.

(3) The applicant must be issued a license or renewal under this section upon the approval of the application and compliance with the provisions of this chapter, including the applicable rules adopted by the department.

(4) The license and permanent egg handler or dealer's number is nontransferable. [2013 c 144 s 45; 2011 c 306 s 2; 1995 c 374 s 26; 1982 c 182 s 43; 1975 1st ex.s. c 201 s 6.]

Business license—Expiration date: RCW 19.02.090.

Business licensing system
definition: RCW 69.25.020.
to include additional licenses: RCW 19.02.110.

Additional notes found at www.leg.wa.gov

69.25.060 Egg handler's or dealer's license—Late renewal fee. If the application for the renewal of an egg handler's or dealer's license is not filed before the business license expiration date, the business license delinquency fee must be assessed under chapter 19.02 RCW and must be paid by the applicant before the renewal license is issued. [2013 c 144 s 46; 1982 c 182 s 44; 1975 1st ex.s. c 201 s 7.]

Business license
delinquency fee—Rate—Disposition: RCW 19.02.085.
expiration date: RCW 19.02.090.

69.25.065 Egg handler's or dealer's license—Renewal applications—Commercial egg layer operation requirements—Proof. (1) All new and renewal applications submitted under RCW 69.25.050 before January 1, 2024, must include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations:

(a) With a current certification under the 2010 version of the united egg producers animal husbandry guidelines for United States egg laying flocks for conventional cage systems or cage-free housing systems or a subsequent version of the guidelines recognized by the department in rule; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(2) All new and renewal applications submitted under RCW 69.25.050 before January 1, 2017, must, in addition to complying with subsection (1) of this section, include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations whose housing facilities, if built between January 1, 2012, and December 31, 2016, are either:

(a) Approved under, or convertible to, the American humane association facility system plan for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized by the department in rule and, in addition, are convertible to the standards identified in RCW 69.25.107; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(3) All new and renewal applications submitted under RCW 69.25.050 between January 1, 2017, and December 31, 2023, must, in addition to complying with subsection (1) of this section, include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations whose housing facilities, if built on or after January 1, 2012, are either:

(a) Approved under the American humane association facility system plan and audit protocol for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized by the department in rule and, in addition, are operated to the standards identified in RCW 69.25.107; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(4) All new and renewal applications submitted under RCW 69.25.050 on or after January 1, 2024, must include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations that are either:

(a) Housing egg-laying hens with at a minimum the amount of usable floor space per hen required by the 2017 edition of the united egg producers' Animal Husbandry Guidelines for United States Egg-Laying Flocks: Guidelines for Cage-Free Housing, or a subsequent version of the plan recognized by the department in rule as providing equal or more usable floor space per egg-laying hen and, in addition, are operated to the standards identified in RCW 69.25.107; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(5) The following are exempt from the requirements of subsections (2) and (3) of this section:

(a) Applicants with fewer than three thousand laying chickens; and

(b) Commercial egg layer operations when producing eggs or egg products from turkeys, ducks, geese, guineas, or other species of fowl other than domestic chickens. [2019 c 276 s 4; 2011 c 306 s 3.]

Construction—2019 c 276: "The provisions of this act are in addition to, and not in lieu of, any other laws protecting animal welfare. This act shall not be construed to limit any other state laws or regulations protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations." [2019 c 276 s 9.]

Finding—Purpose—2019 c 276: See note following RCW 69.25.010.

Additional notes found at www.leg.wa.gov

69.25.070 Egg handler's or dealer's license—Denial, suspension, revocation, or conditional issuance. The department shall deny, suspend, or revoke a license or a conditional license if it determines that an applicant or licensee has committed any of the following acts:

(1) That the applicant or licensee is violating or has violated any of the provisions of this chapter or rules and regulations adopted thereunder.

(2) That the application contains any materially false or misleading statement or involves any misrepresentation by any officer, agent, or employee of the applicant.

(3) That the applicant or licensee has concealed or withheld any facts regarding any violation of this chapter by any officer, agent, or employee of the applicant or licensee. [2019 c 276 s 5; 1975 1st ex.s. c 201 s 8.]

Finding—Purpose—2019 c 276: See note following RCW 69.25.010.

Construction—2019 c 276: See note following RCW 69.25.065.

69.25.080 Continuous inspection at processing plants—Exemptions—Condemnation and destruction of adulterated eggs and egg products—Reprocessing—Appeal—Inspections of egg handlers. (1) For the purpose of preventing the entry into or movement in intrastate commerce of any egg product which is capable of use as human food and is misbranded or adulterated, the director shall, whenever processing operations are being conducted, unless under inspection by the United States department of agriculture, cause continuous inspection to be made, in accordance with the regulations promulgated under this chapter, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under RCW 69.25.170. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of RCW 69.25.170(1)(a) in the preparation of any articles for human food, shall be deemed to be a plant processing egg products, with respect to such operations.

(2) The director, at any time, shall cause such retention, segregation, and reinspection as he or she deems necessary of eggs and egg products capable of use as human food in each official plant.

(3) Eggs and egg products found to be adulterated at official plants shall be condemned, and if no appeal be taken from such determination or condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: PROVIDED, That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the director determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(4) The director shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under RCW 69.25.140, as he or she deems appropriate (and in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of RCW 69.25.140, except that the director shall cause such inspections to be made as he or she deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of the director shall be afforded access to all such places of business for purposes of making the inspections provided for in this chapter. [2012 c 117 s 346; 1975 1st ex.s. c 201 s 9.]

69.25.090 Sanitary operation of official plants—Inspection refused if requirements not met. (1) The operator of each official plant shall operate such plant in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the director to effectuate the purposes of this chapter, including requirements for segregation and disposition of restricted eggs.

(2) The director shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section. [1975 1st ex.s. c 201 s 10.]

69.25.100 Egg products—Pasteurization—Labeling requirements—False or misleading labels or containers—Director may order use of withheld—Hearing, determination, and appeal. (1) Egg products inspected at any official plant under the authority of this chapter and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the director, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the director, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the director may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(2) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the director. If the director has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he or she may direct that such use be withheld unless the labeling or container is modified in such manner as he or she may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the director, such person may request a hearing, but the use of the labeling or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected

thereby appeals to the superior court in the county in which such person has its principal place of business. [2012 c 117 s 347; 1975 1st ex.s. c 201 s 11.]

69.25.103 Eggs or egg products—In-state production—Associated commercial egg layer operation compliance with applicable standards. Any egg handler or dealer involved with the in-state production of eggs or egg products only intended for sale outside of the state of Washington must ensure that the associated commercial egg layer operation is in compliance with the applicable standards as provided in RCW 69.25.065 and 69.25.107. [2019 c 276 s 6; 2011 c 306 s 4.]

Finding—Purpose—2019 c 276: See note following RCW 69.25.010.

Construction—2019 c 276: See note following RCW 69.25.065.

Additional notes found at www.leg.wa.gov

69.25.107 Commercial egg layer operations—Requirements. (1) All commercial egg layer operations required under RCW 69.25.065 to meet the American humane association facility system plan, or an equivalent to the plan, must also ensure that all hens in the operation are provided with:

(a) No less than one hundred sixteen and three-tenths square inches of space per hen; and

(b) Access to areas for nesting, scratching, and perching.

(2) All commercial egg layer operations required under RCW 69.25.065 to house egg-laying hens with at a minimum the amount of usable floor space per hen required by the 2017 edition of the united egg producers' Animal Husbandry Guidelines for United States Egg-Laying Flocks: Guidelines for Cage-Free Housing, or a subsequent version of the plan recognized by the department in rule as providing equal or more useable floor space per egg-laying hen, must ensure that the hens are housed in a cage-free housing system.

(3) Subsection (2) of this section does not apply:

(a) During medical research;

(b) During examination, testing, individual treatment, or operation for veterinary purposes;

(c) During transportation, or depopulation operations for periods of no more than seven days in any eighteen-month period;

(d) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions;

(e) During the slaughter of an egg-laying hen in accordance with applicable laws and regulations; or

(f) During temporary periods for animal husbandry purposes of no more than six hours in any twenty-four hour period, and no more than twenty-four hours in any thirty-day period.

(4) The requirements of this section apply for any commercial egg layer operation on the same dates that RCW 69.25.065 requires compliance with the American humane association facility system plan or an equivalent to the plan, or requires housing egg-laying hens with at a minimum the amount of usable floor space per hen required by the united egg producers' Animal Husbandry Guidelines for United States Egg-Laying Flocks: Guidelines for Cage-Free Housing or an equivalent to the guidelines. [2019 c 276 s 7; 2011 c 306 s 5.]

Finding—Purpose—2019 c 276: See note following RCW 69.25.010.

Construction—2019 c 276: See note following RCW 69.25.065.

Additional notes found at www.leg.wa.gov

69.25.110 Prohibited acts and practices. (1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in intrastate commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the director under such conditions as he or she may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for intrastate commerce except that such eggs may be so possessed and used when authorized by regulations of the director under such conditions as he or she may prescribe to assure that only eggs fit for human food are used for such purpose.

(3) No person shall process any egg products for intrastate commerce at any plant except in compliance with the requirements of this chapter.

(4) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in intrastate commerce any egg or egg product that was not produced in compliance with the standards required by RCW 69.25.065 and 69.25.107. This prohibition shall not apply to any sale undertaken at an official plant at which mandatory inspection is maintained under the federal egg products inspection act, 21 U.S.C. Sec. 1031 et seq. For the purposes of this subsection, a sale is deemed to occur at the location where the buyer takes physical possession of an item.

(5) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in intrastate commerce any egg products required to be inspected under this chapter unless they have been so inspected and are labeled and packaged in accordance with the requirements of RCW 69.25.100.

(6) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(7) No person shall:

(a) Manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the director;

(b) Forge or alter any official device, mark, or certificate;

(c) Without authorization from the director, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under RCW 69.25.100 after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(d) Contrary to the regulations prescribed by the director, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(e) Knowingly possess, without promptly notifying the director or his or her representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(f) Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the director;

(g) Knowingly represent that any article has been inspected or exempted, under this chapter when in fact it has not been so inspected or exempted; and

(h) Refuse access, at any reasonable time, to any representative of the director, to any plant or other place of business subject to inspection under any provisions of this chapter.

(8) No person, while an official or employee of the state or local governmental agency, or thereafter, shall use to his or her own advantage, or reveal other than to the authorized representatives of the United States government or the state in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this chapter concerning any matter which the originator or relator of such information claims to be entitled to protection as a trade secret. [2019 c 276 s 8; 2012 c 117 s 348; 1975 1st ex.s. c 201 s 12.]

Finding—Purpose—2019 c 276: See note following RCW 69.25.010.

Construction—2019 c 276: See note following RCW 69.25.065.

69.25.120 Director to cooperate with other agencies—May conduct examinations. The director shall, whenever he or she determines that it would effectuate the purposes of this chapter, cooperate with any state, federal, or other governmental agencies in carrying out any provisions of this chapter. In carrying out the provisions of this chapter, the director may conduct such examinations, investigations, and inspections as he or she determines practicable through any officer or employee of any such agency commissioned by him or her for such purpose. [2012 c 117 s 349; 1975 1st ex.s. c 201 s 13.]

69.25.130 Eggs or egg products not intended for use as human food—Identification or denaturing required. Inspection shall not be provided under this chapter at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in intrastate commerce, shall be denatured or identified as prescribed by regulations of the director to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in intrastate commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or identified as required by the regulations of the director. [1975 1st ex.s. c 201 s 14.]

69.25.140 Records required, access to and copying of. For the purpose of enforcing the provisions of this chapter and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in intrastate commerce or in interstate commerce, or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the director may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of the director, permit him or her at reasonable times to have access to and to copy all such records. [2012 c 117 s 350; 1975 1st ex.s. c 201 s 15.]

69.25.150 Penalties—Liability of employer—Defense. (1)(a) Except as provided in (b) of this subsection, any person violating any provision of this chapter or any rule adopted under this chapter is guilty of a misdemeanor.

(b) A second or subsequent violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to subsection (1) of this section, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each violation shall be a separate and distinct offense.

(3) When construing or enforcing the provisions of RCW 69.25.110, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of the person's employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(4) No carrier or warehouse operator shall be subject to the penalties of this chapter, other than the penalties for violation of RCW 69.25.140, or 69.25.155, by reason of his or her receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouse operator of eggs or egg products owned by another person unless the carrier or warehouse operator has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this chapter, or unless the carrier or warehouse operator refuses to furnish on request of a representative of the director the name and address of the person from whom he or she received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouse operator. [2011 c 336 s 836; 2003 c 53 s 317; 1995 c 374 s 27; 1992 c 7 s 47; 1975 1st ex.s. c 201 s 16.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.25.155 Interference with person performing official duties. (1) Notwithstanding any other provision of law, any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his or her official duties under this chapter is guilty of a class C felony and shall be punished by a fine of not more than five thousand dollars or imprisonment in a state correctional facility for not more than three years, or both.

(2) Whoever, in the commission of any act described in subsection (1) of this section, uses a deadly or dangerous weapon is guilty of a class B felony and shall be punished by a fine of not more than ten thousand dollars or by imprison-

ment in a state correctional facility for not more than ten years, or both. [2003 c 53 s 318.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.25.160 Notice of violation—May take place of prosecution. Before any violation of this chapter, other than RCW 69.25.155, is reported by the director to any prosecuting attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his or her views orally or in writing with regard to such contemplated proceeding. Nothing in this chapter shall be construed as requiring the director to report for criminal prosecution violation of this chapter whenever he or she believes that the public interest will be adequately served and compliance with this chapter obtained by a suitable written notice of warning. [2003 c 53 s 319; 1975 1st ex.s. c 201 s 17.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.25.170 Exemptions permitted by rule of director. (1) The director may, by regulation and under such conditions and procedures as he or she may prescribe, exempt from specific provisions of this chapter:

(a) The sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerance in the official state standards for consumer grades for shell eggs;

(b) The processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the director, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of the state consumer grades for shell eggs, and the egg products processed at such plant;

(c) The sale of eggs by any poultry producer from his or her own flocks directly to a household consumer exclusively for use by such consumer and members of his or her household and his or her nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this subsection;

(d) The sale of eggs by shell egg packers on his or her own premises directly to household consumers for use by such consumer and members of his or her household and his or her nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this subsection;

(e) The sale of eggs by any egg producer with an annual egg production from a flock of three thousand hens or less.

(2) The director may modify or revoke any regulation granting exemption under this chapter whenever he or she deems such action appropriate to effectuate the purposes of this chapter. [2012 c 117 s 351; 1995 c 374 s 28; 1975 1st ex.s. c 201 s 18.]

Additional notes found at www.leg.wa.gov

69.25.180 Limiting entry of eggs and egg products into official plants. The director may limit the entry of eggs and egg products and other materials into official plants under such conditions as he or she may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this chapter. [2012 c 117 s 352; 1975 1st ex.s. c 201 s 19.]

69.25.190 Embargo of eggs or egg products in violation of this chapter—Time limit—Removal of official marks. Whenever any eggs or egg products subject to this chapter are found by any authorized representative of the director upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this chapter, or that they are in any other way in violation of this chapter, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the director, such articles may be embargoed by such representative for a reasonable period but not to exceed twenty days, pending action under RCW 69.25.200 or notification of any federal or other governmental authorities having jurisdiction over such articles, and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the director that the articles are eligible to retain such marks. [1975 1st ex.s. c 201 s 20.]

69.25.200 Embargo—Petition for court order affirming—Removal of embargo or destruction or correction and release—Court costs, fees, administrative expenses—Bond may be required. When the director has embargoed any eggs or egg products, he or she shall petition the superior court of the county in which the eggs or egg products are located for an order affirming such embargo. Such court shall have jurisdiction for cause shown and after a prompt hearing to any claimant of eggs or egg products, shall issue an order which directs the removal of such embargo or the destruction or correction and release of such eggs and egg products. An order for destruction or the correction and release of such eggs and egg products shall contain such provision for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provisions for a bond as the court finds indicated in the circumstance. [2012 c 117 s 353; 1975 1st ex.s. c 201 s 21.]

69.25.210 Embargo—Order affirming not required, when. The director need not petition the superior court as provided for in RCW 69.25.200 if the owner or claimant of such eggs or egg products agrees in writing to the disposition of such eggs or egg products as the director may order. [1975 1st ex.s. c 201 s 22.]

69.25.220 Embargo—Consolidation of petitions. Two or more petitions under RCW 69.25.200 which pend at the same time and which present the same issue and claimant hereunder may be consolidated for simultaneous determination by one court of competent jurisdiction, upon application

to any court of jurisdiction by the director or claimant. [1975 1st ex.s. c 201 s 23.]

69.25.230 Embargo—Sampling of article. The claimant in any proceeding by petition under RCW 69.25.200 shall be entitled to receive a representative sample of the article subject to such proceedings upon application to the court of competent jurisdiction made at any time after such petition and prior to the hearing thereon. [1975 1st ex.s. c 201 s 24.]

69.25.240 Condemnation—Recovery of damages restricted. No state court shall allow the recovery of damages for administrative action for condemnation under the provisions of this chapter, if the court finds that there was probable cause for such action. [1975 1st ex.s. c 201 s 25.]

69.25.250 Assessment—Rate, applicability, time of payment—Reports—Contents, frequency—Exemption. (1)(a) There is hereby levied an assessment not to exceed three mills per dozen eggs entering intrastate commerce, as prescribed by rules issued by the director. The assessment is applicable to all eggs entering intrastate commerce, except as provided in RCW 69.25.170 and 69.25.290, and must be paid to the director on a monthly basis on or before the tenth day following the month the eggs enter intrastate commerce.

(b) The director may require reports by egg handlers or dealers along with the payment of the assessment fee. The reports may include any and all pertinent information necessary to carry out the purposes of this chapter.

(c) The director may, by rule, require egg container manufacturers to report on a monthly basis all egg containers sold to any egg handler or dealer and bearing such egg handler or dealer's permanent number.

(2) Egg products in intrastate commerce are exempt from the assessment in subsection (1) of this section. [2011 c 306 s 6; 1995 c 374 s 29; 1993 sp.s. c 19 s 12; 1975 1st ex.s. c 201 s 26.]

Additional notes found at www.leg.wa.gov

69.25.260 Assessment—Prepayment by purchase of egg seals—Permit for printing seal on containers or labels. Any egg handler or dealer may prepay the assessment provided for in RCW 69.25.250 by purchasing Washington state egg seals from the director to be placed on egg containers showing that the proper assessment has been paid. Any carton manufacturer or printer may apply to the director for a permit to place reasonable facsimiles of the Washington state egg seals to be imprinted on egg containers or on the identification labels which show egg grade and size and the name of the egg handler or dealer. The director shall, from time to time, prescribe rules and regulations governing the affixing of seals and he or she is authorized to cancel any such permit issued pursuant to this chapter, whenever he or she finds that a violation of the terms under which the permit has been granted has been violated. [2012 c 117 s 354; 1979 ex.s. c 238 s 10; 1975 1st ex.s. c 201 s 27.]

Additional notes found at www.leg.wa.gov

69.25.270 Assessment—Monthly payment—Audit—Failure to pay, penalty. Every egg handler or dealer who pays assessments required under the provisions of this chapter on a monthly basis in lieu of seals shall be subject to audit by the director at such frequency as is deemed necessary by the director. The cost to the director for performing such audit shall be chargeable to and payable by the egg handler or dealer subject to audit. Failure to pay assessments when due or refusal to pay for audit costs may be cause for a summary suspension of an egg handler's or dealer's license and a charge of one percent per month, or fraction thereof shall be added to the sum due the director, for each remittance not received by the director when due. The conditions and charges applicable to egg handlers and dealers set forth herein shall also be applicable to payments due the director for facsimiles of seals placed on egg containers. [1987 c 393 s 16; 1975 1st ex.s. c 201 s 28.]

69.25.280 Assessment—Use of proceeds. The proceeds from assessment fees paid to the director shall be retained for the inspection of eggs and carrying out the provisions of this chapter relating to eggs. [1975 1st ex.s. c 201 s 29.]

69.25.290 Assessment—Exclusions. The assessments provided in this chapter shall not apply to:

(1) Sale and shipment to points outside of this state;

(2) Sale to the United States government and its instrumentalities;

(3) Sale to breaking plants for processing into egg products;

(4) Sale between egg dealers. [1975 1st ex.s. c 201 s 30.]

69.25.300 Transfer of moneys in state egg account. All moneys in the state egg account, created by *RCW 69.24.450, at the time of July 1, 1975, shall be transferred to the director and shall be retained and expended for administering and carrying out the purposes of this chapter. [1975 1st ex.s. c 201 s 31.]

***Reviser's note:** RCW 69.24.450 was repealed by 1975 1st ex.s. c 201 s 40.

69.25.310 Containers—Marking required—Obliteration of previous markings required for reuse—Temporary use of another handler's or dealer's permanent number—Penalty. (1) All containers used by an egg handler or dealer to package eggs shall bear the name and address or the permanent number issued by the director to said egg handler or dealer. Such permanent number shall be displayed in a size and location prescribed by the director. It shall be a violation for any egg handler or dealer to use a container that bears the permanent number of another egg handler or dealer unless such number is totally obliterated prior to use. The director may in addition require the obliteration of any or all markings that may be on any container which will be used for eggs by an egg handler or dealer.

(2) Notwithstanding subsection (1) of this section and following written notice to the director, licensed egg handlers and dealers may use new containers bearing another handler's or dealer's permanent number on a temporary basis, in any event not longer than one year, with the consent of such other handler or dealer for the purpose of using up existing container stocks. Sale of container stock shall constitute agree-

ment by the parties to use the permanent number. [1995 c 374 s 30; 1975 1st ex.s. c 201 s 32.]

Additional notes found at www.leg.wa.gov

69.25.320 Records required, additional—Sales to retailer or food service—Exception—Defense to charged violation—Sale of eggs deteriorated due to storage time—Requirements for storage, display, or transportation. (1) In addition to any other records required to be kept and furnished the director under the provisions of this chapter, the director may require any person who sells to any retailer, or to any restaurant, hotel, boarding house, bakery, or any institution or concern which purchases eggs for serving to guests or patrons thereof or for its use in preparation of any food product for human consumption, candled or graded eggs other than those of his or her own production sold and delivered on the premises where produced, to furnish that retailer or other purchaser with an invoice covering each such sale, showing the exact grade or quality, and the size or weight of the eggs sold, according to the standards prescribed by the director, together with the name and address of the person by whom the eggs were sold. The person selling and the retailer or other purchaser shall keep a copy of said invoice on file at his or her place of business for a period of thirty days, during which time the copy shall be available for inspection at all reasonable times by the director: PROVIDED, That no retailer or other purchaser shall be guilty of a violation of this chapter if he or she can establish a guarantee from the person from whom the eggs were purchased to the effect that they, at the time of purchase, conformed to the information required by the director on such invoice: PROVIDED FURTHER, That if the retailer or other purchaser having labeled any such eggs in accordance with the invoice keeps them for such a time after they are purchased as to cause them to deteriorate to a lower grade or standard, and sells them under the label of the invoice grade or standard, he or she shall be guilty of a violation of this chapter.

(2) Each retailer and each distributor shall store shell eggs awaiting sale or display eggs under clean and sanitary conditions in areas free from rodents and insects. Shell eggs must be stored up off the floor away from strong odors, pesticides, and cleaners.

(3) After being received at the point of first purchase, all graded shell eggs packed in containers for the purpose of sale to consumers shall be held and transported under refrigeration at ambient temperatures no greater than forty-five degrees Fahrenheit (seven and two-tenths degrees Celsius). This provision shall apply without limitation to retailers, institutional users, dealer/wholesalers, food handlers, transportation firms, or any person who handles eggs after the point of first purchase.

(4) No invoice shall be required on eggs when packed for sale to the United States department of defense, or a component thereof, if labeled with grades promulgated by the United States secretary of agriculture. [2012 c 117 s 355; 1995 c 374 s 31; 1975 1st ex.s. c 201 s 33.]

Additional notes found at www.leg.wa.gov

69.25.900 Savings. The enactment of this chapter shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which shall already be in existence on July 1, 1975. [1975 1st ex.s. c 201 s 35.]

69.25.910 Chapter is cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy at law. [1975 1st ex.s. c 201 s 37.]

69.25.930 Short title. This act may be known and cited as the "Washington wholesome eggs and egg products act". [1975 1st ex.s. c 201 s 39.]

Chapter 69.28 RCW
HONEY

Sections

Bees and apiaries: Chapter 15.60 RCW.

Commission merchants, agricultural products: Title 20 RCW.

69.28.020 Enforcement power and duty of director and agents. The director is hereby empowered, through his or her duly authorized agents, to enforce all provisions of this

chapter. The director shall have the power to define, promulgate, and enforce such reasonable regulations as he or she may deem necessary in carrying out the provisions of this chapter. [2012 c 117 s 356; 1939 c 199 s 29; RRS s 6163-29. FORMER PART OF SECTION: 1939 c 199 s 44 now codified as RCW 69.28.025.]

69.28.025 Rules and regulations have force of law. Any rules or regulations promulgated and published by the director under the provisions of this chapter shall have the force and effect of law. [1939 c 199 s 44; RRS s 6163-44. Formerly RCW 69.28.020, part.]

69.28.030 Rules prescribing standards. The director is hereby authorized, and it shall be his or her duty, upon the taking effect of this chapter and from time to time thereafter, to adopt, establish, and promulgate reasonable rules and regulations specifying grades or standards of quality governing the sale of honey: PROVIDED, That, in the interest of uniformity, such grades and standards of quality shall conform as nearly to those established by the United States department of agriculture as local conditions will permit. [2012 c 117 s 357; 1939 c 199 s 24; RRS s 6163-24.]

69.28.040 Right to enter, inspect, and take samples. The director or any of his or her duly authorized agents shall have the power to enter and inspect at reasonable times every place, vehicle, plant, or other place where honey is being produced, stored, packed, transported, exposed, or offered for sale, and to inspect all such honey and the containers thereof and to take for inspection such samples of said honey as may be necessary. [2012 c 117 s 358; 1939 c 199 s 28; RRS s 6163-28.]

69.28.050 Containers to be labeled. It shall be unlawful to deliver for shipment, ship, transport, sell, expose or offer for sale any containers or subcontainers of honey within this state unless they shall be conspicuously marked with the name and address of the producer or distributor, the net weight of the honey, the grade of the honey, and, if imported from any foreign country, the name of the country or territory from which the said honey was imported, or if a blend of honey, any part of which is foreign honey, the container must be labeled with the name of the country or territory where such honey was produced and the proportion of each foreign honey used in the blend. [1939 c 199 s 32; RRS s 6163-32.]

69.28.060 Requisites of markings. When any markings are used or required to be used under this chapter on any container of honey to identify the container or describe the contents thereof, such markings must be plainly and conspicuously marked, stamped, stenciled, printed, labeled or branded in the English language, in letters large enough to be discernible by any person, on the front, side or top of any container. [1939 c 199 s 35; RRS s 6163-35.]

69.28.070 "Marked" defined—When honey need not be marked. The term "marked" shall mean printed in the English language on the top, front or side of any container containing honey: PROVIDED, That it shall not be necessary to mark honey sold by the producer thereof to any distributor, packer or manufacturer with the net weight, color or grade if the honey is to be used in the manufacture of honey products or is to be graded and packaged by the distributor or packer for resale. [1939 c 199 s 21; RRS s 6163-21.]

69.28.080 Purchaser to be advised of standards—Exceptions. It shall be unlawful for any person to deliver, sell, offer, or expose for sale any honey for human consumption within the state without notifying the person or persons purchasing or intending to purchase the same, of the exact grade or quality of such honey, according to the standards prescribed by the director, by stamping or printing on the container of any such honey such grade or quality: PROVIDED, This section shall not apply to honey while it is in transit in intrastate commerce from one establishment to the other, to be processed, labeled, or repacked. [1961 c 60 s 1; 1957 c 103 s 1; 1949 c 105 s 6; 1939 c 199 s 39; Rem. Supp. 1949 s 6163-39.]

69.28.090 Forgery, simulation, etc., of marks, labels, etc., unlawful. It shall be unlawful to forge, counterfeit, simulate, falsely represent or alter without proper authority any mark, stamp, tab, label, seal, sticker or other identification device provided by this chapter. [1961 c 60 s 2; 1939 c 199 s 40; RRS s 6163-40. FORMER PART OF SECTION: 1939 c 199 s 41 now codified as RCW 69.28.095.]

69.28.095 Unlawful mutilation or removal of seals, marks, etc., used by director. It shall be unlawful to mutilate, destroy, obliterate, or remove without proper authority, any mark, stamp, tag, label, seal, sticker or other identification device used by the director under the provisions of this chapter. [1939 c 199 s 41; RRS s 6163-41. Formerly RCW 69.28.090, part.]

69.28.100 Marks for "slack-filled" container. Any slack-filled container shall be conspicuously marked "slack-filled". [1939 c 199 s 36; RRS s 6163-36. FORMER PART OF SECTION: 1939 c 199 s 10 now codified as RCW 69.28.270.]

69.28.110 Use of used containers. It shall be unlawful to sell, offer, or expose for sale to the consumer any honey in any secondhand or used containers which formerly contained honey, unless all markings as to grade, name and weight have been obliterated, removed or erased. [1939 c 199 s 37; RRS s 6163-37.]

69.28.120 Floral source labels. Any honey which is a blend of two or more floral types of honey shall not be labeled as a honey product from any one particular floral source alone. [1939 c 199 s 34; RRS s 6163-34.]

69.28.130 Adulterated honey—Sale or offer unlawful. It shall be unlawful for any person to sell, offer or intend for sale any adulterated honey as honey. [1939 c 199 s 26; RRS s 6163-26. FORMER PART OF SECTION: 1939 c 199 ss 27 and 33 now codified as RCW 69.28.133 and 69.28.135.]

69.28.133 Nonconforming honey—Sale or offer unlawful. It shall be unlawful for any person to sell, offer or intend for sale any honey which does not conform to the provisions of this chapter or any regulation promulgated by the director under this chapter. [1939 c 199 s 27; RRS s 6163-27. Formerly RCW 69.28.130, part.]

69.28.135 Warning-tagged honey—Movement prohibited. It shall be unlawful to move any honey or containers of honey to which any warning tag or notice has been affixed except under authority from the director. [1939 c 199 s 33; RRS s 6163-33. Formerly RCW 69.28.130, part.]

69.28.140 Possession of unlawful honey as evidence. Possession by any person, of any honey which is sold, exposed or offered for sale in violation of this chapter shall be prima facie evidence that the same is kept or shipped to the said person, in violation of the provisions of this chapter. [1939 c 199 s 30; RRS s 6163-30.]

69.28.170 Inspectors—Prosecutions. It shall be the duty of the director to enforce this chapter and to appoint and employment [employ] such inspectors as may be necessary therefor. The director shall notify the prosecuting attorneys for the counties of the state of violations of this chapter occurring in their respective counties, and it shall be the duty of the respective prosecuting attorneys immediately to institute and prosecute proceeding in their respective counties and to enforce the penalties provided for by this chapter. [1939 c 199 s 43; RRS s 6163-43.]

69.28.180 Violation of rules and regulations unlawful. It shall be unlawful for any person to violate any rule or regulation promulgated by the director under the provisions of this chapter. [1939 c 199 s 25; RRS s 6163-25. FORMER PART OF SECTION: 1939 c 199 s 44 now codified in RCW 69.28.185.]

69.28.185 Penalty. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor, and upon violation thereof shall be punishable by a fine of not more than five hundred dollars or imprisonment in the county jail for a period of not more than six months or by both such fine and imprisonment. [1939 c 199 s 42; RRS s 6163-42. Formerly RCW 69.28.180, part.]

69.28.190 "Director" defined. The term "director" means the director of agriculture of the state of Washington or his or her duly authorized representative. [2012 c 117 s 359; 1939 c 199 s 2; RRS s 6163-2. Formerly RCW 69.28.010, part.]

69.28.200 "Container" defined. The term "container" shall mean any box, crate, chest, carton, barrel, keg, bottle, jar, can or any other receptacle containing honey. [1939 c 199 s 3; RRS s 6163-3.]

69.28.210 "Subcontainer" defined. The term "subcontainer" shall mean any section box or other receptacle used within a container. [1939 c 199 s 4; RRS s 6163-4.]

69.28.220 "Section box" defined. The term "section box" shall mean the wood or other frame in which bees have built a small comb of honey. [1939 c 199 s 5; RRS s 6163-5.]

69.28.230 "Clean and sound containers" defined. The term "clean and sound containers" shall mean containers which are virtually free from rust, stains or leaks. [1939 c 199 s 6; RRS s 6163-6.]

69.28.240 "Pack," "packing," or "packed" defined. The term "pack", "packing", or "packed" shall mean the arrangement of all or part of the subcontainers in any container. [1939 c 199 s 7; RRS s 6163-7.]

69.28.250 "Label" defined. The term "label" shall mean a display of written, printed or graphic matter upon the immediate container of any article. [1939 c 199 s 8; RRS s 6163-8.]

69.28.260 "Person" defined. The term "person" includes individual, partnership, corporation and/or association. [1939 c 199 s 9; RRS s 6163-9.]

69.28.270 "Slack-filled" defined. The term "slack-filled" shall mean that the contents of any container occupy less than ninety-five percent of the volume of the closed container. [1939 c 199 s 10; RRS s 6163-10. Formerly RCW 69.28.100, part.]

69.28.280 "Deceptive arrangement" defined. The term "deceptive arrangement" shall mean any lot or load, arrangement or display of honey which has in any exposed surface, honey which is so superior in quality, appearance or condition, or in any other respects, to any of that which is concealed or unexposed as to materially misrepresent any part of the lot, load, arrangement or display. [1939 c 199 s 11; RRS s 6163-11.]

69.28.290 "Mislabeled" defined. The term "mislabeled" shall mean the placing or presence of any false or misleading statement, design or device upon, or in connection with, any container or lot of honey, or upon the label, lining or wrapper of any such container, or any placard used in connection therewith, and having reference to such honey. A statement, design or device is false and misleading when the honey to which it refers does not conform in every respect to such statement. [1939 c 199 s 12; RRS s 6163-12.]

69.28.300 "Placard" defined. The term "placard" means any sign, label or designation, other than an oral designation, used with any honey as a description or identification thereof. [1939 c 199 s 13; RRS s 6163-13.]

69.28.310 "Honey" defined. The term "honey" as used herein is the nectar of floral exudations of plants, gathered and stored in the comb by honey bees (apis mellifica). It is laevo-rotatory, contains not more than twenty-five percent of water, not more than twenty-five one-hundredths of one percent of ash, not more than eight percent of sucrose, its specific gravity is 1.412, its weight not less than eleven pounds twelve ounces per standard gallon of 231 cubic inches at

sixty-eight degrees Fahrenheit. [1939 c 199 s 14; RRS s 6163-14. Formerly RCW 69.28.010, part.]

69.28.320 "Comb-honey" defined. The term "comb-honey" means honey which has not been extracted from the comb. [1939 c 199 s 15; RRS s 6163-15.]

69.28.330 "Extracted honey" defined. The term "extracted honey" means honey which has been removed from the comb. [1939 c 199 s 16; RRS s 6163-16.]

69.28.340 "Crystallized honey" defined. The term "crystallized honey" means honey which has assumed a solid form due to the crystallization of one or more of the natural sugars therein. [1939 c 199 s 17; RRS s 6163-17.]

69.28.350 "Honeydew" defined. The term "honeydew" is the saccharine exudation of plants, other than nectarous exudations, gathered and stored in the comb by honey bees (apis mellifica) and is dextrorotatory. [1939 c 199 s 18; RRS s 6163-18. Formerly RCW 69.28.010, part.]

69.28.360 "Foreign material" defined. The term "foreign material" means pollen, wax particles, insects, or materials not deposited by bees. [1937 c 199 s 19; RRS s 6163-19.]

69.28.370 "Foreign honey" defined. The term "foreign honey" means any honey not produced within the continental United States. [1939 c 199 s 20; RRS s 6163-20.]

69.28.380 "Adulterated honey" defined. The term "adulterated honey" means any honey to which has been added honeydew, glucose, dextrose, molasses, sugar, sugar syrup, invert sugar, or any other similar product or products, other than the nectar of floral exudations of plants gathered and stored in the comb by honey bees. [1939 c 199 s 22; RRS s 6163-22. Formerly RCW 69.28.010, part.]

69.28.390 "Serious damage" defined. The term "serious damage" means any injury or defect that seriously affects the edibility or shipping quality of the honey. [1939 c 199 s 23; RRS s 6163-23.]

69.28.400 Labeling requirements for artificial honey or mixtures containing honey. (1) No person shall sell, keep for sale, expose or offer for sale, any article or product in imitation or semblance of honey branded exclusively as "honey", "liquid or extracted honey", "strained honey" or "pure honey".

(2) No person, firm, association, company or corporation shall manufacture, sell, expose or offer for sale, any compound or mixture branded or labeled exclusively as honey which shall be made up of honey mixed with any other substance or ingredient.

(3) Whenever honey is mixed with any other substance or ingredient and the commodity is to be marketed in imitation or semblance of honey, the product shall be labeled with the word "artificial" or "imitation" in the same type size and style as the word "honey";

(4) Whenever any substance or commodity is to be marketed in imitation or semblance of honey, but contains no honey, the product shall not be branded or labeled with the word "honey" and/or depict thereon a picture or drawing of a bee, bee hive, or honeycomb;

(5) Whenever honey is mixed with any other substance or ingredient and the commodity is to be marketed, there shall be printed on the package containing such compound or mixture a statement giving the ingredients of which it is made; if honey is one of such ingredients it shall be so stated in the same size type as are the other ingredients; nor shall such compound or mixture be branded or labeled exclusively with the word "honey" in any form other than as herein provided; nor shall any product in semblance of honey, whether a mixture or not, be sold, exposed or offered for sale as honey, or branded or labeled exclusively with the word "honey", unless such article is pure honey. [1975 1st ex.s. c 283 s 1.]

69.28.410 Embargo on honey or product—Notice by director—Removal. Whenever the director shall find, or shall have probable cause to believe, that any honey or product subject to the provisions of this chapter, as now or hereafter amended, is in intrastate commerce, which was introduced into such intrastate commerce in violation of the provisions of this chapter, as now or hereafter amended, he or she is hereby authorized to affix to such honey or product a notice placing an embargo on such honey or product, and prohibiting its sale in intrastate commerce, and no person shall move or sell such honey or product without first receiving permission from the director to move or sell such honey or product. But if, after such honey or product has been embargoed, the director shall find that such honey or product does not involve a violation of this chapter, as now or hereafter amended, such embargo shall be forthwith removed. [2012 c 117 s 360; 1975 1st ex.s. c 283 s 3.]

69.28.420 Embargo on honey or product—Court order affirming, required—Order for destruction or correction and release—Bond. When the director has embargoed any honey or product, he or she shall, no later than twenty days after the affixing of notice of its embargo, petition the superior court for an order affirming such embargo. Such court shall then have jurisdiction, for cause shown and after prompt hearing to any claimant of such honey or product, to issue an order which directs the removal of such embargo or the destruction or the correction and release of such honey or product. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses, as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for bond, as the court finds indicated in the circumstances. [2012 c 117 s 361; 1975 1st ex.s. c 283 s 4.]

69.28.430 Consolidation of petitions presenting same issue and claimant. Two or more petitions under this chapter, as now or hereafter amended, which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of

jurisdiction by the director or by such claimant. [1975 1st ex.s. c 283 s 5.]

69.28.440 Sample of honey or product may be obtained—Procedure. The claimant in any proceeding by petition under this chapter, as now or hereafter amended, shall be entitled to receive a representative sample of the honey or product subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon. [1975 1st ex.s. c 283 s 6.]

69.28.450 Recovery of damages barred if probable cause for embargo. No state court shall allow the recovery of damages for embargo under this chapter, as now or hereafter amended, if the court finds that there was probable cause for such action. [1975 1st ex.s. c 283 s 7.]

69.28.900 Severability—1939 c 199. If any provisions of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this chapter. The legislature hereby declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional. [1939 c 199 s 45; RRS s 6163-45.]

69.28.910 Short title. This chapter may be known and cited as the Washington state honey act. [1939 c 199 s 1; RRS s 6163-1.]

Chapter 69.30 RCW
SANITARY CONTROL OF SHELLFISH

Sections

Shellfish: Chapter 77.60 RCW.

69.30.005 Purpose. The purpose of this chapter is to provide for the sanitary control of shellfish. Protection of the public health requires assurances that commercial shellfish are harvested only from approved growing areas and that processing of shellfish is conducted in a safe and sanitary manner. [1989 c 200 s 2.]

69.30.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved shellfish tag or label" means a tag or label meeting the requirements of the national shellfish sanitation program model ordinance.

(2) "Commercial quantity" means any quantity exceeding: (a) Forty pounds of mussels; (b) one hundred oysters; (c) fourteen horse clams; (d) six geoducks; (e) fifty pounds of hard or soft shell clams; or (f) fifty pounds of scallops. The poundage in this subsection (2) constitutes weight with the shell.

(3) "Department" means the state department of health.

(4) "Establishment" means the buildings, together with the necessary equipment and appurtenances, used for the storage, culling, shucking, packing and/or shipping of shellfish in commercial quantity or for sale for human consumption.

(5) "Ex officio fish and wildlife officer" means an ex officio fish and wildlife officer as defined in RCW 77.08.010.

(6) "Fish and wildlife officer" means a fish and wildlife officer as defined in RCW 77.08.010.

(7) "Person" means any individual, partnership, firm, company, corporation, association, or the authorized agents of any such entities.

(8) "Sale" means to sell, offer for sale, barter, trade, deliver, consign, hold for sale, consignment, barter, trade, or delivery, and/or possess with intent to sell or dispose of in any commercial manner.

(9) "Secretary" means the secretary of health or his or her authorized representatives.

(10) "Shellfish" means all varieties of fresh and frozen oysters, mussels, clams, and scallops, either shucked or in the shell, and any fresh or frozen edible products thereof.

(11) "Shellfish growing areas" means the lands and waters in and upon which shellfish are grown for harvesting in commercial quantity or for sale for human consumption.

(12) "Shellstock" means live molluscan shellfish in the shell. [2011 c 194 s 1; 2001 c 253 s 5; 1995 c 147 s 1; 1991 c 3 s 303; 1989 c 200 s 1; 1985 c 51 s 1; 1979 c 141 s 70; 1955 c 144 s 1.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.30.020 Approved shellfish tag or label—Requirement to sell or offer to sell shellfish. It is unlawful to sell or offer to sell shellfish in this state unless the shellfish bear an approved shellfish tag or label indicating compliance with the sanitary requirements of this state or a state, territory, province, or country of origin whose requirements are equal or comparable to those established pursuant to this chapter. The department, a fish and wildlife officer, or an ex officio fish and wildlife officer may immediately seize containers of shellfish that are not affixed with an approved shellfish tag or label. [2011 c 194 s 2; 1955 c 144 s 2.]

69.30.030 Rules and regulations—Duties of state board of health. (1) The state board of health shall adopt rules governing the sanitation of shellfish, shellfish growing areas, and shellfish plant facilities and operations in order to protect public health and carry out the provisions of this chapter. Such rules and regulations may include reasonable sanitary requirements relative to the quality of shellfish growing waters and areas, boat and barge sanitation, building construction, water supply, sewage and wastewater disposal, lighting and ventilation, insect and rodent control, shell disposal, garbage and waste disposal, cleanliness of establishment, the handling, storage, construction and maintenance of equipment, the handling, storage and refrigeration of shellfish, the identification of containers, and the handling, maintenance, and storage of permits, certificates, and records regarding shellfish taken under this chapter. The state board of health shall adopt rules governing procedures for the disposition of seized shellfish.

(2) The state board of health shall consider the most recent version of the national shellfish sanitation program model ordinance, adopted by the interstate shellfish sanitation conference, when adopting rules. [2011 c 194 s 3; 1995 c 147 s 2; 1955 c 144 s 3.]

69.30.050 Shellfish growing areas—Requirements to harvest—Certificates of approval. (1) It is unlawful for a person to harvest shellfish from shellfish growing areas in a commercial quantity or for sale for human consumption unless the shellfish growing area:

(a) Has a valid certificate of approval; and

(b) Meets the requirements of this chapter and the rules adopted under this chapter.

(2) A person may not remove shellfish in a commercial quantity or for sale for human consumption from a shellfish growing area in the state of Washington unless:

(a) The person has received a certificate of approval for the shellfish growing area from the department; and

(b) Approved shellfish tags are affixed to each container of shellstock prior to removal from the shellfish growing area, except bulk tagging is permitted as allowed in the national shellfish sanitation program model ordinance.

(3) Before issuing a certificate of approval, the department shall inspect the shellfish growing area. The department shall issue a certificate of approval if the area meets the requirements of this chapter and the rules adopted under this chapter.

(4) A certificate of approval is valid for a period of twelve months. The department may revoke a certificate of approval at any time the area is found out of compliance with the requirements of this chapter or the rules adopted under this chapter.

(5) It is unlawful to remove shellfish from shellfish growing areas without a certificate of approval in a commercial quantity for purposes other than human consumption, including but not limited to use as bait or seed, unless:

(a) The shellfish operation and shellfish growing area is readily available to monitoring and inspections; and

(b) The department has determined the shellfish operation is designed to ensure that shellfish harvested from such an area is not diverted for human consumption.

(6) Nothing in this section prohibits a person from removing shellfish for use as bait or seed from an approved shellfish growing area.

(7) The department's certificate of approval to harvest shellfish for purposes other than human consumption shall specify:

(a) The date or dates and time of harvest;

(b) All applicable conditions of harvest;

(c) Identification by tagging, dying, or other department-approved means; and

(d) Information about the removal method, transportation method, processing technique, sale details, and other factors to ensure that shellfish harvested from such areas are not diverted for human consumption. [2011 c 194 s 4; 1995 c 147 s 3; 1985 c 51 s 2; 1955 c 144 s 5.]

69.30.060 Certificates of approval—Culling, shucking, packing establishments. (1) It is unlawful for a person to cull, shuck, or pack shellfish in the state of Washington in a commercial quantity or for sale for human consumption unless the establishment in which such operations are conducted has been certified by the department as meeting the requirements of the state board of health.

(2) A person may not cull, shuck, or pack shellfish within the state of Washington in a commercial quantity or for sale for human consumption, unless the person has received a certificate of approval from the department for the establishment in which such operations will be done.

(3) Before issuing a certificate of approval, the department shall inspect the establishment, and if the establishment meets the rules of the state board of health, the department shall issue a certificate of approval. Such certificates of approval shall be issued for a period not to exceed twelve months, and may be revoked at any time the establishment or the operations are found not to be in compliance with the rules of the state board of health. [2011 c 194 s 5; 1985 c 51 s 3; 1955 c 144 s 6.]

69.30.070 Certificates of approval—Compliance with other laws and rules required. Any certificate of approval issued under the provisions of this chapter shall not relieve any person from complying with the laws, rules and/or regulations of the department of fish and wildlife, relative to shellfish. [1994 c 264 s 40; 1955 c 144 s 7.]

69.30.080 Licenses or certificates of approval—Department may deny, revoke, or suspend. (1) The department may deny, revoke, or suspend a person's license or certificate of approval for:

(a) Violations of this chapter or the rules adopted under this chapter; or

(b) Harassing or threatening an authorized representative of the department during the performance of his or her duties.

(2) RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding. [2011 c 194 s 6; 1991 c 3 s 304; 1989 c 175 s 125; 1979 c 141 s 71; 1955 c 144 s 8.]

Additional notes found at www.leg.wa.gov

69.30.085 License, certificate of approval—Denial, revocation, suspension—Prohibited acts—Penalties. (1) A person, or its director or officer, whose license or certificate of approval is denied, revoked, or suspended as a result of violations of this chapter or rules adopted under this chapter may not:

(a) Supervise, be employed by, or manage a shellfish operation licensed or certified under this chapter or rules adopted under this chapter;

(b) Participate in the harvesting, shucking, packing, or shipping of shellfish in commercial quantities or for sale;

(c) Participate in the brokering of shellfish, purchase of shellfish for resale, or retail sale of shellfish; or

(d) Engage in any activity associated with selling or offering to sell shellfish.

(2) Subsections (1)(c) and (d) of this section do not apply to retail purchases of shellfish for personal use.

(3) Subsection (1) of this section applies to a person only during the period of time in which that person's license or certificate of approval is denied, revoked, or suspended.

(4) Unlawful operations under subsection (1) of this section when a license or certificate of approval is denied, revoked, or suspended is a class C felony. Upon conviction, the department shall order that the person's license or certificate of approval be revoked for a period of at least five years, or that a person whose application for a license or certificate of approval was denied be ineligible to reapply for a period of at least five years.

(5) A license or certificate of approval issued under this chapter may not be assigned or transferred in any manner without department approval. [2011 c 194 s 7; 1998 c 44 s 1.]

69.30.110 Possession or sale in violation of chapter—Enforcement—Seizure—Disposal. (1) It is unlawful for any person to possess a commercial quantity of shellfish or to sell or offer to sell shellfish in the state which have not been grown, shucked, packed, or shipped in accordance with the provisions of this chapter. Failure of a shellfish grower to display a certificate of approval, or department-approved equivalent, issued under RCW 69.30.050 to an authorized representative of the department, a fish and wildlife officer, or an ex officio fish and wildlife officer subjects the grower to the penalty provisions of this chapter, as well as seizure and disposition, up to and including disposal, of the shellfish by the representative or officer.

(2) Failure of a shellfish processor to display a certificate of approval issued under RCW 69.30.060 to an authorized representative of the department, a fish and wildlife officer, or an ex officio fish and wildlife officer subjects the processor to the penalty provisions of this chapter, as well as seizure and disposition, up to and including disposal, of the shellfish by the representative or officer. [2011 c 194 s 8; 2001 c 253 s 6; 1995 c 147 s 4; 1985 c 51 s 4; 1979 c 141 s 74; 1955 c 144 s 11.]

69.30.120 Inspection by department—Access to regulated business or entity—Administrative inspection warrant. The department may enter and inspect any shellfish growing area or establishment for the purposes of determining compliance with this chapter and rules adopted under this chapter. The department may inspect all shellfish, all permits, all certificates of approval and all records.

During such inspections the department shall have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities, vehicles, and other places reasonably considered to be or to have been part of the regulated business or entity, to all ledgers, books, accounts, memorandums, or records required to be compiled or maintained under this chapter or under rules adopted pursuant to this chapter, and to any products, components, or other materials reasonably believed to be or to have been used, processed, or produced by or in connection with the regulated business or activity. In connection with such inspections the department may take such samples or specimens as may be reasonably necessary to determine whether there exists a violation of this chapter or rules adopted under this chapter.

Inspection of establishments may be conducted between eight a.m. and five p.m. on any weekday that is not a legal holiday, during any time the regulated business or entity has established as its usual business hours, at any time the regulated business or entity is open for business or is otherwise in operation, and at any other time with the consent of the owner or authorized agent of the regulated business or entity.

The department may apply for an administrative inspection warrant to a court of competent jurisdiction and an administrative inspection warrant may issue where:

(1) The department has attempted an inspection under this chapter and access to all or part of the regulated business or entity has been actually or constructively denied; or

(2) There is reasonable cause to believe that a violation of this chapter or of rules adopted under this chapter is occurring or has occurred. [1995 c 147 s 5; 1985 c 51 s 5; 1955 c 144 s 12.]

69.30.130 Water pollution laws and rules applicable. All existing laws and rules and regulations governing the pollution of waters of the state shall apply in the control of pollution of shellfish growing areas. [1955 c 144 s 13.]

69.30.140 Penalties. Except as provided in RCW 69.30.085(4), any person convicted of violating any of the provisions of this chapter shall be guilty of a gross misdemeanor. A conviction is an unvacated forfeiture of bail or collateral deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this chapter or rules adopted under this chapter, regardless of whether imposition of sentence is deferred or the penalty is suspended, and shall be treated as a conviction for purposes of license revocation and suspension of privileges under *RCW 77.15.700(5). [2011 c 194 s 9; 2001 c 253 s 7; 1995 c 147 s 6; 1985 c 51 s 6; 1955 c 144 s 14.]

***Reviser's note:** RCW 77.15.700 was amended by 2003 c 386 s 2, deleting subsection (5).

69.30.145 Civil penalties. As limited by RCW 69.30.150, the department may impose civil penalties for violations of standards set forth in this chapter or rules adopted under RCW 69.30.030. [1989 c 200 s 3.]

69.30.150 Civil penalties—General provisions. (1) In addition to any other penalty provided by law, every person who violates standards set forth in this chapter or rules adopted under RCW 69.30.030 is subject to a penalty of not more than five hundred dollars per day for every violation. Every violation is a separate and distinct offense. In case of a continuing violation, every day's continuance is a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation is in violation of this section and is subject to the penalty provided in this section.

(2) The penalty provided for in this section shall be imposed by a notice in writing to the person against whom the civil fine is assessed and shall describe the violation with reasonable particularity. The notice shall be personally served in the manner of service of a summons in a civil action or in a manner which shows proof of receipt. Any penalty imposed by this section shall become due and payable twenty-eight days after receipt of notice unless application for remission or mitigation is made as provided in subsection (3) of this section or unless application for an adjudicative proceeding is filed as provided in subsection (4) of this section.

(3) Within fourteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of the penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department deems proper, giving consideration to the degree of hazard associated with the violation. The department may only grant a remission or mitigation that it deems to be in the best interests of carrying out the purposes of this chapter. The department may ascertain the facts regarding all such applications in a manner it deems proper. When an application for remission or mitigation is made, any penalty incurred pursuant to this section becomes due and payable twenty-eight days after receipt of the notice setting forth the disposition of the application, unless an application for an adjudicative proceeding to contest the disposition is filed as provided in subsection (4) of this section.

(4) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules of the department or board of health.

(5) Any penalty imposed by final order following an adjudicative proceeding becomes due and payable upon service of the final order.

(6) The attorney general may bring an action in the name of the department in the superior court of Thurston county or of any county in which the violator may do business to collect any penalty imposed under this chapter.

(7) All penalties imposed under this section shall be paid to the state treasury and credited to the general fund. [1989 c 200 s 4.]

Chapter 69.36 RCW
WASHINGTON CAUSTIC POISON ACT OF 1929

Sections

Highway transportation of poisons, corrosives, etc.: RCW 46.48.170, 46.48.175.

69.36.010 Definitions. In this chapter, unless the context or subject matter otherwise requires:

(1) The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten percent or more; (b) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in concentration of ten percent or more; (c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five percent or more; (d) carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five percent or more; (e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of ten percent or more; (f) any salt of oxalic acid and any preparation containing any such salt in a concentration of ten percent or more; (g) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of twenty percent or more; (h) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten percent or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten percent or more; (j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten percent or more; (k) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of five percent or more; and (l) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn", in a concentration of five percent or more.

(2) The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller, or distributor; (c) the word "POISON," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four point size,

unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance; PROVIDED, That such directions need not appear on labels or stickers on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers or wholesalers for other than household use. PROVIDED FURTHER, That this chapter is not to be construed as applying to any substance subject to the chapter, sold at wholesale or retail for use by a retail druggist in filling prescriptions or in dispensing, in pursuance of a prescription by a physician, dentist, or veterinarian; or for use by or under the direction of a physician, dentist, or veterinarian; or for use by a chemist in the practice or teaching of his or her profession; or for any industrial or professional use, or for use in any of the arts and sciences. [2012 c 117 s 362; 1929 c 82 s 1; RRS s 2508-1. Formerly RCW 69.36.010 and 69.36.020, part.]

69.36.020 Misbranded sales, etc., prohibited—Exceptions. No person shall sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter, or exchange, in this state any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container being designed for household use; PROVIDED, That household products for cleaning and washing purposes, subject to this chapter and labeled in accordance therewith, may be sold, offered for sale, held for sale, and distributed in this state by any dealer, wholesale or retail; PROVIDED FURTHER, That no person shall be liable to prosecution and conviction under this chapter when he or she establishes a guaranty bearing the signature and address of a vendor residing in the United States from whom he or she purchased the dangerous caustic or corrosive substance, to the effect that such substance is not misbranded within the meaning of this chapter. No person in this state shall give any such guaranty when such dangerous caustic or corrosive substance is in fact misbranded within the meaning of this chapter. [2012 c 117 s 363; 1929 c 82 s 2; RRS s 2508-2. FORMER PART OF SECTION: 1929 c 82 s 1 now codified in RCW 69.32.010.]

69.36.030 Condemnation of misbranded packages. Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use, that is being sold, bartered, or exchanged, or held, displayed, or offered for sale, barter, or exchange, shall be liable to be proceeded against in any superior court within the jurisdiction of which the same is found and seized for confiscation, and if such substance is condemned as misbranded, by said court, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds, less the actual costs and charges, shall be paid over to the state treasurer; but such substance shall not be sold contrary to the laws of the state: PROVIDED, HOWEVER, That upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof. Such condemnation proceedings shall conform as near as may be to proceedings in the seizure, and condemnation of substances unfit for human consumption. [1929 c 82 s 3; RRS s 2508-3.]

69.36.040 Enforcement—Approval of labels. The director of agriculture shall enforce the provisions of this chapter, and he or she is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this chapter as may be submitted to him or her for that purpose and as may in his or her judgment conform to the requirements of this statute: PROVIDED, HOWEVER, That in any prosecution under this chapter the fact that any brand or label involved in said prosecution has not been submitted to said director for approval, or if submitted, has not been approved by him or her, shall be immaterial. [2012 c 117 s 364; 1929 c 82 s 5; RRS s 2508-5.]

69.36.050 Duty to prosecute. Every prosecuting attorney to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of this chapter shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided. [1929 c 82 s 6; RRS s 2508-6.]

69.36.060 Penalty. Any person violating the provisions of this chapter shall be guilty of a misdemeanor. [1929 c 82 s 4; RRS s 2508-4.]

69.36.070 Short title. This chapter may be cited as the Washington Caustic Poison Act of 1929. [1929 c 82 s 7; RRS s 2508-7.]

Chapter 69.38 RCW
POISONS—SALES AND MANUFACTURING

Sections

69.38.010 "Poison" defined. As used in this chapter "poison" means:

(1) Arsenic and its preparations;

(2) Cyanide and its preparations, including hydrocyanic acid;

(3) Strychnine; and

(4) Any other substance designated by the pharmacy quality assurance commission which, when introduced into the human body in quantities of sixty grains or less, causes violent sickness or death. [2013 c 19 s 52; 1987 c 34 s 1.]

69.38.020 Exemptions from chapter. All substances regulated under chapters 15.58, 17.21, 69.04, 69.41, and 69.50 RCW, and chapter 69.45 RCW are exempt from the provisions of this chapter. [1987 c 34 s 2.]

69.38.030 Poison register—Identification of purchaser. It is unlawful for any person, either on the person's own behalf or while an employee of another, to sell any poison without first recording in ink in a "poison register" kept solely for this purpose the following information:

(1) The date and hour of the sale;

(2) The full name and home address of the purchaser;

(3) The kind and quantity of poison sold; and

(4) The purpose for which the poison is being purchased.

The purchaser shall present to the seller identification which contains the purchaser's photograph and signature. No sale may be made unless the seller is satisfied that the purchaser's representations are true and that the poison will be used for a lawful purpose. Both the purchaser and the seller shall sign the poison register entry.

If a delivery of a poison will be made outside the confines of the seller's premises, the seller may require the business purchasing the poison to submit a letter of authorization as a substitute for the purchaser's photograph and signature requirements. The letter of authorization shall include the unified business identifier and address of the business, a full description of how the substance will be used, and the signature of the purchaser. Either the seller or the employee of the seller delivering or transferring the poison shall affix his or her signature to the letter as a witness to the signature and identification of the purchaser. The transaction shall be recorded in the poison register as provided in this section. Letters of authorization shall be kept with the poison register and shall be subject to the inspection and preservation requirements contained in RCW 69.38.040. [1988 c 197 s 1; 1987 c 34 s 3.]

69.38.040 Inspection of poison register—Penalty for failure to maintain register. Every poison register shall be open for inspection by law enforcement and health officials at all times and shall be preserved for at least two years after the date of the last entry. Any person failing to maintain the poison register as required in this chapter is guilty of a misdemeanor. [1987 c 34 s 4.]

69.38.050 False representation—Penalty. Any person making any false representation to a seller when purchasing a poison is guilty of a gross misdemeanor. [1987 c 34 s 5.]

69.38.060 Manufacturers and sellers of poisons—License required—Penalty. The pharmacy quality assurance commission, after consulting with the department of health, shall require and provide for the annual licensure of every person now or hereafter engaged in manufacturing or selling poisons within this state. Upon a payment of a fee as set by the department, the department shall issue a license in such form as it may prescribe to such manufacturer or seller. Such license shall be displayed in a conspicuous place in such manufacturer's or seller's place of business for which it is issued.

Any person manufacturing or selling poison within this state without a license is guilty of a misdemeanor. [2013 c 19 s 53; 1989 1st ex.s. c 9 s 440; 1987 c 34 s 6.]

Additional notes found at www.leg.wa.gov

69.38.070 Enforcement—Uniform disciplinary act. Chapter 18.64 RCW governs the denial of licenses and the discipline of persons licensed under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a license under this chapter. [2024 c 121 s 40.]

Chapter 69.40 RCW
POISONS AND DANGEROUS DRUGS

Sections

Pharmacists: Chapter 18.64 RCW.

Poison information centers: Chapter 18.76 RCW.

Poisoning animals—Strychnine sales: RCW 16.52.190 and 16.52.193.

Washington pesticide application act: Chapter 17.21 RCW.

69.40.010 Poison in edible products. It shall be unlawful for any person to sell, offer for sale, use, distribute, or leave in any place, any crackers, biscuit, bread or any other preparation resembling or in similitude, of any edible product, containing arsenic, strychnine or any other poison. [1905 c 141 s 1; RRS s 6140. FORMER PART OF SECTION: 1905 c 141 s 2 now codified as RCW 69.40.015.]

69.40.015 Poison in edible products—Penalty. Any person violating the provisions of RCW 69.40.010 shall upon conviction be punished by a fine of not less than ten dollars nor more than five hundred dollars. [1905 c 141 s 2; RRS s 6141. Formerly RCW 69.40.010, part.]

69.40.020 Poison in milk or food products—Penalty. Any person who shall sell, offer to sell, or have in his or her possession for the purpose of sale, either as owner, proprietor, or assistant, or in any manner whatsoever, whether for hire or otherwise, any milk or any food products, containing the chemical ingredient commonly known as formaldehyde, or in which any formaldehyde or other poisonous substance has been mixed, for the purpose of preservation or otherwise, is guilty of a class C felony, and upon conviction thereof shall be imprisoned in the penitentiary for the period of not less than one year nor more than three years. [2003 c 53 s 320; 1905 c 50 s 1; RRS s 6142. FORMER PART OF SECTION: 1905 c 50 s 2, now codified as RCW 69.40.025.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.40.025 Supplementary to existing laws—Enforcement. *This act shall be supplementary to the laws of this state now in force prohibiting the adulteration of food and fraud in the sale thereof; and the state dairy and food commissioner, the chemist of the state agricultural experiment station, the state attorney general and the prosecuting attorneys of the several counties of this state are hereby required, without additional compensation, to assist in the execution of *this act, and in the prosecution of all persons charged with the violation thereof, in like manner and with like powers as

they are now authorized and required by law to enforce the laws of this state against the adulteration of food and fraud in the sale thereof. [1905 c 50 s 2; RRS s 6143. Formerly RCW 69.40.020, part.]

Reviser's note: *(1) "This act" appears in 1905 c 50 and the sections of the act are codified as RCW 69.40.020 and 69.40.025.

(2) The duties of the state dairy and food commissioner have devolved upon the director of agriculture through a chain of statute as follows: 1913 c 60 s 6(2); 1921 c 7 s 93(1). See RCW 43.23.090(1).

69.40.030 Placing poison or other harmful object or substance in food, drinks, medicine, or water—Penalty. (1) Every person who willfully mingles poison or places any harmful object or substance, including but not limited to pins, tacks, needles, nails, razor blades, wire, or glass in any food, drink, medicine, or other edible substance intended or prepared for the use of a human being or who shall knowingly furnish, with intent to harm another person, any food, drink, medicine, or other edible substance containing such poison or harmful object or substance to another human being, and every person who willfully poisons any spring, well, or reservoir of water, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not less than five years or by a fine of not less than one thousand dollars.

(2) *This act shall not apply to the employer or employers of a person who violates this section without such employer's knowledge. [2003 c 53 s 321; 1992 c 7 s 48; 1973 c 119 s 1; 1909 c 249 s 264; RRS s 2516. Prior: Code 1881 s 802; 1873 p 185 s 27; 1869 p 202 s 25; 1854 p 79 s 25.]

***Reviser's note:** "this act" refers to the 1973 c 119 s 1 amendment to this section.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.40.055 Selling repackaged poison without labeling—Penalty. It shall be unlawful for any person to sell at retail or furnish any repackaged poison drug or product without affixing or causing to be affixed to the bottle, box, vessel, or package a label containing the name of the article, all labeling required by the Food and Drug Administration and other federal or state laws or regulations, and the word "poison" distinctly shown with the name and place of the business of the seller.

This section shall not apply to the dispensing of drugs or poisons on the prescription of a practitioner.

The pharmacy quality assurance commission shall have the authority to promulgate rules for the enforcement and implementation of this section.

Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. [2013 c 19 s 54; 1981 c 147 s 4.]

Chapter 69.41 RCW
LEGEND DRUGS—PRESCRIPTION DRUGS

Sections

Drug nuisances—Injunctions: Chapter 7.43 RCW.

69.41.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Commission" means the pharmacy quality assurance commission.

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(5) "Department" means the department of health.

(6) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(7) "Dispenser" means a practitioner who dispenses.

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(9) "Distributor" means a person who distributes.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

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

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(17) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(m), a veterinarian under chapter 18.92 RCW, a registered nurse, *advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW, a licensed dental therapist to the extent authorized under chapter 18.265 RCW, or a licensed midwife to the extent authorized under chapter 18.50 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(18) "Secretary" means the secretary of health or the secretary's designee. [2024 c 102 s 1; 2023 c 460 s 21; 2020 c 80 s 40. Prior: 2019 c 358 s 6; 2019 c 308 s 23; prior: 2016 c 148 s 10; 2016 c 97 s 2; prior: 2013 c 276 s 1; 2013 c 19 s 55; 2012 c 10 s 44; 2009 c 549 s 1024; 2006 c 8 s 115; prior: 2003 c 257 s 2; 2003 c 140 s 11; 2000 c 8 s 2; prior: 1998 c 222 s 1; 1998 c 70 s 2; 1996 c 178 s 16; 1994 sp.s. c 9 s 736; prior: 1989 1st ex.s. c 9 s 426; 1989 c 36 s 3; 1984 c 153 s 17; 1980 c 71 s 1; 1979 ex.s. c 139 s 1; 1973 1st ex.s. c 186 s 1.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Effective date—2023 c 460 ss 1-22: See note following RCW 18.265.005.

Effective date—2020 c 80 ss 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Findings—2019 c 308: See note following RCW 18.06.010.

Findings—2006 c 8: "The legislature finds that prescription drug errors occur because the pharmacist or nurse cannot read the prescription from the physician or other provider with prescriptive authority. The legislature further finds that legible prescriptions can prevent these errors." [2006 c 8 s 114.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Findings—Intent—2000 c 8: "The legislature finds that we have one of the finest health care systems in the world and excellent professionals to deliver that care. However, there are incidents of medication errors that are avoidable and serious mistakes that are preventable. Medical errors throughout the health care system constitute one of the nation's leading causes of death and injury resulting in over seven thousand deaths a year, according to a recent report from the institute of medicine. The majority of medical errors do not result from individual recklessness, but from basic flaws in the way the health system is organized. There is a need for a comprehensive strategy for government, industry, consumers, and health providers to reduce medical errors. The legislature declares a need to bring about greater safety for patients in this state who depend on prescription drugs.

It is the intent of the legislature to promote medical safety as a top priority for all citizens of our state." [2000 c 8 s 1.]

Additional notes found at www.leg.wa.gov

69.41.020 Prohibited acts—Information not privileged communication. Legend drugs shall not be sold, delivered, dispensed or administered except in accordance with this chapter.

(1) No person shall obtain or attempt to obtain a legend drug, or procure or attempt to procure the administration of a legend drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

(2) Information communicated to a practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a legend drug, falsely assume the title of, or represent himself or herself to be, a manufacturer, wholesaler, or any practitioner.

(5) No person shall make or utter any false or forged prescription or other written order for legend drugs.

(6) No person shall affix any false or forged label to a package or receptacle containing legend drugs.

(7) No person shall willfully fail to maintain the records required by RCW 69.41.042 and *69.41.270.

(8) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 s 322. Prior: 1989 1st ex.s. c 9 s 408; 1989 c 352 s 8; 1973 1st ex.s. c 186 s 2.]

***Reviser's note:** RCW 69.41.270 was repealed by 2003 c 275 s 5.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.41.030 Sale, delivery, possession, or use of legend drug without prescription or order prohibited—Exceptions—Penalty—Referral to assessment and services. (1) It shall be unlawful for any person to sell or deliver any legend drug, or knowingly possess any legend drug, or knowingly use any legend drug in a public place, except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a licensed midwife to the extent authorized under chapter 18.50 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or *advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the board of nursing, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed *advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving knowing possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(c) A violation of this section involving knowing use in a public place is a misdemeanor. The prosecutor is encouraged

to divert such cases for assessment, treatment, or other services.

(d) No person may be charged with both knowing possession and knowing use in a public place under this section relating to the same course of conduct.

(e) In lieu of jail booking and referral to the prosecutor for a violation of this section involving knowing possession, or knowing use in a public place, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(3) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(4) For the purposes of this section, "use any legend drug" means to introduce the drug into the human body by injection, inhalation, ingestion, or any other means. [2024 c 102 s 2; 2023 sp.s. c 1 s 4; (2021 c 311 s 12 expired July 1, 2023); (2021 c 311 s 11 expired July 1, 2022); 2020 c 80 s 41; 2019 c 55 s 9; 2018 c 196 s 22; 2016 c 148 s 11. Prior: 2013 c 71 s 1; 2013 c 12 s 1; prior: 2011 1st sp.s. c 15 s 79; 2011 c 336 s 837; 2010 c 83 s 1; prior: 2003 c 142 s 3; 2003 c 53 s 323; 1996 c 178 s 17; 1994 sp.s. c 9 s 737; 1991 c 30 s 1; 1990 c 219 s 2; 1987 c 144 s 1; 1981 c 120 s 1; 1979 ex.s. c 139 s 2; 1977 c 69 s 1; 1973 1st ex.s. c 186 s 3.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

Effective date—2021 c 311 s 12: "Section 12 of this act takes effect July 1, 2022." [2021 c 311 s 28.]

Expiration date—2021 c 311 ss 8-10 and 12: See note following RCW 69.50.4011.

Expiration date—2021 c 311 s 11: "Section 11 of this act expires July 1, 2022." [2021 c 311 s 27.]

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Effective date—2020 c 80 ss 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Finding—1990 c 219: "The legislature finds that Washington citizens in the border areas of this state are prohibited from having prescriptions from out-of-state dentists and veterinarians filled at their in-state pharmacies, and that it is in the public interest to remove this barrier for the state's citizens." [1990 c 219 s 1.]

Additional notes found at www.leg.wa.gov

69.41.032 Prescription of legend drugs and dialysate by dialysis programs. (1) This chapter shall not prevent a medicare-approved dialysis center, a facility operating a medicare-approved home dialysis program, a manufacturer, or a wholesaler, from selling, delivering, possessing, or dispensing directly to dialysis patients, if prescribed by a practitioner acting within the scope of the practitioner's practice, those legend drugs, including commercially available dialysate, used by home dialysis patients, in case or full shelf lots, as determined by the commission.

(2) The commission shall adopt rules to implement this section. [2022 c 23 s 2; 2016 c 148 s 12; 1987 c 41 s 2.]

Application of pharmacy statutes to dialysis programs: RCW 18.64.257.

69.41.040 Prescription requirements—Penalty. (1) A prescription, in order to be effective in legalizing the possession of legend drugs, must be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. Except as provided in RCW 69.41.095, an order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this section; and the person who knows or should know that he or she is filling such an order, as well as the person issuing it, may be charged with violation of this chapter. A legitimate medical purpose shall include use in the course of a bona fide research program in conjunction with a hospital or university.

(2) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW. [2015 c 205 s 3; 2003 c 53 s 324; 1973 1st ex.s. c 186 s 4.]

Intent—2015 c 205: See note following RCW 69.41.095.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.041 Long-term care facilities and hospice programs—Legend drug prescriptions and chart orders. (1) A pharmacy may dispense legend drugs to the resident of a long-term care facility or hospice program on the basis of a written or electronically signed prescription or chart order sent via facsimile copy by the prescriber to the long-term care facility or hospice program, and communicated or transmitted to the pharmacy pursuant to RCW 18.64.550.

(2) For the purpose of this section, the terms "long-term care facility," "hospice program," and "chart order" have the meanings provided in RCW 18.64.011. [2020 c 57 s 87; 2016 c 148 s 7.]

69.41.042 Record requirements. A pharmaceutical manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs shall maintain invoices or such other records as are necessary to account for the receipt and disposition of the legend drugs.

The records maintained pursuant to this section shall be available for inspection by the commission and its authorized representatives and shall be maintained for two years. [2016 c 148 s 13; 1989 1st ex.s. c 9 s 405.]

Additional notes found at www.leg.wa.gov

69.41.044 Confidentiality. All records, reports, and information obtained by the commission or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or

the proceedings of the commission so long as the commission and its authorized representatives comply with the provisions of chapter 42.56 RCW. [2016 c 148 s 14; 2005 c 274 s 328; 1989 1st ex.s. c 9 s 406.]

Additional notes found at www.leg.wa.gov

69.41.050 Labeling requirements—Penalty. (1) To every box, bottle, jar, tube, or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, there shall be affixed a label bearing the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name and strength per unit dose, name of patient and date: PROVIDED, That the practitioner may omit the name and dosage of the drug if he or she determines that his or her patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient.

(2)(a) Notwithstanding subsection (1) of this section, at a prescriber's request, the prescription label for abortion medications may include the prescribing and dispensing health care facility name instead of the name of the practitioner.

(b) For the purposes of this subsection, "abortion medications" means substances used in the course of medical treatment intended to induce the termination of a pregnancy including, but not limited to, mifepristone.

(3) A violation of this section is a misdemeanor. [2024 c 257 s 1; 2003 c 53 s 325; 1980 c 83 s 8; 1973 1st ex.s. c 186 s 5.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.055 Electronic communication of prescription information—Commission may adopt rules—Long-term care facilities and hospice programs. (1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

(b) An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

(c) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(d) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records; and

(e) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The electronic signature of the prescribing practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under RCW 18.64.550, constitutes a valid electronic communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The commission may adopt rules implementing this section. [2020 c 57 s 88; 2019 c 314 s 13; 2016 c 148 s 15; 1998 c 222 s 2.]

Declaration—2019 c 314: See note following RCW 18.22.810.

69.41.060 Search and seizure. If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior or district court that there is probable cause to believe that any legend drug is being used, manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any peace officer in the county, commanding the peace officer to search the premises designated and described in such complaint and warrant, and to seize all legend drugs there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such legend drugs and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such legend drugs, furniture or fixtures so seized, and if no person be found in the possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or, if there be no door, then in any conspicuous place upon the premises. [1987 c 202 s 227; 1973 1st ex.s. c 186 s 6.]

Intent—1987 c 202: See note following RCW 2.04.190.

69.41.062 Search and seizure at rental premises—Notification of landlord. Whenever a legend drug which is sold, delivered, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other

address known by the law enforcement agency, of the seizure and the location of the seizure. [1988 c 150 s 8.]

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.41.065 Violations—Juvenile driving privileges. (1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered. [2016 c 136 s 10; 1989 c 271 s 119; 1988 c 148 s 4.]

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Additional notes found at www.leg.wa.gov

69.41.072 Violations of chapter 69.50 RCW not to be charged under chapter 69.41 RCW—Exception. Any offense which is a violation of chapter 69.50 RCW other than RCW 69.50.4012 shall not be charged under this chapter. [2003 c 53 s 327.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.075 Rules—Availability of lists of drugs. The pharmacy quality assurance commission may make such rules for the enforcement of this chapter as are deemed necessary or advisable. The commission shall identify, by rule-making pursuant to chapter 34.05 RCW, those drugs which may be dispensed only on prescription or are restricted to use by practitioners, only. In so doing the commission shall consider the toxicity or other potentiality for harmful effect of the drug, the method of its use, and any collateral safeguards necessary to its use. The commission shall classify a drug as a legend drug where these considerations indicate the drug is not safe for use except under the supervision of a practitioner.

In identifying legend drugs the commission may incorporate in its rules lists of drugs contained in commercial pharmaceutical publications by making specific reference to each such list and the date and edition of the commercial publication containing it. Any such lists so incorporated shall be available for public inspection at the headquarters of the department of health and shall be available on request from the department of health upon payment of a reasonable fee to be set by the department. [2013 c 19 s 56; 1989 1st ex.s. c 9 s 427; 1979 ex.s. c 139 s 3.]

Additional notes found at www.leg.wa.gov

69.41.080 Animal control—Rules for possession and use of legend drugs. Humane societies and animal control agencies registered with the commission under chapter 69.50 RCW and authorized to euthanize animals may purchase, possess, and administer approved legend drugs for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs. For the purposes of this section, "approved legend drugs" means those legend drugs designated by the commission by rule as being approved for use by such societies and agencies for animal sedating or capture and does not include any substance regulated under chapter 69.50 RCW. Any society or agency so registered shall not permit persons to administer any legend drugs unless such person has demonstrated to the satisfaction of the commission adequate knowledge of the potential hazards involved in and the proper techniques to be used in administering the drugs.

The commission shall promulgate rules to regulate the purchase, possession, and administration of legend drugs by such societies and agencies and to insure strict compliance with the provisions of this section. Such rules shall require that the storage, inventory control, administration, and recordkeeping for approved legend drugs conform to the standards adopted by the commission under chapter 69.50 RCW to regulate the use of controlled substances by such societies and agencies. Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under chapter 69.50 RCW. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. In addition to any other grounds, the commission may suspend or revoke a registration issued under chapter 69.50 RCW upon a determination by the commission that the person administering legend drugs has not demonstrated adequate knowledge as herein provided. [2024 c 121 s 50; 2013 c 19 s 57; 1989 c 242 s 1.]

69.41.085 Medication assistance—Community-based care setting. Individuals residing in community-based care settings, such as adult family homes, assisted living facilities, and residential care settings for individuals with developmental disabilities, including an individual's home, may receive medication assistance. Nothing in this chapter affects the right of an individual to refuse medication or requirements relating to informed consent. [2012 c 10 s 45; 2003 c 140 s 12; 1998 c 70 s 1.]

Additional notes found at www.leg.wa.gov

69.41.095 Opioid overdose reversal medication—Standing order permitted. (1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose reversal medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by prescription, col-

laborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription, standing order, or protocol is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose reversal medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose reversal medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose reversal medication pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with subsection (1)(a) of this section and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medical attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued by a practitioner in accordance with subsection (1) of this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose reversal medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose reversal medication pursuant to subsection (2) or (5)(a) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose reversal medication pursuant to subsection (3) of this section.

(5) The secretary or the secretary's designee may issue a standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. The standing order may be limited to specific areas in the state or issued statewide.

(a) A pharmacist shall dispense an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection, consistent with the pharmacist's responsibilities to dispense prescribed legend drugs, and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medical attention must be conspicuously displayed.

(b) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection (5). The department, in coordination with the appropriate entity or entities, shall ensure availability of a training module that provides training regarding the identification of a person suffering from an opioid-related overdose and the use of opioid overdose reversal medications. The training must be available electronically and in a variety of media from the department.

(c) This subsection (5) does not create a private cause of action. Notwithstanding any other provision of law, neither the state nor the secretary nor the secretary's designee has any civil liability for issuing standing orders or for any other actions taken pursuant to this chapter or for the outcomes of issuing standing orders or any other actions taken pursuant to this chapter. Neither the secretary nor the secretary's designee is subject to any criminal liability or professional disciplinary action for issuing standing orders or for any other actions taken pursuant to this chapter.

(d) For purposes of this subsection (5), "standing order" means an order prescribing medication by the secretary or the secretary's designee. Such standing order can only be issued by a practitioner as defined in this chapter.

(6) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section shall ensure that directions for use are provided.

(7) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose reversal medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, decreased level of consciousness, nonresponsiveness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a drug by designated and trained staff or volunteers of an organization or entity, as well

as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment. [2019 c 314 s 14; 2015 c 205 s 2.]

Declaration—2019 c 314: See note following RCW 18.22.810.

Intent—2015 c 205: "(1) The legislature intends to reduce the number of lives lost to drug overdoses by encouraging the prescription, dispensing, and administration of opioid overdose medications.

(2) Overdoses of opioids, such as heroin and prescription painkillers, cause brain injury and death by slowing and eventually stopping a person's breathing. Since 2012, drug poisoning deaths in the United States have risen six percent, and deaths involving heroin have increased a staggering thirty-nine percent. In Washington state, the annual number of deaths involving heroin or prescription opiates increased from two hundred fifty-eight in 1995 to six hundred fifty-one in 2013. Over this period, a total of nine thousand four hundred thirty-nine people died from opioid-related drug overdoses. Opioid-related drug overdoses are a statewide phenomenon.

(3) When administered to a person experiencing an opioid-related drug overdose, an opioid overdose medication can save the person's life by restoring respiration. Increased access to opioid overdose medications reduced the time between when a victim is discovered and when he or she receives life-saving assistance. Between 1996 and 2010, lay people across the country reversed over ten thousand overdoses.

(4) The legislature intends to increase access to opioid overdose medications by permitting health care practitioners to administer, prescribe, and dispense, directly or by collaborative drug therapy agreement or standing order, opioid overdose medication to any person who may be present at an overdose - law enforcement, emergency medical technicians, family members, or service providers - and to permit those individuals to possess and administer opioid overdose medications prescribed by an authorized health care provider." [2015 c 205 s 1.]

SUBSTITUTION OF PRESCRIPTION DRUGS

69.41.100 Legislative recognition and declaration. The legislature recognizes the responsibility of the state to insure that the citizens of the state are offered a choice between generic drugs and brand name drugs and the benefit of quality pharmaceutical products at competitive prices. Advances in the drug industry resulting from research and the elimination of counterfeiting of prescription drugs should benefit the users of the drugs. Pharmacy must continue to operate with accountability and effectiveness. The legislature hereby declares it to be the policy of the state that its citizens receive safe and therapeutically effective drug products at the most reasonable cost consistent with high drug quality standards. [1986 c 52 s 1; 1977 ex.s. c 352 s 1.]

Additional notes found at www.leg.wa.gov

69.41.110 Definitions. As used in RCW 69.41.100 through 69.41.180, the following words shall have the following meanings:

(1) "Biological product" means any of the following, when applied to the prevention, treatment, or cure of a disease or condition of human beings: (a) A virus; (b) a therapeutic serum; (c) a toxin; (d) an antitoxin; (e) a vaccine; (f) blood, blood component, or derivative; (g) an allergenic product; (h) a protein, other than a chemically synthesized polypeptide, or an analogous product; or (i) arsphenamine, a derivative of arsphenamine, or any trivalent organic arsenic compound;

(2) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label, or wrapping at the time of packaging;

(3) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(4) "Interchangeable" means a biological product:

(a) Licensed by the federal food and drug administration and determined to meet the safety standards for interchangeability pursuant to 42 U.S.C. Sec. 262(k)(4); or

(b) Approved based on an application filed under section 505(b) of the federal food, drug, and cosmetic act that is determined by the federal food and drug administration to be therapeutically equivalent to an approved 505(b) biological product and is included in the 505(b) list maintained by the pharmacy quality assurance commission pursuant to RCW 69.41.196;

(5) "Practitioner" means a physician, osteopathic physician and surgeon, dentist, veterinarian, or any other person authorized to prescribe drugs under the laws of this state;

(6) "Substitute" means to dispense, with the practitioner's authorization, a "therapeutically equivalent" drug product or "interchangeable biological" drug product; and

(7) "Therapeutically equivalent" means a drug product of the identical base or salt as the specific drug product prescribed with essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen. [2015 c 242 s 1; 1979 c 110 s 1; 1977 ex.s. c 352 s 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.41.120 Prescriptions to contain instruction as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted—Out-of-state prescriptions—Form—Contents—Procedure. (1) Every drug prescription shall contain an instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place, unless substitution is permitted under a prior-consent authorization.

If a written prescription is involved, the prescription must be legible and the form shall have two signature lines at opposite ends on the bottom of the form. Under the line at the right side shall be clearly printed the words "DISPENSE AS WRITTEN." Under the line at the left side shall be clearly printed the words "SUBSTITUTION PERMITTED." The practitioner shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the practitioner on one of these lines. In the case of a prescription issued by a practitioner in another state that uses a one-line prescription form or variation thereof, the pharmacist may substitute a therapeutically equivalent generic drug or interchangeable biological product unless otherwise instructed by the practitioner through the use of the words "dispense as written," words of similar meaning, or some other indication.

(2) If an oral prescription is involved, the practitioner or the practitioner's agent shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place. The pharmacist shall note the instructions on the file copy of the prescription.

(3) The pharmacist shall note the manufacturer of the drug dispensed on the file copy of a written or oral prescription.

(4) The pharmacist shall retain the file copy of a written or oral prescription for the same period of time specified in RCW 18.64.245 for retention of prescription records. [2015 c 242 s 2; 2000 c 8 s 3; 1990 c 218 s 1; 1979 c 110 s 2; 1977 ex.s. c 352 s 3.]

Findings—Intent—2000 c 8: See note following RCW 69.41.010.

69.41.125 Interchangeable biological product may be substituted for biological product—Exception—Wholesale price less. Unless the prescribed biological product is requested by the patient or the patient's representative, if "substitution permitted" is marked on the prescription as provided in RCW 69.41.120, the pharmacist must substitute an interchangeable biological product that he or she has in stock for the biological product prescribed if the wholesale price for the interchangeable biological product to the pharmacist is less than the wholesale price for the biological product prescribed. [2015 c 242 s 3.]

69.41.130 Savings in price to be passed on to purchaser. Unless the brand name drug is requested by the patient or the patient's representative, the pharmacist shall substitute an equivalent drug product which he or she has in stock if its wholesale price to the pharmacist is less than the wholesale price of the prescribed drug product, and at least sixty percent of the savings shall be passed on to the purchaser. [2012 c 117 s 365; 1986 c 52 s 2; 1979 c 110 s 3; 1977 ex.s. c 352 s 4.]

69.41.140 Minimum manufacturing standards and practices. A pharmacist may not substitute a product under the provisions of this section unless the manufacturer has shown that the drug has been manufactured with the following minimum good manufacturing standards and practices:

(1) Maintain quality control standards equal to those of the Food and Drug Administration;

(2) Comply with regulations promulgated by the Food and Drug Administration. [1979 c 110 s 4; 1977 ex.s. c 352 s 5.]

69.41.150 Liability of practitioner, pharmacist. (1) A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed.

(2) A pharmacist who substitutes a therapeutically equivalent drug product pursuant to RCW 69.41.100 through 69.41.180 as now or hereafter amended assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name.

(3) A pharmacist who substitutes a preferred drug for a nonpreferred drug pursuant to RCW 69.41.190 assumes no greater liability for substituting the preferred drug than would be incurred in filling a prescription for the preferred drug when prescribed by name.

(4) A pharmacist who selects an interchangeable biological product to be dispensed pursuant to RCW 69.41.100 through 69.41.180, and the pharmacy for which the pharmacist is providing service, assumes no greater liability for selecting the interchangeable biological product than would be incurred in filling a prescription for the interchangeable biological product when prescribed by name. The prescribing practitioner is not liable for a pharmacist's act or omission in selecting, preparing, or dispensing an interchangeable biological product under this section. [2015 c 242 s 6; 2003 1st sp.s. c 29 s 6; 1979 c 110 s 5; 1977 ex.s. c 352 s 6.]

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

69.41.160 Pharmacy signs as to substitution for prescribed drugs. Every pharmacy shall post a sign in a location at the prescription counter that is readily visible to patrons stating, "Under Washington law, a less expensive interchangeable biological product or equivalent drug may in some cases be substituted for the drug prescribed by your doctor. Such substitution, however, may only be made with the consent of your doctor. Please consult your pharmacist or physician for more information." [2015 c 242 s 7; 1979 c 110 s 6; 1977 ex.s. c 352 s 7.]

69.41.170 Coercion of pharmacist prohibited—Penalty. It shall be unlawful for any employer to coerce, within the meaning of RCW 9A.36.070, any pharmacist to dispense a generic drug or to substitute a generic drug for another drug. A violation of this section shall be punishable as a misdemeanor. [1977 ex.s. c 352 s 8.]

69.41.180 Rules. The pharmacy quality assurance commission may adopt any necessary rules under chapter 34.05 RCW for the implementation, continuation, or enforcement of RCW 69.41.100 through 69.41.180, including, but not limited to, a list of therapeutically or nontherapeutically equivalent drugs which, when adopted, shall be provided to all registered pharmacists in the state and shall be updated as necessary. [2013 c 19 s 58; 1979 c 110 s 7; 1977 ex.s. c 352 s 9.]

69.41.190 Preferred drug substitution—Exceptions—Notice—Limited restrictions. ***(Effective until January 1, 2025.)*** (1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in *RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

(b) When a substitution is made under (a) of this subsection, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive, equally effective generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) For a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a prescription to dispense as written, only under the following circumstances:

(i) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the brand name drug be prescribed as the first course of treatment;

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner; and

(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making. Health care authority prior authorization programs must provide for responses within twenty-four hours and at least a seventy-two hour emergency supply of the requested drug.

(d) If, within a therapeutic class, there is an equally effective therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive, equally effective on-label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the drug be prescribed for a covered off-label purpose.

(f) The provisions of this subsection related to the definition of medically necessary, prior authorization procedures and patient appeal rights shall be implemented in a manner consistent with applicable federal and state law.

(3) Notwithstanding the limitations in subsection (2) of this section, for refills for an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks by no more than forty-eight weeks, the pharmacist shall dispense the prescribed nonpreferred drug. [2011 1st sp.s. c 15 s 80; 2009 c 575 s 1; 2006 c 233 s 1; 2003 1st sp.s. c 29 s 5.]

***Reviser's note:** RCW 41.05.011 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (2) to subsection (21). RCW 41.05.011 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (21) to subsection (22). RCW 41.05.011 was subsequently amended by 2017 3rd sp.s. c 13 s 802, changing subsection (22) to subsection (25). RCW 41.05.011 was subsequently amended by 2018 c 260 s 4, changing subsection (25) to subsection (26).

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

Additional notes found at www.leg.wa.gov

69.41.190 Preferred drug substitution—Exceptions—Notice—Limited restrictions. ***(Effective January 1, 2025.)*** (1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in RCW 41.05.011 shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the patient to treat a serious mental illness, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least 24 weeks but no more than 48 weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

(b) When a substitution is made under (a) of this subsection, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's

authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive, equally effective generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) For a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a prescription to dispense as written, only under the following circumstances:

(i) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the brand name drug be prescribed as the first course of treatment;

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner; and

(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making. Health care authority prior authorization programs must provide for responses within 24 hours and at least a 72 hour emergency supply of the requested drug.

(d) If, within a therapeutic class, there is an equally effective therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive, equally effective on-label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the drug be prescribed for a covered off-label purpose.

(f) The provisions of this subsection related to the definition of medically necessary, prior authorization procedures and patient appeal rights shall be implemented in a manner consistent with applicable federal and state law.

(3) Notwithstanding the limitations in subsection (2) of this section, for refills for an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the patient to treat a serious mental illness, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least 24 weeks by no more than 48 weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

(4) For the purposes of this section, "serious mental illness" means a mental disorder, as defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association, that results in serious functional impairment that substantially interferes with or limits one or more major life activities. [2023 c 325 s 2; 2011 1st sp.s. c 15 s 80; 2009 c 575 s 1; 2006 c 233 s 1; 2003 1st sp.s. c 29 s 5.]

Effective date—2023 c 325 s 2: "Section 2 of this act takes effect January 1, 2025." [2023 c 325 s 3.]

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

Additional notes found at www.leg.wa.gov

69.41.193 Dispensing of biological product—Entry of product into electronic records system—Communication—Exceptions. ***(Expires August 1, 2025.)*** (1) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee must make an entry of the specific product provided to the patient, including either the name of the product and the manufacturer or the federal food and drug administration's national drug code, provided that the name of the product and the name of the manufacturer are accessible to a practitioner in an electronic records system that can be electronically accessed by the patient's practitioner through:

(a) An interoperable electronic medical records system;

(b) An electronic prescribing technology;

(c) A pharmacy benefit management system; or

(d) A pharmacy record.

(2) Entry into an electronic records system, as described in subsection (1) of this section, is presumed to provide notice to the practitioner. Otherwise, the pharmacist must communicate to the practitioner the specific product provided to the patient, including the name of the product and manu-

facturer, using facsimile, telephone, electronic transmission, or other prevailing means.

(3) No entry or communication pursuant to this section is required if:

(a) There is no interchangeable biological product for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee and the practitioner communicated before dispensing and the communication included confirmation of the specific product to be provided to the patient, including the name of the product and the manufacturer.

(4) This section expires August 1, 2025. [2020 c 21 s 1; 2015 c 242 s 4.]

69.41.196 List of interchangeable biological products—Pharmacy quality assurance commission to maintain link on website. The pharmacy quality assurance commission shall maintain a link on its website to the current list of all biological products determined by the federal food and drug administration as interchangeable. The commission shall maintain a list of all biological products approved as therapeutically equivalent by the federal food and drug administration through the approval process specified in 505(b) of the federal food, drug, and cosmetic act. The commission shall make the 505(b) list accessible to pharmacies. [2015 c 242 s 5.]

IDENTIFICATION OF LEGEND DRUGS—MARKING

69.41.200 Requirements for identification of legend drugs—Marking. (1) No legend drug in solid dosage form may be manufactured or commercially distributed within this state unless it has clearly marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(2) No manufacturer or distributor may sell any legend drug contained within a bottle, vial, carton, or other container, or in any way affixed or appended to or enclosed within a package of any kind designed or intended for delivery in such container or package to an ultimate consumer within this state unless such container or package has clearly and permanently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(3) Whenever the distributor of a legend drug does not also manufacture it, the names and places of businesses of both shall appear on the stock container or package label in words that truly distinguish each. [1980 c 83 s 1.]

69.41.210 Definitions. The terms defined in this section shall have the meanings indicated when used in RCW 69.41.200 through 69.41.260.

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

(2) "Distributor" means any corporation, person, or other entity which distributes for sale a legend drug under its own label even though it is not the actual manufacturer of the legend drug.

(3) "Legend drug" means any drugs which are required by state law or regulation of the commission to be dispensed as prescription only or are restricted to use by prescribing practitioners only and shall include controlled substances in Schedules II through V of chapter 69.50 RCW.

(4) "Solid dosage form" means capsules or tablets or similar legend drug products intended for administration and which could be ingested orally. [2013 c 19 s 59; 1980 c 83 s 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.41.220 Published lists of drug imprints—Requirements for. Each manufacturer and distributor shall publish and provide to the commission by filing with the department printed material which will identify each current imprint used by the manufacturer or distributor. The commission shall be notified of any change by the filing of any change with the department. This information shall be provided by the department to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms. [2016 c 148 s 16; 1989 1st ex.s. c 9 s 428; 1980 c 83 s 3.]

Additional notes found at www.leg.wa.gov

69.41.230 Drugs in violation are contraband. Any legend drug prepared or manufactured or offered for sale in violation of this chapter or implementing rules shall be contraband and subject to seizure under the provisions of RCW 69.41.060. [1980 c 83 s 4.]

69.41.240 Rules—Labeling and marking. The commission shall have authority to promulgate rules and regulations for the enforcement and implementation of RCW 69.41.050 and 69.41.200 through 69.41.260. [2013 c 19 s 60; 1980 c 83 s 5.]

69.41.250 Exemptions. (1) The commission, upon application of a manufacturer, may exempt a particular legend drug from the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

(2) The provisions of RCW 69.41.050 and 69.41.200 through 69.41.260 shall not apply to any legend drug which is prepared or manufactured by a pharmacy in this state and is for the purpose of retail sale from such pharmacy and not intended for resale. [2013 c 19 s 61; 1980 c 83 s 6.]

69.41.260 Manufacture or distribution for resale—Requirements. All legend drugs manufactured or distributed for resale to any entity in this state other than the ultimate consumer shall meet the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 from a date eighteen months after June 12, 1980. [1980 c 83 s 7.]

69.41.280 Confidentiality. All records, reports, and information obtained by the pharmacy quality assurance commission or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a

manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or the proceedings of the commission so long as the commission and its authorized representatives comply with the provisions of chapter 42.56 RCW. [2013 c 19 s 62; 2005 c 274 s 329; 1989 c 352 s 6.]

USE OF STEROIDS

69.41.300 Definitions. For the purposes of RCW 69.41.300 through 69.41.350, "steroids" shall include the following:

(1) "Anabolic steroids" means synthetic derivatives of testosterone or any isomer, ester, salt, or derivative that act in the same manner on the human body;

(2) "Androgens" means testosterone in one of its forms or a derivative, isomer, ester, or salt, that act in the same manner on the human body; and

(3) "Human growth hormones" means growth hormones, or a derivative, isomer, ester, or salt that act in the same manner on the human body. [2003 c 53 s 328; 1989 c 369 s 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.310 Rules. The pharmacy quality assurance commission shall specify by rule drugs to be classified as steroids as defined in RCW 69.41.300.

On or before December 1 of each year, the commission shall inform the appropriate legislative committees of reference of the drugs that the commission has added to the steroids in RCW 69.41.300. The commission shall submit a statement of rationale for the changes. [2013 c 19 s 63; 1989 c 369 s 2.]

69.41.320 Practitioners—Restricted use—Medical records. (1)(a) A practitioner shall not prescribe, administer, or dispense steroids, as defined in RCW 69.41.300, or any form of autotransfusion for the purpose of manipulating hormones to increase muscle mass, strength, or weight, or for the purpose of enhancing athletic ability, without a medical necessity to do so.

(b) A person violating this subsection is guilty of a gross misdemeanor and is subject to disciplinary action under RCW 18.130.180.

(2) A practitioner shall complete and maintain patient medical records which accurately reflect the prescribing, administering, or dispensing of any substance or drug described in this section or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug, or autotransfusion is prescribed, administered, or dispensed and any additional information upon which the diagnosis is based. [2003 c 53 s 329; 1989 c 369 s 3.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.330 Public warnings—School districts. The superintendent of public instruction shall develop and distribute to all school districts signs of appropriate design and dimensions advising students of the health risks that steroids present when used solely to enhance athletic ability, and of the penalties for their unlawful possession provided by RCW 69.41.300 through 69.41.350.

School districts shall post or cause the signs to be posted in a prominent place for ease of viewing on the premises of school athletic departments. [2003 c 53 s 330; 1989 c 369 s 5.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.340 Student athletes—Violations—Penalty. The superintendent of public instruction, in consultation with the Washington interscholastic activity association, shall promulgate rules by January 1, 1990, regarding loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated this chapter. The regents or trustees of each institution of higher education shall promulgate rules by January 1, 1990, regarding loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated this chapter. [1989 c 369 s 6.]

69.41.350 Penalties. (1) A person who violates the provisions of this chapter by possessing under two hundred tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a gross misdemeanor.

(2) A person who violates the provisions of this chapter by possessing over two hundred tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a class C felony and shall be punished according to chapter 9A.20 RCW. [2003 c 53 s 326; 1989 c 369 s 4; 1983 1st ex.s. c 4 s 4; 1973 1st ex.s. c 186 s 7. Formerly RCW 69.41.070.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

Chapter 69.43 RCW
PRECURSOR DRUGS

Sections

69.43.010 Report to pharmacy quality assurance commission—List of substances—Modification of list—Identification of purchasers—Report of transactions—Penalties. (1) A report to the pharmacy quality assurance commission shall be submitted in accordance with this chapter by a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to any person any of the following substances or their salts or isomers:

(a) Anthranilic acid;
(b) Barbituric acid;
(c) Chlorephedrine;
(d) Diethyl malonate;
(e) D-lysergic acid;
(f) Ephedrine;
(g) Ergotamine tartrate;
(h) Ethylamine;
(i) Ethyl malonate;
(j) Ethylephedrine;
(k) Lead acetate;
(l) Malonic acid;
(m) Methylamine;
(n) Methylformamide;
(o) Methylephedrine;
(p) Methylpseudoephedrine;
(q) N-acetylanthranilic acid;
(r) Norpseudoephedrine;
(s) Phenylacetic acid;
(t) Phenylpropanolamine;
(u) Piperidine;
(v) Pseudoephedrine; and
(w) Pyrrolidine.

(2) The pharmacy quality assurance commission shall administer this chapter and may, by rule adopted pursuant to chapter 34.05 RCW, add a substance to or remove a substance from the list in subsection (1) of this section. In determining whether to add or remove a substance, the commission shall consider the following:

(a) The likelihood that the substance is useable as a precursor in the illegal production of a controlled substance as defined in chapter 69.50 RCW;

(b) The availability of the substance;

(c) The relative appropriateness of including the substance in this chapter or in chapter 69.50 RCW; and

(d) The extent and nature of legitimate uses for the substance.

(3)(a) Any manufacturer, wholesaler, retailer, or other person shall, before selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section to any person, require proper identification from the purchaser.

(b) For the purposes of this subsection, "proper identification" means:

(i) A motor vehicle operator's license or other official state-issued identification of the purchaser containing a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number;

(ii) The motor vehicle license number of any motor vehicle owned or operated by the purchaser;

(iii) A letter of authorization from any business for which any substance specified in subsection (1) of this section is being furnished, which includes the business license number and address of the business;

(iv) A description of how the substance is to be used; and

(v) The signature of the purchaser.

The person selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser.

(c) A violation of or a failure to comply with this subsection is a misdemeanor.

(4) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subsection (1) of this section to any person shall, not less than twenty-one days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (3) of this section to the pharmacy quality assurance commission. However, the pharmacy quality assurance commission may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the pharmacy quality assurance commission determines that either of the following exist:

(a) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance; or

(b) The recipient has established a record of using the substance for lawful purposes.

(5) Any person specified in subsection (4) of this section who does not submit a report as required by subsection (4) of this section is guilty of a gross misdemeanor. [2013 c 19 s 64; 2001 c 96 s 2; 1998 c 245 s 107; 1988 c 147 s 1.]

Intent—2001 c 96: "Communities all over the state of Washington have experienced an increase in the illegal manufacture of methamphetamine. Illegal methamphetamine labs create a significant threat to the health and safety of the people of the state. Some of the chemicals and compounds used to make methamphetamine, and the toxic wastes the process generates, are hazards to the public health. Increases in crime, violence, and the abuse and neglect of children present at laboratory sites are also associated with the increasing number of illegal laboratory sites. The drugs ephedrine, pseudoephedrine, and phenylpropanolamine, which are used in the illegal manufacture of methamphetamine, have been identified as factors in the increase in the number of illegal methamphetamine labs. Therefore, it is the intent of the legislature to place restrictions on the sale and possession of those three drugs in order to reduce the proliferation of illegal methamphetamine laboratories and the associated threats to public health and safety." [2001 c 96 s 1.]

Additional notes found at www.leg.wa.gov

69.43.020 Receipt of substance from source outside state—Report—Penalty. (1) Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of this state any substance specified in RCW 69.43.010(1) shall submit a report of such transaction to the pharmacy quality assurance commission under rules adopted by the commission.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor. [2013 c 19 s 65; 2001 c 96 s 3; 1988 c 147 s 2.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.030 Exemptions. RCW 69.43.010 and 69.43.020 do not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a practitioner, as defined in chapter 69.41 RCW;

(2) Any practitioner who administers or furnishes a substance to his or her patients;

(3) Any manufacturer or wholesaler licensed by the pharmacy quality assurance commission who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy or practitioner;

(4) Any sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished, over the counter without a prescription under chapter 69.04 or 69.41 RCW. [2013 c 19 s 66; 1988 c 147 s 3.]

69.43.035 Suspicious transactions—Report—Penalty. (1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) to any person in a suspicious transaction shall report the transaction in writing to the pharmacy quality assurance commission.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

(3) For the purposes of this section, "suspicious transaction" means a sale or transfer to which any of the following applies:

(a) The circumstances of the sale or transfer would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter 69.50 RCW, based on such factors as the amount involved, the method of payment, the method of delivery, and any past dealings with any participant in the transaction. The pharmacy quality assurance commission shall adopt by rule criteria for determining whether a transaction is suspicious, taking into consideration the recommendations in appendix A of the report to the United States attorney general by the suspicious orders task force under the federal comprehensive methamphetamine control act of 1996.

(b) The transaction involves payment for any substance specified in RCW 69.43.010(1) in cash or money orders in a total amount of more than two hundred dollars.

(4) The pharmacy quality assurance commission shall transmit to the department of revenue a copy of each report of a suspicious transaction that it receives under this section. [2013 c 19 s 67; 2004 c 52 s 6; 2001 c 96 s 4.]

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.040 Reporting form. (1) The department of health, in accordance with rules developed by the pharmacy quality assurance commission shall provide a common reporting form for the substances in RCW 69.43.010 that contains at least the following information:

(a) Name of the substance;

(b) Quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under RCW 69.43.010(4) may be computer-generated in accordance with rules adopted by the department. [2013 c 19 s 68; 2001 c 96 s 7; 1989 1st ex.s. c 9 s 441; 1988 c 147 s 4.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

Additional notes found at www.leg.wa.gov

69.43.043 Recordkeeping requirements—Penalty. (1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) to any person shall maintain a record of each such sale or transfer. The records must contain:

(a) The name of the substance;

(b) The quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The method of and amount of payment for the substance.

(2) The records of sales and transfers required by this section shall be available for inspection by the pharmacy quality assurance commission and its authorized representatives and shall be maintained for two years.

(3) A violation of this section is a gross misdemeanor. [2013 c 19 s 69; 2001 c 96 s 5.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.048 Reporting and recordkeeping requirements—Submission of computer readable data, copies of federal reports. A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) and who is subject to the reporting or recordkeeping requirements of this chapter

may satisfy the requirements by submitting to the pharmacy quality assurance commission, and its authorized representatives:

(1) Computer readable data from which all of the required information may be readily derived; or

(2) Copies of reports that are filed under federal law that contain all of the information required by the particular reporting or recordkeeping requirement of this chapter which it is submitted to satisfy. [2013 c 19 s 70; 2001 c 96 s 6.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.050 Rules. (1) The pharmacy quality assurance commission may adopt all rules necessary to carry out this chapter.

(2) Notwithstanding subsection (1) of this section, the department of health may adopt rules necessary for the administration of this chapter. [2013 c 19 s 71; 1989 1st ex.s. c 9 s 442; 1988 c 147 s 5.]

Additional notes found at www.leg.wa.gov

69.43.060 Theft—Missing quantity—Reporting. (1) The theft or loss of any substance under RCW 69.43.010 discovered by any person regulated by this chapter shall be reported to the pharmacy quality assurance commission within seven days after such discovery.

(2) Any difference between the quantity of any substance under RCW 69.43.010 received and the quantity shipped shall be reported to the pharmacy quality assurance commission within seven days of the receipt of actual knowledge of the discrepancy. When applicable, any report made pursuant to this subsection shall also include the name of any common carrier or person who transported the substance and the date of shipment of the substance. [2013 c 19 s 72; 1988 c 147 s 6.]

69.43.070 Sale, transfer, or furnishing of substance for unlawful purpose—Receipt of substance with intent to use unlawfully—Class B felony. (1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in RCW 69.43.010 with knowledge or the intent that the recipient will use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW.

(2) Any person who receives any substance listed in RCW 69.43.010 with intent to use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW. [1988 c 147 s 7.]

69.43.080 False statement in report or record—Class C felony. It is unlawful for any person knowingly to make a false statement in connection with any report or record required under this chapter. A violation of this section is a class C felony under chapter 9A.20 RCW. [1988 c 147 s 8.]

69.43.090 Permit to sell, transfer, furnish, or receive substance—Exemptions—Application for permit—Fee—Renewal—Penalty. (1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010 to any person or who receives from a source outside of the state any substance specified in RCW 69.43.010 shall obtain a permit for the conduct of that business from the pharmacy quality assurance commission. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) Applications for permits shall be filed with the department in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The commission may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department.

(5) A permit granted under this chapter may be renewed on a date to be determined by the commission, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee determined by the department.

(6) Permit fees charged by the department shall not exceed the costs incurred by the department in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in RCW 69.43.010 without a required permit, is a gross misdemeanor. [2013 c 19 s 73; 2001 c 96 s 8; 1989 1st ex.s. c 9 s 443; 1988 c 147 s 9.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

Additional notes found at www.leg.wa.gov

69.43.100 Action by the commission against permit. In addition to any other grounds, the pharmacy quality assurance commission may take action against a permit issued under this chapter upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the pharmacy quality assurance commission. [2024 c 121 s 43; 2013 c 19 s 74; 1988 c 147 s 10.]

69.43.105 Ephedrine, pseudoephedrine, phenylpropanolamine—Sales restrictions—Record of transaction—Exceptions—Penalty. (1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese her-

bology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept (a) behind a counter where the public is not permitted, or (b) in a locked display case so that a customer wanting access must ask an employee of the merchant for assistance.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to a person that is not at least eighteen years old.

(6) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW selling a nonprescription drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers shall require the purchaser to electronically or manually sign a record of the transaction. The record must include the name and address of the purchaser, the date and time of the sale, the name and initials of the shopkeeper, itinerant vendor, pharmacist, pharmacy technician, or employee conducting the transaction, the name of the product being sold, as well as the total quantity in grams, of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, being sold.

(7) The pharmacy quality assurance commission, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the commission to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the commission with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

(a) Ease with which the product can be converted to methamphetamine;

(b) Ease with which ephedrine, pseudoephedrine, or phenylpropanolamine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(8) Nothing in this section applies:

(a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;

(b) To the sale of a product that may only be sold upon the presentation of a prescription;

(c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or

(d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(9)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner is subject to prosecution under subsection (10) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(10) A violation of this section is a gross misdemeanor. [2013 c 19 s 75; 2010 c 182 s 1; 2005 c 388 s 2.]

Finding—2005 c 388: "Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine." [2005 c 388 s 1.]

Additional notes found at www.leg.wa.gov

69.43.110 Ephedrine, pseudoephedrine, phenylpropanolamine—Sales restrictions—Electronic sales tracking system—Penalty. (1) It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, knowingly to sell, transfer, or to otherwise furnish, in a single transaction a total of more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, in any twenty-four hour period or more than a total of nine grams per purchaser in any thirty-day period.

(2) It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the department of health under chapter 18.64 RCW to purchase or acquire more than 3.6 grams in any twenty-four hour period, or more than a total of nine grams in any thirty-day period, of the substances specified in subsection (1) of this section.

(3) It is unlawful for any person to sell or distribute any of the substances specified in subsection (1) of this section unless the person is licensed by or registered with the department of health under chapter 18.64 RCW, or is a practitioner as defined in RCW 18.64.011.

(4)(a) Beginning July 1, 2011, or the date upon which the electronic sales tracking system established under RCW 69.43.165 is available, whichever is later, a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW shall, before completing a sale under this section, submit the required information to the electronic sales tracking system established under RCW 69.43.165, as long as such a system is available without cost to the pharmacy, shopkeeper, or itinerant vendor for accessing the system. The pharmacy, shopkeeper, or itinerant vendor may not complete the sale if the system generates a stop sale alert, except as permitted in RCW 69.43.165.

(b) If a pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, he or she shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as he or she is able to comply with the electronic sales tracking requirement.

(c) A pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the pharmacy quality assurance commission stating the reasons for the exemption. The commission may grant an exemption for good cause shown, but in no event shall a granted exemption exceed one hundred eighty days. The commission may grant multiple exemptions for any pharmacy, shopkeeper, or itinerant vendor if the good cause shown indicates significant hardship for compliance with this section. A pharmacy, shopkeeper, or itinerant vendor that receives an exemption shall maintain a logbook in hard copy form and must require the purchaser to provide the information required under this section before the completion of any sale. The logbook shall be maintained as a record of each sale for inspection by any law enforcement officer or commission inspector during normal business hours in accordance with any rules adopted pursuant to RCW 69.43.165. For purposes of this subsection (4)(c), "good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the system is unavailable or cost-prohibitive to the pharmacy, shopkeeper, or itinerant vendor.

(d) A pharmacy, shopkeeper, or itinerant vendor may withdraw from participating in the electronic sales tracking system if the system is no longer being furnished without cost for accessing the system. A pharmacy, shopkeeper, or itinerant vendor who withdraws from the electronic sales tracking system is subject to the same requirements as a pharmacy, shopkeeper, or itinerant vendor who has been granted an exemption under (c) of this subsection.

(e) For the purposes of this subsection (4) and RCW 69.43.165:

(i) "Cost for accessing the system" means costs relating to:

(A) Access to the web-based electronic sales tracking software, including inputting and retrieving data;

(B) The web-based software known as software as a service;

(C) Training; and

(D) Technical support to integrate to point of sale vendors, if necessary.

(ii) "Cost for accessing the system" does not include:

(A) Costs relating to required internet access;

(B) Optional hardware that a pharmacy may choose to purchase for workflow purposes; or

(C) Other equipment.

(5) A violation of this section is a gross misdemeanor. [2013 c 19 s 76; 2010 c 182 s 2; 2005 c 388 s 4; 2004 c 52 s 5; 2001 c 96 s 9.]

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.120 Ephedrine, pseudoephedrine, phenylpropanolamine—Possession of more than fifteen grams—Penalty—Exceptions. (1) Any person who possesses more than fifteen grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of those substances, is guilty of a gross misdemeanor.

(2) This section does not apply to any of the following:

(a) A pharmacist or other authorized person who sells or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers upon the prescription of a practitioner, as defined in RCW 69.41.010;

(b) A practitioner who administers or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers to his or her patients;

(c) A pharmacy, manufacturer, or wholesaler licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW;

(d) A person in the course of his or her business of selling, transporting, or storing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, for a person described in (a), (b), or (c) of this subsection; or

(e) A person in possession of more than fifteen grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers in their home or residence under circumstances consistent with typical medicinal or household use as indicated by, but not limited to, storage location and possession of products in a variety of strengths, brands, types, purposes, and expiration dates. [2001 c 96 s 10.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.130 Exemptions—Pediatric products—Products exempted by the pharmacy quality assurance commission. RCW 69.43.110 and 69.43.120 do not apply to:

(1) Pediatric products primarily intended for administration to children under twelve years of age, according to label instructions, either: (a) In solid dosage form whose individual dosage units do not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine; or (b) in liquid form whose recommended dosage, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce;

(3) Products that the pharmacy quality assurance commission, upon application of a manufacturer, exempts by rule from RCW 69.43.110 and 69.43.120 because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors; or

(4) Products, as packaged, that the pharmacy quality assurance commission, upon application of a manufacturer, exempts from RCW 69.43.110(1) and 69.43.120 because:

(a) The product meets the federal definition of an ordinary over-the-counter pseudoephedrine product as defined in 21 U.S.C. 802;

(b) The product is a salt, isomer, or salts of isomers of pseudoephedrine and, as packaged, has a total weight of more than three grams but the net weight of the pseudoephedrine base is equal to or less than three grams; and

(c) The pharmacy quality assurance commission determines that the value to the people of the state of having the product, as packaged, available for sale to consumers outweighs the danger, and the product, as packaged, has not been used in the illegal manufacture of methamphetamine. [2013 c 19 s 77; 2004 c 52 s 7; 2001 c 96 s 11.]

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.135 Iodine, methylsulfonylmethane—Sales restrictions—Recording of transactions—Penalties. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Iodine matrix" means iodine at a concentration greater than two percent by weight in a matrix or solution.

(b) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(c) "Methylsulfonylmethane" means methylsulfonylmethane in its powder form only, and does not include products containing methylsulfonylmethane in other forms such as liquids, tablets, capsules not containing methylsulfonylmethane in pure powder form, ointments, creams, cosmetics, foods, and beverages.

(2) Any person who knowingly purchases in a thirty-day period or possesses any quantity of iodine in its elemental form, an iodine matrix, or more than two pounds of methylsulfonylmethane is guilty of a gross misdemeanor, except as provided in subsection (3) of this section.

(3) Subsection (2) of this section does not apply to:

(a) A person who possesses iodine in its elemental form or an iodine matrix as a prescription drug, under a prescription issued by a licensed veterinarian, physician, or *advanced registered nurse practitioner;

(b) A person who possesses iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane in its powder form and is actively engaged in the practice of animal husbandry of livestock;

(c) A person who possesses iodine in its elemental form or an iodine matrix in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:

(i) Public or private secondary school;

(ii) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States department of education;

(iii) Manufacturing facility, government agency, or research facility in the course of lawful business activities;

(d) A veterinarian, physician, *advanced registered nurse practitioner, pharmacist, retail distributor, wholesaler, manufacturer, warehouse operator, or common carrier, or an agent of any of these persons who possesses iodine in its elemental form, an iodine matrix, or methylsulfonylmethane in its powder form in the regular course of lawful business activities; or

(e) A person working in a general hospital who possesses iodine in its elemental form or an iodine matrix in the regular course of employment at the hospital.

(4) Any person who purchases any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane must present an identification card or driver's license issued by any state in the United States or jurisdiction of another country before purchasing the item.

(5) The Washington state patrol shall develop a form to be used in recording transactions involving iodine in its elemental form, an iodine matrix, or methylsulfonylmethane. A person who sells or otherwise transfers any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane to a person for any purpose authorized in subsection (3) of this section must record each sale or transfer. The record must be made on the form developed by

the Washington state patrol and must be retained by the person for at least three years. The Washington state patrol or any local law enforcement agency may request access to the records.

(a) Failure to make or retain a record required under this subsection is a misdemeanor.

(b) Failure to comply with a request for access to records required under this subsection to the Washington state patrol or a local law enforcement agency is a misdemeanor. [2011 c 336 s 838; 2006 c 188 s 1.]

***Reviser's note:** The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

69.43.140 Enforcement—Pharmacy quality assurance commission waiver. (1) Chapter 18.64 RCW governs the denial of permits and the discipline of permits issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a permit under this chapter.

(2) The pharmacy quality assurance commission may waive action taken under chapter 18.64 RCW against a permit issued under this chapter if the permittee establishes that he or she acted in good faith to prevent violations of this chapter, and the violation occurred despite the licensee's or registrant's exercise of due diligence. In making such a determination, the pharmacy quality assurance commission may consider evidence that an employer trained employees on how to sell, transfer, or otherwise furnish substances specified in RCW 69.43.010(1) in accordance with applicable laws. [2024 c 121 s 44; 2013 c 19 s 78; 2001 c 96 s 12.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.150 Application of chapter to local government. This chapter is applicable and uniform throughout this state and in all counties, cities, code cities, and towns therein. A county, city, code city, or town may not adopt or enforce any ordinance, pertaining to this chapter, which prohibits conduct that is not prohibited under this chapter, or defining violations or penalties different from those provided under this chapter. However, this section does not preclude a county, city, code city, or town from revoking, canceling, suspending, or otherwise limiting a business or professional license it has issued for conduct that violates any provision of this chapter. [2001 c 96 s 13.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.160 Ephedrine, pseudoephedrine, phenylpropanolamine—Methods to prevent sales violations—Department of health preparation of sign summarizing prohibitions. (1) To prevent violations of RCW 69.43.110, every licensee and registrant under chapter 18.64 RCW, who sells at retail any products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall do either or may do both of the following:

(a) Program scanners, cash registers, or other electronic devices used to record sales in a manner that will alert persons handling transactions to potential violations of RCW 69.43.110(1) and/or prevent such violations; or

(b) Place one or more signs on the premises to notify customers of the prohibitions of RCW 69.43.110. Any such sign may, but is not required to, conform to the language and format prepared by the department of health under subsection (2) of this section.

(2) The department of health shall prepare language and format for a sign summarizing the prohibitions in RCW 69.43.110 and 69.43.120 and make the language and format available to licensees and registrants under chapter 18.64 RCW, for voluntary use in their places of business to inform customers and employees of the prohibitions. Nothing in this section requires the department of health to provide licensees or registrants with copies of signs, or any licensee or registrant to use the specific language or format prepared by the department under this subsection. [2001 c 96 s 14.]

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.165 Ephedrine, pseudoephedrine, phenylpropanolamine—Electronic sales tracking system—Pharmacy quality assurance commission authority to adopt rules. (1) The pharmacy quality assurance commission shall implement a real-time electronic sales tracking system to monitor the nonprescription sale of products in this state containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, provided that the system is available to the state without cost for accessing the system to the state or retailers. The commission is authorized to enter into a public-private partnership, through a memorandum of understanding or similar arrangement, to make the system available.

(2) The records submitted to the tracking system are for the confidential use of the pharmacy, shopkeeper, or itinerant vendor who submitted them, except that:

(a) The records must be produced in court when lawfully required;

(b) The records must be open for inspection by the pharmacy quality assurance commission; and

(c) The records must be available to any general or limited authority Washington peace officer to enforce the provisions of this chapter or to federal law enforcement officers in accordance with rules adopted by the pharmacy quality assurance commission regarding the privacy of the purchaser of products covered by chapter 182, Laws of 2010 and law enforcement access to the records submitted to the tracking system as provided in this section consistent with the federal combat meth act.

(3) The electronic sales tracking system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits in RCW 69.43.110 (1) and (2). The system shall contain an override function for use by a dispenser of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized shall be logged by the system.

(4) The pharmacy quality assurance commission shall have the authority to adopt rules necessary to implement and

enforce the provisions of this section. The pharmacy quality assurance commission shall adopt rules regarding the privacy of the purchaser of products covered by chapter 182, Laws of 2010, and any public or law enforcement access to the records submitted to the tracking system as provided in subsection (2)(c) of this section consistent with the federal combat meth act.

(5) The pharmacy quality assurance commission may not raise licensing or registration fees to fund the rule making or implementation of this section. [2013 c 19 s 79; 2010 c 182 s 3.]

69.43.168 Pharmacy, shopkeeper, or itinerant vendor—Electronic sales tracking system—Liability. A pharmacy, shopkeeper, or itinerant vendor participating in the electronic sales tracking system under RCW 69.43.110(4):

(1) Is not liable for civil damages resulting from any act or omission in carrying out the requirements of RCW 69.43.110(4), other than an act or omission constituting gross negligence or willful or wanton misconduct; and

(2) Is not liable for civil damages resulting from a data breach that was proximately caused by a failure on the part of the electronic sales tracking system to take reasonable care through the use of industry standard levels of encryption to guard against unauthorized access to account information that is in the possession or control of the system. [2010 c 182 s 4.]

69.43.180 Expansion of log requirements—Petition by law enforcement. (1) The Washington association of sheriffs and police chiefs or the Washington state patrol may petition the pharmacy quality assurance commission to apply the log requirements in *RCW 69.43.170 to one or more products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

(a) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(b) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(2) The pharmacy quality assurance commission shall adopt rules when a petition establishes that requiring the application of the log requirements in *RCW 69.43.170 to the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The pharmacy quality assurance commission may adopt emergency rules to apply the log requirements to the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety. [2013 c 19 s 80; 2005 c 388 s 3.]

***Reviser's note:** RCW 69.43.170 was repealed by 2010 c 182 s 6.

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

69.43.190 Products found at methamphetamine sites—Report. Each county sheriff shall compile and maintain a record of commercial products containing ephedrine, pseudoephedrine, or phenylpropanolamine and packaging found at methamphetamine laboratory sites. The data shall be forwarded to the Washington association of sheriffs and police chiefs and shall be reported to the legislature by November 1, 2007, and annually thereafter. [2005 c 388 s 9.]

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Chapter 69.45 RCW
DRUG SAMPLES

Sections

69.45.010 Definitions. The definitions in this section apply throughout this chapter.

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

(2) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(8) "Legend drug" means any drug that is required by state law or by regulations of the commission to be dispensed on prescription only or is restricted to use by practitioners only.

(9) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(10) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

(11) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(12) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or *advanced registered nurse practitioner under chapter 18.79 RCW when authorized to prescribe by the **nursing care quality assurance commission, or a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission.

(13) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

(14) "Secretary" means the secretary of health or the secretary's designee. [2020 c 80 s 42; 2019 c 55 s 10. Prior: 2013 c 19 s 81; 1994 sp.s. c 9 s 738; 1989 1st ex.s. c 9 s 444; 1987 c 411 s 1.]

Reviser's note: *(1) The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

**(2) The reference to "nursing care quality assurance commission" was changed to "board of nursing" by 2023 c 123.

Effective date—2020 c 80 ss 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Additional notes found at www.leg.wa.gov

69.45.020 Registration of manufacturers—Additional information required by the department. A manufacturer that intends to distribute drug samples in this state shall register annually with the department, providing the name and address of the manufacturer, and shall:

(1) Provide a twenty-four hour telephone number and the name of the individual(s) who shall respond to reasonable official inquiries from the department, as directed by the commission, based on reasonable cause, regarding required records, reports, or requests for information pursuant to a specific investigation of a possible violation. Each official request by the department and each response by a manufacturer shall be limited to the information specifically relevant to the particular official investigation. Requests for the address of sites in this state at which drug samples are stored by the manufacturer's representative and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples shall be responded to as soon as possible but not later than the close of business on the next business day following the request; or

(2) If a twenty-four hour telephone number is not available, provide the addresses of sites in this state at which drug samples are stored by the manufacturer's representative, and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples. The manufacturer shall annually submit a complete updated list of the sites and individuals to the department. [2013 c 19 s 82; 1989 1st ex.s. c 9 s 445; 1987 c 411 s 2.]

Additional notes found at www.leg.wa.gov

69.45.030 Records maintained by manufacturer—Report of loss or theft of drug samples—Reports of practitioners receiving controlled substance drug samples. (1) The following records shall be maintained by the manufacturer distributing drug samples in this state and shall be available for inspection by authorized representatives of the department based on reasonable cause and pursuant to an official investigation:

(a) An inventory of drug samples held in this state for distribution, taken at least annually by a representative of the manufacturer other than the individual in direct control of the drug samples;

(b) Records or documents to account for all drug samples distributed, destroyed, or returned to the manufacturer. The records shall include records for sample drugs signed for by practitioners, dates and methods of destruction, and any dates of returns; and

(c) Copies of all reports of lost or stolen drug samples.

(2) All required records shall be maintained for two years and shall include transaction dates.

(3) Manufacturers shall report to the department the discovery of any loss or theft of drug samples as soon as possible but not later than the close of business on the next business day following the discovery.

(4) Manufacturers shall report to the department as frequently as, and at the same time as, their other reports to the federal drug enforcement administration, or its lawful successor, the name, address and federal registration number for each practitioner who has received controlled substance drug samples and the name, strength and quantity of the controlled substance drug samples distributed. [1989 1st ex.s. c 9 s 446; 1987 c 411 s 3.]

Additional notes found at www.leg.wa.gov

69.45.040 Storage and transportation of drug samples—Disposal of samples which have exceeded their expiration dates. (1) Drug samples shall be stored in compliance with the requirements of federal and state laws, rules, and regulations.

(2) Drug samples shall be maintained in a locked area to which access is limited to persons authorized by the manufacturer.

(3) Drug samples shall be stored and transported in such a manner as to be free of contamination, deterioration, and adulteration.

(4) Drug samples shall be stored under conditions of temperature, light, moisture, and ventilation so as to meet the label instructions for each drug.

(5) Drug samples which have exceeded the expiration date shall be physically separated from other drug samples until disposed of or returned to the manufacturer. [1987 c 411 s 4.]

69.45.050 Distribution of drug samples—Written request—No fee or charge permitted—Possession of legend drugs or controlled substances by manufacturers' representatives. (1) Drug samples may be distributed by a manufacturer or a manufacturer's representative only to practitioners legally authorized to prescribe such drugs or, at the request of such practitioner, to pharmacies of hospitals or other health care entities. The recipient of the drug sample must execute a written receipt upon delivery that is returned to the manufacturer or the manufacturer's representative.

(2) Drug samples may be distributed by a manufacturer or a manufacturer's representative only to a practitioner legally authorized to prescribe such drugs pursuant to a written request for such samples. The request shall contain:

(a) The recipient's name, address, and professional designation;

(b) The name, strength, and quantity of the drug samples delivered;

(c) The name or identification of the manufacturer and of the individual distributing the drug sample; and

(d) The dated signature of the practitioner requesting the drug sample.

(3) No fee or charge may be imposed for sample drugs distributed in this state.

(4) A manufacturer's representative shall not possess legend drugs or controlled substances other than those distributed by the manufacturer they represent. Nothing in this section prevents a manufacturer's representative from possessing a legally prescribed and dispensed legend drug or controlled substance. [1989 c 164 s 2; 1987 c 411 s 5.]

Legislative finding—1989 c 164: "The legislature finds that chapter 69.45 RCW is more restrictive than the federal prescription drug marketing act of 1987, and the legislature further finds that a change in chapter 69.45 RCW accepting the position of the federal law is beneficial to the citizens of this state." [1989 c 164 s 1.]

69.45.060 Disposal of surplus, outdated, or damaged drug samples. Surplus, outdated, or damaged drug samples shall be disposed of as follows:

(1) Returned to the manufacturer; or

(2) Witnessed destruction by such means as to assure that the drug cannot be retrieved. However, controlled substances shall be returned to the manufacturer or disposed of in accordance with rules adopted by the commission: PROVIDED, That the commission shall adopt by rule the regulations of the federal drug enforcement administration or its lawful successor unless, stating reasonable grounds, it adopts rules consistent with such regulations. [2013 c 19 s 83; 1987 c 411 s 6.]

69.45.070 Registration fees—Penalty. The department may charge reasonable fees for registration. The registration fee shall not exceed the fee charged by the department for a pharmacy location license. If the registration fee is not paid on or before the date due, a renewal or new registration may be issued only upon payment of the registration renewal fee and a penalty fee equal to the registration renewal fee. [1991 c 229 s 8; 1989 1st ex.s. c 9 s 447; 1987 c 411 s 7.]

Additional notes found at www.leg.wa.gov

69.45.080 Violations of chapter—Manufacturer's liability—Enforcement—Seizure of drug samples. (1) The manufacturer is responsible for the actions and conduct of its representatives with regard to drug samples.

(2) Chapter 18.64 RCW governs the denial of licenses and the discipline of persons registered under this chapter.

(3) Specific drug samples which are distributed in this state in violation of this chapter, following notification by the commission, shall be subject to seizure following the procedures set out in RCW 69.41.060. [2024 c 121 s 41; 2013 c 19 s 84; 1987 c 411 s 8.]

69.45.085 Uniform disciplinary act. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. [2024 c 121 s 42.]

69.45.090 Confidentiality. All records, reports, and information obtained by the commission from or on behalf of a manufacturer or manufacturer's representative under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. This section does not apply to public disclosure of the identity of persons found by the commission to have violated state or federal law, rules, or regulations. This section is not intended to restrict the investigations and proceedings of the commission so long as the commission maintains the confidentiality required by this section. [2013 c 19 s 85; 2005 c 274 s 330; 1987 c 411 s 9.]

Chapter 69.48 RCW
DRUG TAKE-BACK PROGRAM

Sections

Reviser's note—Sunset Act application: The drug take-back program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.423. RCW 69.48.010 through 69.48.200 are scheduled for future repeal under RCW 43.131.424.

69.48.010 Findings. (1) Abuse, fatal overdoses, and poisonings from prescription and over-the-counter medicines

used in the home have emerged as an epidemic in recent years. Poisoning is the leading cause of unintentional injury-related death in Washington, and more than ninety percent of poisoning deaths are due to drug overdoses. Poisoning by prescription and over-the-counter medicines is also one of the most common means of suicide and suicide attempts, with poisonings involved in more than twenty-eight thousand suicide attempts between 2004 and 2013.

(2) Home medicine cabinets are the most common source of prescription drugs that are diverted and misused. Studies find about seventy percent of those who abuse prescription medicines obtain the drugs from family members or friends, usually for free. People who are addicted to heroin often first abused prescription opiate medicines. Unused, unwanted, and expired medicines that accumulate in homes increase risks of drug abuse, overdoses, and preventable poisonings.

(3) A safe system for the collection and disposal of unused, unwanted, and expired medicines is a key element of a comprehensive strategy to prevent prescription drug abuse, but disposing of medicines by flushing them down the toilet or placing them in the garbage can contaminate groundwater and other bodies of water, contributing to long-term harm to the environment and animal life.

(4) The legislature therefore finds that it is in the interest of public health to establish a single, uniform, statewide system of regulation for safe and secure collection and disposal of medicines through drug "take-back" programs operated and funded by drug manufacturers. [2021 c 155 s 1; 2018 c 196 s 1.]

Sunset Act application: See note following chapter digest.

Findings—Intent—2021 c 155: "(1) The legislature finds that in 2018, the legislature passed Engrossed Substitute House Bill No. 1047, which required drug manufacturers that sell drugs into Washington to operate a drug take-back program to collect and dispose of prescription and over-the-counter drugs. Further, the legislature finds that there is uncertainty about whether, under current law, more than one drug take-back program may operate.

(2) Therefore, the legislature intends to clearly authorize the department of health to approve and allow the operation of multiple drug take-back programs that meet all statutory requirements." [2021 c 155 s 2.]

69.48.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of the patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Authorized collector" means any of the following persons or entities that have entered into an agreement with a program operator to collect covered drugs:

(a) A person or entity that is registered with the United States drug enforcement administration and that qualifies under federal law to modify its registration to collect controlled substances for the purpose of destruction;

(b) A law enforcement agency; or

(c) An entity authorized by the department to provide an alternative collection mechanism for certain covered drugs that are not controlled substances, as defined in RCW 69.50.101.

(3) "Collection site" means the location where an authorized collector operates a secure collection receptacle for collecting covered drugs.

(4)(a) "Covered drug" means a drug from a covered entity that the covered entity no longer wants and that the covered entity has abandoned or discarded or intends to abandon or discard. "Covered drug" includes legend drugs and nonlegend drugs, brand name and generic drugs, drugs for veterinary use for household pets, and drugs in medical devices and combination products.

(b) "Covered drug" does not include:

(i) Vitamins, minerals, or supplements;

(ii) Herbal-based remedies and homeopathic drugs, products, or remedies;

(iii) Controlled substances contained in schedule I of the uniform controlled substances act, chapter 69.50 RCW;

(iv) Cosmetics, shampoos, sunscreens, lip balm, toothpaste, antiperspirants, or other personal care products that are regulated as both cosmetics and nonprescription drugs under the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.;

(v) Drugs for which manufacturers provide a pharmaceutical product stewardship or drug take-back program as part of a federal food and drug administration managed risk evaluation and mitigation strategy under 21 U.S.C. Sec. 355-1;

(vi) Biological drug products, as defined by 21 C.F.R. 600.3 (h) as it exists on June 7, 2018, for which manufacturers provide a pharmaceutical product stewardship or drug take-back program and who provide the department with a report describing the program, including how the drug product is collected and safely disposed and how patients are made aware of the drug take-back program, and who updates the department on changes that substantially alter their drug take-back program;

(vii) Drugs that are administered in a clinical setting;

(viii) Emptied injector products or emptied medical devices and their component parts or accessories;

(ix) Exposed needles or sharps, or used drug products that are medical wastes; or

(x) Pet pesticide products contained in pet collars, powders, shampoos, topical applications, or other forms.

(5) "Covered entity" means a state resident or other nonbusiness entity and includes an ultimate user, as defined by regulations adopted by the United States drug enforcement administration. "Covered entity" does not include a business generator of pharmaceutical waste, such as a hospital, clinic, health care provider's office, veterinary clinic, pharmacy, or law enforcement agency.

(6) "Covered manufacturer" means a person, corporation, or other entity engaged in the manufacture of covered drugs sold in or into Washington state. "Covered manufacturer" does not include:

(a) A private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store label if the manufacturer of the drug is identified under RCW 69.48.040;

(b) A repackager if the manufacturer of the drug is identified under RCW 69.48.040; or

(c) A nonprofit, 501(c)(3) health care corporation that repackages drugs solely for the purpose of supplying a drug to facilities or retail pharmacies operated by the corporation or an affiliate of the corporation if the manufacturer of the drug is identified under RCW 69.48.040.

(7) "Department" means the department of health.

(8)(a) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances other than food, minerals, or vitamins that are intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection.

(9) "Drug take-back organization" means an organization designated by a manufacturer or group of manufacturers to act as an agent on behalf of each manufacturer to develop and implement a drug take-back program.

(10) "Drug take-back program" or "program" means a program implemented by a program operator for the collection, transportation, and disposal of covered drugs.

(11) "Drug wholesaler" means an entity licensed as a wholesaler under chapter 18.64 RCW.

(12) "Generic drug" means a drug that is chemically identical or bioequivalent to a brand name drug in dosage form, safety, strength, route of administration, quality, performance characteristics, and intended use. The inactive ingredients in a generic drug need not be identical to the inactive ingredients in the chemically identical or bioequivalent brand name drug.

(13) "Legend drug" means a drug, including a controlled substance under chapter 69.50 RCW, that is required by any applicable federal or state law or regulation to be dispensed by prescription only or that is restricted to use by practitioners only.

(14) "Mail-back distribution location" means a facility, such as a town hall or library, that offers prepaid, preaddressed mailing envelopes to covered entities.

(15) "Mail-back program" means a method of collecting covered drugs from covered entities by using prepaid, preaddressed mailing envelopes.

(16) "Manufacture" has the same meaning as in RCW 18.64.011.

(17) "Nonlegend drug" means a drug that may be lawfully sold without a prescription.

(18) "Pharmacy" means a place licensed as a pharmacy under chapter 18.64 RCW.

(19) "Private label distributor" means a company that has a valid labeler code under 21 C.F.R. Sec. 207.17 and markets a drug product under its own name, but does not perform any manufacturing.

(20) "Program operator" means a drug take-back organization, covered manufacturer, or group of covered manufacturers that implements or intends to implement a drug take-back program approved by the department.

(21) "Repackager" means a person who owns or operates an establishment that repacks and relabels a product or package containing a covered drug for further sale, or for distribution without further transaction.

(22) "Retail pharmacy" means a place licensed as a pharmacy under chapter 18.64 RCW for the retail sale and dispensing of drugs.

(23) "Secretary" means the secretary of health. [2018 c 196 s 2.]

Sunset Act application: See note following chapter digest.

69.48.030 Requirement to participate in a drug take-back program. A covered manufacturer must establish and implement a drug take-back program that complies with the requirements of this chapter. A manufacturer that becomes a covered manufacturer after June 7, 2018, must, no later than six months after the date on which the manufacturer became a covered manufacturer, participate in an approved drug take-back program or establish and implement a drug take-back program that complies with the requirements of this chapter. A covered manufacturer may establish and implement a drug take-back program independently, as part of a group of covered manufacturers, or through membership in a drug take-back organization. [2018 c 196 s 3.]

Sunset Act application: See note following chapter digest.

69.48.040 Identification of covered manufacturers. (1) No later than ninety days after June 7, 2018, a drug wholesaler that sells a drug in or into Washington must provide a list of drug manufacturers to the department in a form agreed upon with the department. A drug wholesaler must provide an updated list to the department on January 15th of each year.

(2) No later than ninety days after June 7, 2018, a retail pharmacy, private label distributor, or repackager must provide written notification to the department identifying the drug manufacturer from which the retail pharmacy, private label distributor, or repackager obtains a drug that it sells under its own label.

(3) A person or entity that receives a letter of inquiry from the department regarding whether or not it is a covered manufacturer under this chapter shall respond in writing no later than sixty days after receipt of the letter. If the person or entity does not believe it is a covered manufacturer for purposes of this chapter, it shall: (a) State the basis for the belief; (b) provide a list of any drugs it sells, distributes, repackages, or otherwise offers for sale within the state; and (c) identify the name and contact information of the manufacturer of the drugs identified under (b) of this subsection. [2018 c 196 s 4.]

Sunset Act application: See note following chapter digest.

69.48.050 Drug take-back program approval—Program modifications. (1) By July 1, 2019, a program operator must submit a proposal for the establishment and implementation of a drug take-back program to the department for approval. Proposals from new entities seeking to become a program operator after July 1, 2019, may be submitted as provided in subsection (7) of this section. The department shall approve a proposed program if the applicant submits a completed application, the proposed program meets the require-

ments of subsection (2) of this section, and the applicant pays the appropriate proposal review fee established by the department under RCW 69.48.120. The department may approve drug take-back programs proposed by one or more program operators consistent with the provisions of this section.

(2) To be approved by the department, a proposed drug take-back program, independent of any other operating program, must:

(a) Identify and provide contact information for the program operator and each participating covered manufacturer;

(b) Identify and provide contact information for the authorized collectors for the proposed program, as well as the reasons for excluding any potential authorized collectors from participation in the program;

(c) Provide for a collection system that complies with RCW 69.48.060;

(d) Ensure that physical collection sites are the primary method of collection across the state and that methods of supplementing physical collection site service are the secondary methods for collection as required by RCW 69.48.060(3) (b) through (d). A drug take-back program's use of supplemental mail-back distribution locations or periodic collection events in any areas underserved by physical collection sites may provide collection services to no more than 15 percent of the state's residents;

(e) Provide for a handling and disposal system that complies with RCW 69.48.080;

(f) Identify any transporters and waste disposal facilities that the program will use;

(g) Adopt policies and procedures to be followed by persons handling covered drugs collected under the program to ensure safety, security, and compliance with regulations adopted by the United States drug enforcement administration, as well as any applicable laws;

(h) Ensure the security of patient information on drug packaging during collection, transportation, recycling, and disposal;

(i) Promote the program by providing consumers, pharmacies, and other entities with educational and informational materials as required by RCW 69.48.070;

(j) Demonstrate adequate funding for all administrative and operational costs of the drug take-back program, with costs apportioned among participating covered manufacturers;

(k) Set long-term and short-term goals with respect to collection amounts and public awareness; and

(l) Consider: (i) The use of existing providers of pharmaceutical waste transportation and disposal services; (ii) separation of covered drugs from packaging to reduce transportation and disposal costs; and (iii) recycling of drug packaging.

(3)(a) No later than one hundred twenty days after receipt of a drug take-back program proposal, the department shall either approve or reject the proposal in writing to the applicant. The department may extend the deadline for approval or rejection of a proposal for good cause. If the department rejects the proposal, it shall provide the reason for rejection.

(b) No later than ninety days after receipt of a notice of rejection under (a) of this subsection, the applicant shall submit a revised proposal to the department. The department shall either approve or reject the revised proposal in writing to the applicant within ninety days after receipt of the revised proposal, including the reason for rejection, if applicable.

(c) If the department rejects a revised proposal, the department may:

(i) Require the program operator to submit a further revised proposal;

(ii) Develop and impose changes to some or all of the revised proposal to address deficiencies;

(iii) Require the covered manufacturer or covered manufacturers that proposed the rejected revised proposal to participate in a previously approved drug take-back program; or

(iv) Find the covered manufacturer out of compliance with the requirements of this chapter and take enforcement action as provided in RCW 69.48.110.

(4) The program operator must fully implement an approved drug take-back program no later than one hundred eighty days after approval of the proposal by the department.

(5)(a) Proposed changes to an approved drug take-back program that substantially alter program operations must have prior written approval of the department. A program operator must submit to the department such a proposed change in writing at least fifteen days before the change is scheduled to occur. Changes requiring prior approval of the department include changes to participating covered manufacturers, collection methods, achievement of the service convenience goal described in RCW 69.48.060, policies and procedures for handling covered drugs, education and promotion methods, and selection of disposal facilities.

(b) For changes to a drug take-back program that do not substantially alter program operations, a program operator must notify the department at least seven days before implementing the change. Changes that do not substantially alter program operations include changes to collection site locations, methods for scheduling and locating periodic collection events, and methods for distributing prepaid, preaddressed mailers.

(c) A program operator must notify the department of any changes to the official point of contact for the program no later than fifteen days after the change. A program operator must notify the department of any changes in ownership or contact information for participating covered manufacturers no later than ninety days after such change.

(6) By July 1, 2024, and every four years thereafter, all program operators must submit an updated proposal to the department describing any substantive changes to program elements described in subsection (2) of this section. The department shall approve or reject the updated proposal using the process described in subsection (3) of this section.

(7)(a) On July 1, 2021, the department will begin the review of new proposals received by that date from entities seeking to become a program operator.

(b) Beginning July 1, 2024, and every four years thereafter, the department will review new proposals from entities seeking to become a program operator.

(c) The department shall approve a proposal if it meets the requirements in subsection (2) of this section and the applicant pays the appropriate fee established by the department under RCW 69.48.120. The department must approve or reject proposals received using the process provided in subsection (3) of this section.

(8)(a) If there is a single approved drug take-back program at any time and that program operator intends to leave the program for any reason, participating manufacturers must find a new entity to take over operations of the existing program without a break in program services. The new entity may not make changes to the operations of the approved program, which must be consistent with the proposal as it was approved by the department under this section, or each covered manufacturer or group of covered manufacturers must identify a new program operator to develop a new program proposal. The department must accept new proposals from potential program operators for a minimum of four months from the date the department is notified of the program operator intending to cease operations, or until a proposal is approved by the department. The department may approve a proposal if it meets the requirements in subsection (2) of this section and the applicant pays the appropriate fee established by the department under RCW 69.48.120. The department must approve or reject proposals received using the process described in subsection (3) of this section.

(b) If there is a single approved drug take-back program, and that program operator leaves the program and participating manufacturers do not identify a program operator to take over the approved program as provided in (a) of this subsection, all covered manufacturers must participate in a new approved drug take-back program as soon as one is approved.

(9) If there is more than one approved drug take-back program, and a program operator for a drug take-back program leaves the program for any reason and the covered manufacturers participating in that program fail to identify a new entity to take over operations of the existing program without a break in program services as described in subsection (8)(a) of this section, those manufacturers must immediately join an existing approved drug take-back program.

(10) A covered manufacturer may change the approved drug take-back program it participates in but the covered manufacturer must maintain continuous participation in an established drug take-back program and may not leave an approved program until it transfers participation to an approved drug take-back program that has begun drug collection.

(11) The department shall make all proposals submitted under this section available to the public and shall provide an opportunity for written public comment on each proposal.

(12)(a) All program operators must collaborate to present a consistent statewide drug take-back system for residents to ensure that all state residents can easily identify, understand, and access services provided by any approved drug take-back program. The department may identify or clarify in rule additional requirements for coordination or performance amongst program operators, if necessary, to ensure consistent operation of the drug take-back program. Requirements may include, but are not limited to: Consistent drop box appearance and signage; consistent messaging in education and outreach; and consistent metrics included in operator annual reports as required in RCW 69.48.100 to ensure the department can accurately analyze the data.

(b) Failure to comply with these requirements may result in enforcement action against a program operator as authorized under RCW 69.48.110. [2021 c 155 s 3; 2018 c 196 s 5.]

Sunset Act application: See note following chapter digest.

Findings—Intent—2021 c 155: See note following RCW 69.48.010.

69.48.060 Collection system. (1)(a) At least one hundred twenty days prior to submitting a proposal under RCW 69.48.050, a program operator must notify potential authorized collectors of the opportunity to serve as an authorized collector for the proposed drug take-back program. A program operator must commence good faith negotiations with a potential authorized collector no later than thirty days after the potential authorized collector expresses interest in participating in a proposed program.

(b) A person or entity may serve as an authorized collector for a drug take-back program voluntarily or in exchange for compensation, but nothing in this chapter requires a person or entity to serve as an authorized collector.

(c) A drug take-back program must include as an authorized collector any retail pharmacy, hospital or clinic with an on-site pharmacy, or law enforcement agency that offers to participate in the program without compensation and meets the requirements of subsection (2) of this section. Such a pharmacy, hospital, clinic, or law enforcement agency must be included as an authorized collector in the program no later than ninety days after receiving the offer to participate.

(d) A drug take-back program may also locate collection sites at:

(i) A long-term care facility where a pharmacy, or a hospital or clinic with an on-site pharmacy, operates a secure collection receptacle;

(ii) A substance use disorder treatment program, as defined in RCW 71.24.025; or

(iii) Any other authorized collector willing to participate as a collection site and able to meet the requirements of subsection (2) of this section.

(2)(a) A collection site must accept all covered drugs from covered entities during the hours that the authorized collector is normally open for business with the public.

(b) A collection site located at a long-term care facility may only accept covered drugs that are in the possession of individuals who reside or have resided at the facility.

(c) A collection site must use secure collection receptacles in compliance with state and federal law, including any applicable on-site storage and collection standards adopted by rule pursuant to chapter 70A.205 or 70A.300 RCW and United States drug enforcement administration regulations. The program operator must provide a service schedule that meets the needs of each collection site to ensure that each secure collection receptacle is serviced as often as necessary to avoid reaching capacity and that collected covered drugs are transported to final disposal in a timely manner, including a process for additional prompt collection service upon notification from the collection site. Secure collection receptacle signage must prominently display a toll-free telephone number and website for the program so that members of the public may provide feedback on collection activities.

(d) An authorized collector must comply with applicable provisions of chapters 70A.205 and 70A.300 RCW, including rules adopted pursuant to those chapters that establish collection and transportation standards, and federal laws and regulations governing the handling of covered drugs, includ-

ing United States drug enforcement administration regulations.

(3)(a) A drug take-back program's collection system must be safe, secure, and convenient on an ongoing, year-round basis and must provide equitable and reasonably convenient access for residents across the state.

(b) In establishing and operating a collection system, a program operator must give preference to locating collection sites at retail pharmacies, hospitals or clinics with on-site pharmacies, and law enforcement agencies.

(c)(i) Each population center must have a minimum of one collection site, plus one additional collection site for every fifty thousand residents of the city or town located within the population center. Collection sites must be geographically distributed to provide reasonably convenient and equitable access to all residents of the population center.

(ii) On islands and in areas outside of population centers, a collection site must be located at the site of each potential authorized collector that is regularly open to the public, unless the program operator demonstrates to the satisfaction of the department that a potential authorized collector is unqualified or unwilling to participate in the drug take-back program, in accordance with the requirements of subsection (1) of this section.

(iii) For purposes of this section, "population center" means a city or town and the unincorporated area within a ten-mile radius from the center of the city or town.

(d) A program operator must establish mail-back distribution locations or hold periodic collection events to supplement service to any area of the state that is underserved by collection sites, as determined by the department, in consultation with the local health jurisdiction. The program operator, in consultation with the department, local law enforcement, the local health jurisdiction, and the local community, must determine the number and locations of mail-back distribution locations or the frequency and location of these collections events, to be held at least twice a year, unless otherwise determined through consultation with the local community. The program must arrange any periodic collection events in advance with local law enforcement agencies and conduct periodic collection events in compliance with United States drug enforcement administration regulations and protocols and applicable state laws.

(e) Upon request, a drug take-back program must provide a mail-back program free of charge to covered entities and to retail pharmacies that offer to distribute prepaid, preaddressed mailing envelopes for the drug take-back program. A drug take-back program must permit covered entities to request prepaid, preaddressed mailing envelopes through the program's website, the program's toll-free telephone number, and a request to a pharmacist at a retail pharmacy distributing the program's mailing envelopes.

(f) The program operator must provide alternative collection methods for any covered drugs, other than controlled substances, that cannot be accepted or commingled with other covered drugs in secure collection receptacles, through a mail-back program, or at periodic collection events, to the extent permissible under applicable state and federal laws. The department shall review and approve of any alternative collection methods prior to their implementation. [2021 c 65 s 64; 2018 c 196 s 6.]

Sunset Act application: See note following chapter digest.

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

69.48.070 Drug take-back program promotion. (1) A drug take-back program must develop and provide a system of promotion, education, and public outreach about the safe storage and secure collection of covered drugs. This system may include signage, written materials to be provided at the time of purchase or delivery of covered drugs, and advertising or other promotional materials. At a minimum, each program must:

(a) Promote the safe storage of legend drugs and nonlegend drugs by residents before secure disposal through a drug take-back program;

(b) Discourage residents from disposing of covered drugs in solid waste collection, sewer, or septic systems;

(c) Promote the use of the drug take-back program so that where and how to return covered drugs is widely understood by residents, pharmacists, retail pharmacies, health care facilities and providers, veterinarians, and veterinary hospitals;

(d) Establish a toll-free telephone number and website publicizing collection options and collection sites and discouraging improper disposal practices for covered drugs, such as flushing them or placing them in the garbage;

(e) Prepare educational and outreach materials that: Promote safe storage of covered drugs; discourage the disposal of covered drugs in solid waste collection, sewer, or septic systems; and describe how to return covered drugs to the drug take-back program. The materials must use plain language and explanatory images to make collection services and discouraged disposal practices readily understandable to all residents, including residents with limited English proficiency;

(f) Disseminate the educational and outreach materials described in (e) of this subsection to pharmacies, health care facilities, and other interested parties for dissemination to covered entities;

(g) Work with authorized collectors to develop a readily recognizable, consistent design of collection receptacles, as well as clear, standardized instructions for covered entities on the use of collection receptacles. The department may provide guidance to program operators on the development of the instructions and design; and

(h) Annually report on its promotion, outreach, and public education activities in its annual report required by RCW 69.48.100.

(2) If more than one drug take-back program is approved by the department, the programs must coordinate their promotional activities to ensure that all state residents can easily identify, understand, and access the collection services provided by any drug take-back program. Coordination efforts must include providing residents with a single toll-free telephone number and single website to access information about collection services for every approved program, including presenting all available collection sites, mail-back distribution locations, and take-back events to ensure residents are able to access the most convenient method of collection, regardless of the program operator, and must manage requests for prepaid, preaddressed mailing envelopes from

covered entities and from retail pharmacies as provided in RCW 69.48.060(3)(e).

(3) Pharmacies and other entities that sell medication in the state are encouraged to promote secure disposal of covered drugs through the use of one or more approved drug take-back programs. Upon request, a pharmacy must provide materials explaining the use of approved drug take-back programs to its customers. The program operator must provide pharmacies with these materials upon request and at no cost to the pharmacy.

(4) The department, the health care authority, the department of social and health services, the department of ecology, and any other state agency that is responsible for health, solid waste management, and wastewater treatment shall, through their standard educational methods, promote safe storage of prescription and nonprescription drugs by covered entities, secure disposal of covered drugs through a drug take-back program, and the toll-free telephone number and website for approved drug take-back programs. Local health jurisdictions and local government agencies are encouraged to promote approved drug take-back programs.

(5) The department:

(a) Shall conduct a survey of covered entities and a survey of pharmacists, health care providers, and veterinarians who interact with covered entities on the use of medicines after the first full year of operation of the drug take-back program, and again every two years thereafter. Survey questions must: Measure consumer awareness of the drug take-back program; assess the extent to which collection sites and other collection methods are convenient and easy to use; assess knowledge and attitudes about risks of abuse, poisonings, and overdoses from drugs used in the home; and assess covered entities' practices with respect to unused, unwanted, or expired drugs, both currently and prior to implementation of the drug take-back program; and

(b) May, upon review of results of public awareness surveys, direct a program operator for an approved drug take-back program to modify the program's promotion and outreach activities to better achieve widespread awareness among Washington state residents and health care professionals about where and how to return covered drugs to the drug take-back program. [2021 c 155 s 4; 2018 c 196 s 7.]

Sunset Act application: See note following chapter digest.

Findings—Intent—2021 c 155: See note following RCW 69.48.010.

69.48.080 Disposal and handling of covered drugs. (1) Covered drugs collected under a drug take-back program must be disposed of at a permitted hazardous waste disposal facility that meets the requirements of 40 C.F.R. parts 264 and 265, as they exist on June 7, 2018.

(2) If use of a hazardous waste disposal facility described in subsection (1) of this section is unfeasible based on cost, logistics, or other considerations, the department, in consultation with the department of ecology, may grant approval for a program operator to dispose of some or all collected covered drugs at a permitted large municipal waste combustor facility that meets the requirements of 40 C.F.R. parts 60 and 62, as they exist on June 7, 2018.

(3) A program operator may petition the department for approval to use final disposal technologies or processes that provide superior environmental and human health protection than that provided by the technologies described in subsections (1) and (2) of this section, or equivalent protection at less cost. In reviewing a petition under this subsection, the department shall take into consideration regulations or guidance issued by the United States environmental protection agency on the disposal of pharmaceutical waste. The department, in consultation with the department of ecology, shall approve a disposal petition under this section if the disposal technology or processes described in the petition provides equivalent or superior protection in each of the following areas:

(a) Monitoring of any emissions or waste;

(b) Worker health and safety;

(c) Air, water, or land emissions contributing to persistent, bioaccumulative, and toxic pollution; and

(d) Overall impact to the environment and human health.

(4) If a drug take-back program encounters a safety or security problem during collection, transportation, or disposal of covered drugs, the program operator must notify the department as soon as practicable after encountering the problem. [2018 c 196 s 8.]

Sunset Act application: See note following chapter digest.

69.48.090 Program funding. (1) A covered manufacturer or group of covered manufacturers must pay all administrative and operational costs associated with establishing and implementing the drug take-back program in which they participate. Such administrative and operational costs include, but are not limited to: Collection and transportation supplies for each collection site; purchase of secure collection receptacles for each collection site; ongoing maintenance or replacement of secure collection receptacles when requested by authorized collectors; prepaid, preaddressed mailers; compensation of authorized collectors, if applicable; operation of periodic collection events, including the cost of law enforcement staff time; transportation of all collected covered drugs to final disposal; environmentally sound disposal of all collected covered drugs in compliance with RCW 69.48.080; and program promotion and outreach.

(2) A program operator, covered manufacturer, authorized collector, or other person may not charge:

(a) A specific point-of-sale fee to consumers to recoup the costs of a drug take-back program; or

(b) A specific point-of-collection fee at the time covered drugs are collected from covered entities. [2018 c 196 s 9.]

Sunset Act application: See note following chapter digest.

69.48.100 Annual program report. (1) By July 1st after the first full year of implementation, and each July 1st thereafter, a program operator must submit to the department a report describing implementation of the drug take-back program during the previous calendar year. The report must include:

(a) A list of covered manufacturers participating in the drug take-back program;

(b) The amount, by weight, of covered drugs collected, including the amount by weight from each collection method used;

(c) The following details regarding the program's collection system: A list of collection sites with addresses; the number of mailers provided; locations where mailers were pro-

vided, if applicable; dates and locations of collection events held, if applicable; and the transporters and disposal facility or facilities used;

(d) Whether any safety or security problems occurred during collection, transportation, or disposal of covered drugs, and if so, completed and anticipated changes to policies, procedures, or tracking mechanisms to address the problem and improve safety and security;

(e) A description of the public education, outreach, and evaluation activities implemented;

(f) A description of how collected packaging was recycled to the extent feasible;

(g) A summary of the program's goals for collection amounts and public awareness, the degree of success in meeting those goals, and if any goals have not been met, what effort will be made to achieve those goals the following year; and

(h) The program's annual expenditures, itemized by program category.

(2) Within thirty days after each annual period of operation of an approved drug take-back program, the program operator shall submit an annual collection amount report to the department that provides the total amount, by weight, of covered drugs collected from each collection site during the prior year.

(3) The department shall make reports submitted under this section available to the public through the internet. [2018 c 196 s 10.]

Sunset Act application: See note following chapter digest.

69.48.110 Enforcement and penalties. (1) The department may audit or inspect the activities and records of a drug take-back program to determine compliance with this chapter or investigate a complaint.

(2)(a) The department shall send a written notice to a covered manufacturer that fails to participate in a drug take-back program as required by this chapter. The notice must provide a warning regarding the penalties for violation of this chapter.

(b) A covered manufacturer that receives a notice under this subsection (2) may be assessed a penalty if, sixty days after receipt of the notice, the covered manufacturer continues to sell a covered drug in or into the state without participating in a drug take-back program approved under this chapter.

(3)(a) The department may send a program operator a written notice warning of the penalties for noncompliance with this chapter if it determines that the program operator's drug take-back program is in violation of this chapter or does not conform to the proposal approved by the department. The department may assess a penalty on the program operator and participating covered manufacturers if the program does not come into compliance by thirty days after receipt of the notice.

(b) The department may immediately suspend operation of a drug take-back program and assess a penalty if it determines that the program is in violation of this chapter and the violation creates a condition that, in the judgment of the department, constitutes an immediate hazard to the public or the environment.

(4)(a) The department shall send a written notice to a drug wholesaler or a retail pharmacy that fails to provide a list of drug manufacturers to the department as required by RCW 69.48.040. The notice must provide a warning regarding the penalties for violation of this chapter.

(b) A drug wholesaler or retail pharmacy that receives a notice under this subsection may be assessed a penalty if, sixty days after receipt of the notice, the drug wholesaler or retail pharmacy fails to provide a list of drug manufacturers.

(5) In enforcing the requirements of this chapter, the department:

(a) May require an informal administrative conference;

(b) May require a person or entity to engage in or refrain from engaging in certain activities pertaining to this chapter;

(c) May, in accordance with RCW 43.70.095, assess a civil fine of up to two thousand dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation. In determining the appropriate amount of the fine, the department shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the entity in violation; and

(d) May not prohibit a covered manufacturer from selling a drug in or into the state of Washington. [2018 c 196 s 11.]

Sunset Act application: See note following chapter digest.

69.48.120 Department to set program fees. (1)(a) The department shall: Determine its costs for the administration, oversight, and enforcement of the requirements of this chapter, including, but not limited to, a fee for proposal review, and the survey required under RCW 69.48.200; pursuant to RCW 43.70.250, set fees at a level sufficient to recover the costs associated with administration, oversight, and enforcement; and adopt rules establishing requirements for program operator proposals.

(b) The department shall not impose any fees in excess of its actual administrative, oversight, and enforcement costs. The fees collected from each program operator in calendar year 2020 and any subsequent year may not exceed ten percent of the program's annual expenditures as reported to the department in the annual report required by RCW 69.48.100 and determined by the department.

(c) Adjustments to the department's fees may be made annually and shall not exceed actual administration, oversight, and enforcement costs. Adjustments for inflation may not exceed the percentage change in the consumer price index for all urban consumers in the United States as calculated by the United States department of labor as averaged by city for the twelve-month period ending with June of the previous year.

(d) The annual fee set by the department shall be evenly split amongst each approved program operator.

(e) The department shall collect annual operating fees from each program operator by October 1, 2019, and annually thereafter.

(f) Between July 25, 2021, and January 1, 2024, the department shall collect a nonrefundable one-time fee of $157,000 for review of proposals from each potential program operator applicant as provided in RCW 69.48.050.

(2) All fees collected under this section must be deposited in the secure drug take-back program account established in RCW 69.48.130. [2021 c 155 s 5; 2018 c 196 s 12.]

Sunset Act application: See note following chapter digest.

Findings—Intent—2021 c 155: See note following RCW 69.48.010.

69.48.130 Secure drug take-back program account. The secure drug take-back program account is created in the state treasury. All receipts received by the department under this chapter must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department only for administering and enforcing this chapter. [2018 c 196 s 13.]

Sunset Act application: See note following chapter digest.

69.48.140 Antitrust immunity. The activities authorized by this chapter require collaboration among covered manufacturers. These activities will enable safe and secure collection and disposal of covered drugs in Washington state and are therefore in the best interest of the public. The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature intends to exempt from state antitrust laws, and provide immunity through the state action doctrine from federal antitrust laws, activities that are undertaken, reviewed, and approved by the department pursuant to this chapter that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities. [2018 c 196 s 14.]

Sunset Act application: See note following chapter digest.

69.48.150 Federal law, effect on this chapter. This chapter is void if a federal law, or a combination of federal laws, takes effect that establishes a national program for the collection of covered drugs that substantially meets the intent of this chapter, including the creation of a funding mechanism for collection, transportation, and proper disposal of all covered drugs in the United States. [2018 c 196 s 15.]

Sunset Act application: See note following chapter digest.

69.48.160 Local ordinances—Grandfathering—Preemption. (1)(a) For a period of twelve months after a drug take-back program approved under RCW 69.48.050 begins operating, a county may enforce a grandfathered ordinance. During that twelve-month period, if a county determines that a covered manufacturer is in compliance with its grandfathered ordinance, the department shall find the covered manufacturer in compliance with the requirements of this chapter with respect to that county.

(b) In any county enforcing a grandfathered ordinance as described in (a) of this subsection, the program operator of an approved drug take-back program must work with the county and the department to incorporate the local program into the approved drug take-back program on or before the end of the twelve-month period.

(2) After June 7, 2018, a political subdivision may not enact or enforce a local ordinance that requires a retail pharmacy, clinic, hospital, or local law enforcement agency to provide for collection and disposal of covered drugs from covered entities.

(3) At the end of the twelve-month period provided in subsection (1) of this section, this chapter preempts all existing or future laws enacted by a county, city, town, or other political subdivision of the state regarding a drug take-back program or other program for the collection, transportation, and disposal of covered drugs, or promotion, education, and public outreach relating to such a program.

(4) For purposes of this section, "grandfathered ordinance" means a pharmaceutical product stewardship or drug take-back ordinance that: (a) Is in effect on June 7, 2018; and (b) the department determines meets or exceeds the requirements of this chapter with respect to safe and secure collection and disposal of unwanted medicines from residents, including the types of drugs covered by the program, the convenience of the collection system for residents, and required promotion of the program. [2018 c 196 s 16.]

Sunset Act application: See note following chapter digest.

69.48.170 Public disclosure. Proprietary information submitted to the department under this chapter is exempt from public disclosure under RCW 42.56.270. The department may use and disclose such information in summary or aggregated form that does not directly or indirectly identify financial, production, or sales data of an individual covered manufacturer or drug take-back organization. [2018 c 196 s 17.]

Sunset Act application: See note following chapter digest.

69.48.180 Rule making. The department shall adopt any rules necessary to implement and enforce this chapter. [2018 c 196 s 18.]

Sunset Act application: See note following chapter digest.

69.48.190 Report to legislature. (1) No later than thirty days after the department first approves a drug take-back program under RCW 69.48.050, the department shall submit an update to the legislature describing rules adopted under this chapter and the approved drug take-back program.

(2) By November 15th after the first full year of operation of an approved drug take-back program and biennially thereafter, the department shall submit a report to the legislature. The report must:

(a) Describe the status of approved drug take-back programs;

(b) Evaluate the secure medicine collection and disposal system and the program promotion, education, and public outreach requirements established by this chapter;

(c) Evaluate, in conjunction with an academic institution that is not an agency of the state and is qualified to conduct and evaluate research relating to prescription and nonprescription drug use and abuse and environmental impact, to the extent feasible, the impact of approved drug take-back programs on: Awareness and compliance of residents with safe storage of medicines in the home and secure disposal of covered drugs; rates of misuse, abuse, overdoses, and poisonings from prescription and nonprescription drugs; and diversions of covered drugs from sewer, solid waste, and septic systems. To conduct this evaluation, the department and the academic institution may rely on available data sources,

including the public awareness surveys required under this chapter, and the prescription drug monitoring program and public health surveys such as the Washington state healthy youth survey. The department and the academic institution may also consult with other state and local agencies and interested stakeholders; and

(d) Provide any recommendations for legislation. [2018 c 196 s 19.]

Sunset Act application: See note following chapter digest.

69.48.200 Survey. ***(Expires July 1, 2026.)*** (1)(a) The department shall contract with the statewide program of poison and drug information services identified in RCW 18.76.030 to conduct a survey of residents to measure whether the secure medicine collection and disposal system and the program promotion, education, and public outreach requirements established in this chapter have led to statistically significant changes in: (i) Resident attitudes and behavior on safe storage and secure disposal of prescription and nonprescription medications used in the home; and (ii) the rates of abuse or misuse of or accidental exposure to prescription and nonprescription drugs.

(b) The survey of residents must include telephone follow-up with users of the program's emergency telephone service. The survey must be conducted before the secure medicine collection and disposal system is implemented and again no earlier than four years after the system is implemented.

(2) The statewide program of poison and drug information services shall report the survey results to the legislature and the department of health within six months of completion of the survey.

(3) This section expires July 1, 2026. [2018 c 196 s 20.]

Sunset Act application: See note following chapter digest.

Chapter 69.50 RCW
UNIFORM CONTROLLED SUBSTANCES ACT

Sections

Drug nuisances—Injunctions: Chapter 7.43 RCW.

ARTICLE I
DEFINITIONS

69.50.101 Definitions. ***(Effective until January 1, 2025.)*** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) [(1)] "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

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

(2) [(b)] the patient or research subject at the direction and in the presence of the practitioner.

(b) [(2)] "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) [(3)] "Board" means the Washington state liquor and cannabis board.

(d) [(4)] "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis during the growing cycle through harvest and usable cannabis. "Cannabis" does not include hemp or industrial hemp as defined in RCW 15.140.020, or seeds used for licensed hemp production under chapter 15.140 RCW.

(e) [(5)] "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(f) [(6)] "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(g) [(7)] "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(h)(1) [(8)(a)] "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section, including any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC.

(2) [(b)] "Cannabis products" also means any product containing only THC content.

(3) [(c)] "Cannabis products" does not include cannabis health and beauty aids as defined in RCW 69.50.575 or products approved by the United States food and drug administration.

(i) [(9)] "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

(j) [(10)] "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(k) [(11)] "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) [(4)] of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(l) [(12)] "CBD concentration" has the meaning provided in RCW 69.51A.010.

(m) [(13)] "CBD product" means any product containing or consisting of cannabidiol.

(n) [(14)] "Commission" means the pharmacy quality assurance commission.

(o) [(15)] "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(p)(1) [(16)(a)] "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

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

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

(2) [(b)] The term does not include:

(i) a controlled substance;

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

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

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

(q) [(17)] "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(r) [(18)] "Department" means the department of health.

(s) [(19)] "Designated provider" has the meaning provided in RCW 69.51A.010.

(t) [(20)] "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(u) [(21)] "Dispenser" means a practitioner who dispenses.

(v) [(22)] "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(w) [(23)] "Distributor" means a person who distributes.

(x) [(24)] "Drug" means (1) [(a)] a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) [(b)] controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) [(c)] controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) [(d)] controlled substances intended for use as a component of any article specified in (1), (2), or (3) [(a), (b), or (c)] of this subsection. The term does not include devices or their components, parts, or accessories.

(y) [(25)] "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(z) [(26)] "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(aa) [(27)] "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(bb) [(28)] "Immediate precursor" means a substance:

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

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

(3) [(c)] the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(cc) [(29)] "Isomer" means an optical isomer, but in subsection (gg)(5) [(33)(e)] of this section, RCW 69.50.204(a)(12) and (34) [(1) (l) and (hh)], and 69.50.206(b)(4) [(2)(d)], the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42) [(1) (h) and (pp)], and 69.50.210(c) [(3)] the term includes any positional isomer; and in RCW 69.50.204(a)(35) [(1)(ii)], 69.50.204(c) [(3)], and 69.50.208(a) [(1)] the term includes any positional or geometric isomer.

(dd) [(30)] "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package

of which is uniform within recognized tolerances for the factors that appear in the labeling.

(ee) [(31)] "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

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

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

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

(gg) [(33)] "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

(2) [(b)] Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) [(c)] Poppy straw and concentrate of poppy straw.

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

(5) [(e)] Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) [(f)] Cocaine base.

(7) [(g)] Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) [(h)] Any compound, mixture, or preparation containing any quantity of any substance referred to in (1) [(a)] through (7) [(g)] of this subsection.

(hh) [(34)] "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) [(35)] "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(jj) [(36)] "Package" means a container that has a single unit or group of units.

(kk) [(37)] "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(ll) [(38)] "Plant" has the meaning provided in RCW 69.51A.010.

(mm) [(39)] "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(nn) [(40)] "Practitioner" means:

(1) [(a)] A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

(3) [(c)] A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(oo) [(41)] "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(pp) [(42)] "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(qq) [(43)] "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(rr) [(44)] "Recognition card" has the meaning provided in RCW 69.51A.010.

(ss) [(45)] "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

(tt) [(46)] "Secretary" means the secretary of health or the secretary's designee.

(uu) [(47)] "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (uu) [(47)], along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:

(1) [(a)] A statement that indicates how the cannabis licensee will work to promote social equity goals in their community;

(2) [(b)] A description of how the cannabis licensee will meet social equity goals as defined in RCW 69.50.335;

(3) [(c)] The composition of the workforce the licensee has employed or intends to hire; and

(4) [(d)] Business plans involving partnerships or assistance to organizations or residents with connections to populations with a history of high rates of enforcement of cannabis prohibition.

(vv) [(48)] "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(ww) [(49)] "THC concentration" means percent of tetrahydrocannabinol content of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(xx) [(50)] "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(yy) [(51)] "Unit" means an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.

(zz) [(52)] "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(aaa) [(53)] "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults. [2023 c 365 s 2; 2023 c 220 s 6. Prior: 2022 c 16 s 51; prior: 2020 c 133 s 2; 2020 c 80 s 43; prior: 2019 c 394 s 9; 2019 c 158 s 12; 2019 c 55 s 11; prior: 2018 c 132 s 2; prior: 2017 c 317 s 5; 2017 c 212 s 11; 2017 c 153 s 1; prior: 2015 2nd sp.s. c 4 s 901; 2015 c 70 s 4; 2014 c 192 s 1; prior: 2013 c 276 s 2; 2013 c 116 s 1; 2013 c 12 s 2; prior: 2013 c 3 s 2 (Initiative Measure No. 502, approved November 6, 2012); 2012 c 8 s 1; 2010 c 177 s 1; 2003 c 142 s 4; 1998 c 222 s 3; 1996 c 178 s 18; 1994 sp.s. c 9 s 739; 1993 c 187 s 1; prior: 1990 c 248 s 1; 1990 c 219 s 3; 1990 c 196 s 8; 1989 1st ex.s. c 9 s 429; 1987 c 144 s 2; 1986 c 124 s 1; 1984 c 153 s 18; 1980 c 71 s 2; 1973 2nd ex.s. c 38 s 1; 1971 ex.s. c 308 s 69.50.101.]

Reviser's note: (1) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

(2) This section was amended by 2023 c 220 s 6 and by 2023 c 365 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Construction—2023 c 365: See note following RCW 69.50.326.

Effective date—2022 c 16 ss 7, 51, and 116: "Sections 7, 51, and 116 of this act take effect July 1, 2022." [2022 c 16 s 170.]

Intent—Finding—2022 c 16: "It is the intent of the legislature to make technical changes to replace the term "marijuana" with "cannabis" throughout the Revised Code of Washington. The legislature finds that the use of the term "marijuana" in the United States has discriminatory origins and should be replaced with the more scientifically accurate term "cannabis." This act is technical in nature and no substantive legal changes are intended or implied." [2022 c 16 s 1.]

Findings—Effective date—2020 c 133: See notes following RCW 69.50.342.

Effective date—2020 c 80 ss 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Findings—2019 c 394: See note following RCW 69.50.563.

Effective date—2019 c 158: See RCW 15.140.900.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): "The people intend to stop treating adult marijuana [cannabis] use as a crime and try a new approach that:

(1) Allows law enforcement resources to be focused on violent and property crimes;

(2) Generates new state and local tax revenue for education, health care, research, and substance abuse prevention; and

(3) Takes marijuana [cannabis] out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.

This measure authorizes the state liquor control board to regulate and tax marijuana [cannabis] for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana [cannabis]." [2013 c 3 s 1 (Initiative Measure No. 502, approved November 6, 2012).]

Finding—1990 c 219: See note following RCW 69.41.030.

Additional notes found at www.leg.wa.gov

69.50.101 Definitions. *(Effective January 1, 2025.)*

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

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

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

(b) the patient or research subject at the direction and in the presence of the practitioner.

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

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

(4) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis during the growing cycle through harvest and usable cannabis. "Cannabis" does not include hemp or industrial hemp as defined in RCW 15.140.020, or seeds used for licensed hemp production under chapter 15.140 RCW.

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

(6) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(7) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(8)(a) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section, including any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC.

(b) "Cannabis products" also means any product containing only THC content.

(c) "Cannabis products" does not include cannabis health and beauty aids as defined in RCW 69.50.575 or products approved by the United States food and drug administration.

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

(10) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(11) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (4) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(12) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(13) "CBD product" means any product containing or consisting of cannabidiol.

(14) "Commission" means the pharmacy quality assurance commission.

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

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

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

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

(b) The term does not include:

(i) a controlled substance;

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

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

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

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

(18) "Department" means the department of health.

(19) "Designated provider" has the meaning provided in RCW 69.51A.010.

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

(21) "Dispenser" means a practitioner who dispenses.

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

(23) "Distributor" means a person who distributes.

(24) "Drug" means (a) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (b) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (c) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (d) controlled substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. The term does not include devices or their components, parts, or accessories.

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

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

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

(28) "Immediate precursor" means a substance:

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

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

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

(29) "Isomer" means an optical isomer, but in subsection (33)(e) of this section, RCW 69.50.204(1) (l) and (hh), and 69.50.206(2)(d), the term includes any geometrical isomer; in RCW 69.50.204(1) (h) and (pp), and 69.50.210(3)[,] the term includes any positional isomer; and in RCW 69.50.204(1)(ii), 69.50.204(3), and 69.50.208(1)[,] the term includes any positional or geometric isomer.

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

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

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

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

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

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

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

(b) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(c) Poppy straw and concentrate of poppy straw.

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

(e) Cocaine, or any salt, isomer, or salt of isomer thereof.

(f) Cocaine base.

(g) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(h) Any compound, mixture, or preparation containing any quantity of any substance referred to in (a) through (g) of this subsection.

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

(35) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(36) "Package" means a container that has a single unit or group of units.

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

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

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

(40) "Practitioner" means:

(a) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, *advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

(c) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine

and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her participating physician as defined in RCW 18.71A.010, an *advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

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

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

(43) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(44) "Recognition card" has the meaning provided in RCW 69.51A.010.

(45) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

(46) "Secretary" means the secretary of health or the secretary's designee.

(47) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (47), along with any additional plan components or requirements approved by the board following consultation with the task force created in **RCW 69.50.336. The plan may include:

(a) A statement that indicates how the cannabis licensee will work to promote social equity goals in their community;

(b) A description of how the cannabis licensee will meet social equity goals as defined in RCW 69.50.335;

(c) The composition of the workforce the licensee has employed or intends to hire; and

(d) Business plans involving partnerships or assistance to organizations or residents with connections to populations with a history of high rates of enforcement of cannabis prohibition.

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

(49) "THC concentration" means percent of tetrahydrocannabinol content of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

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

(51) "Unit" means an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.

(52) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(53) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults. [2024 c 62 s 17. Prior: 2023 c 365 s 2; 2023 c 220 s 6; prior: 2022 c 16 s 51; prior: 2020 c 133 s 2; 2020 c 80 s 43; prior: 2019 c 394 s 9; 2019 c 158 s 12; 2019 c 55 s 11; prior: 2018 c 132 s 2; prior: 2017 c 317 s 5; 2017 c 212 s 11; 2017 c 153 s 1; prior: 2015 2nd sp.s. c 4 s 901; 2015 c 70 s 4; 2014 c 192 s 1; prior: 2013 c 276 s 2; 2013 c 116 s 1; 2013 c 12 s 2; prior: 2013 c 3 s 2 (Initiative Measure No. 502, approved November 6, 2012); 2012 c 8 s 1; 2010 c 177 s 1; 2003 c 142 s 4; 1998 c 222 s 3; 1996 c 178 s 18; 1994 sp.s. c 9 s 739; 1993 c 187 s 1; prior: 1990 c 248 s 1; 1990 c 219 s 3; 1990 c 196 s 8; 1989 1st ex.s. c 9 s 429; 1987 c 144 s 2; 1986 c 124 s 1; 1984 c 153 s 18; 1980 c 71 s 2; 1973 2nd ex.s. c 38 s 1; 1971 ex.s. c 308 s 69.50.101.]

Reviser's note: *(1) The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

**(2) RCW 69.50.336 expired June 30, 2023.

Effective date—2024 c 62 ss 1-8, 10-18, 20-26, 28, and 30-32: See note following RCW 18.71A.010.

Intent—2024 c 62: See note following RCW 18.71A.020.

Construction—2023 c 365: See note following RCW 69.50.326.

Effective date—2022 c 16 ss 7, 51, and 116: "Sections 7, 51, and 116 of this act take effect July 1, 2022." [2022 c 16 s 170.]

Intent—Finding—2022 c 16: "It is the intent of the legislature to make technical changes to replace the term "marijuana" with "cannabis" throughout the Revised Code of Washington. The legislature finds that the use of the term "marijuana" in the United States has discriminatory origins and should be replaced with the more scientifically accurate term "cannabis." This act is technical in nature and no substantive legal changes are intended or implied." [2022 c 16 s 1.]

Findings—Effective date—2020 c 133: See notes following RCW 69.50.342.

Effective date—2020 c 80 ss 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Findings—2019 c 394: See note following RCW 69.50.563.

Effective date—2019 c 158: See RCW 15.140.900.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): "The people intend to stop treating adult marijuana [cannabis] use as a crime and try a new approach that:

(1) Allows law enforcement resources to be focused on violent and property crimes;

(2) Generates new state and local tax revenue for education, health care, research, and substance abuse prevention; and

(3) Takes marijuana [cannabis] out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.

This measure authorizes the state liquor control board to regulate and tax marijuana [cannabis] for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana [cannabis]." [2013 c 3 s 1 (Initiative Measure No. 502, approved November 6, 2012).]

Finding—1990 c 219: See note following RCW 69.41.030.

Additional notes found at www.leg.wa.gov

69.50.102 Drug paraphernalia—Definitions. (a) [(1)] As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

(1) [(a)] Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) [(b)] Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) [(c)] Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) [(d)] Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) [(e)] Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) [(f)] Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) [(g)] Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis;

(8) [(h)] Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) [(i)] Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) [(j)] Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) [(k)] Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) [(l)] Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: Meaning objects used to hold burning material, such as a cannabis cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

(xi) Chillums;

(xii) Bongs; and

(xiii) Ice pipes or chillers.

(b) [(2)] In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) [(a)] Statements by an owner or by anyone in control of the object concerning its use;

(2) [(b)] Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) [(c)] The proximity of the object, in time and space, to a direct violation of this chapter;

(4) [(d)] The proximity of the object to controlled substances;

(5) [(e)] The existence of any residue of controlled substances on the object;

(6) [(f)] Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

(7) [(g)] Instructions, oral or written, provided with the object concerning its use;

(8) [(h)] Descriptive materials accompanying the object which explain or depict its use;

(9) [(i)] National and local advertising concerning its use;

(10) [(j)] The manner in which the object is displayed for sale;

(11) [(k)] Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) [(l)] Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) [(m)] The existence and scope of legitimate uses for the object in the community; and

(14) [(n)] Expert testimony concerning its use. [2022 c 16 s 52; 2012 c 117 s 366; 1981 c 48 s 1.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Additional notes found at www.leg.wa.gov

ARTICLE II
STANDARDS AND SCHEDULES

69.50.201 Enforcement of chapter—Authority to change schedules of controlled substances. (a) [(1)] The commission shall enforce this chapter and may add substances to or delete or reschedule substances listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the procedures of chapter 34.05 RCW.

(1) [(a)] In making a determination regarding a substance, the commission shall consider the following:

(i) the actual or relative potential for abuse;

(ii) the scientific evidence of its pharmacological effect, if known;

(iii) the state of current scientific knowledge regarding the substance;

(iv) the history and current pattern of abuse;

(v) the scope, duration, and significance of abuse;

(vi) the risk to the public health;

(vii) the potential of the substance to produce psychic or physiological dependence liability; and

(viii) whether the substance is an immediate precursor of a controlled substance.

(2) [(b)] The commission may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

(b) [(2)] After considering the factors enumerated in subsection (a) [(1)] of this section, the commission shall make findings with respect thereto and adopt and cause to be published a rule controlling the substance upon finding the substance has a potential for abuse.

(c) [(3)] The commission, without regard to the findings required by subsection (a) [(1)] of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211 or the procedures prescribed by subsections (a) and (b) [(1) and (2)] of this section, may place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule. If the commission designates a substance as an immediate precursor, substances that are precursors of the controlled precursor are not subject to control solely because they are precursors of the controlled precursor.

(d) [(4)] If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the commission shall similarly control the substance under this chapter after the expiration of thirty days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. Sec. 811(h), unless within that thirty-day period, the commission or an interested party objects to inclusion, rescheduling, temporary scheduling, or deletion. If no objection is made, the commission shall adopt and cause to be published, without the necessity of making determinations or findings as required by subsection (a) [(1)] of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211, a final rule, for which notice of proposed rule making is omitted, designating, rescheduling, temporarily scheduling, or deleting the substance. If an objection is made, the commission shall make a determination with respect to the designation, rescheduling, or deletion of the substance as provided by subsection (a) [(1)] of this section. Upon receipt of an objection to inclusion, rescheduling, or deletion under this chapter by the commission, the commission shall publish notice of the receipt of the objection, and control under this chapter is stayed until the commission adopts a rule as provided by subsection (a) [(1)] of this section.

(e) [(5)] The commission, by rule and without regard to the requirements of subsection (a) [(1)] of this section, may schedule a substance in Schedule I regardless of whether the substance is substantially similar to a controlled substance in Schedule I or II if the commission finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under Section 505 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 355. Upon receipt of notice under RCW 69.50.214, the commission shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the commission shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsection (a)(1) [(1)(a)](iv), (v), and (vi) of this section, and may also consider clandestine importation, manufacture, or distribution, and, if available, information concerning the other factors set forth in subsection (a)(1) [(1)(a)] of this section. A rule may not be adopted under this subsection until the commission initiates a rule-making proceeding under subsection (a) [(1)] of this section with respect to the substance. A rule adopted under this subsection must be vacated upon the conclusion of the rule-making proceeding initiated under subsection (a) [(1)] of this section with respect to the substance.

(f) [(6)] Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Titles 66 and 26 RCW. [2013 c 19 s 87; 1998 c 245 s 108; 1993 c 187 s 2; 1989 1st ex.s. c 9 s 430; 1986 c 124 s 2; 1971 ex.s. c 308 s 69.50.201.]

Additional notes found at www.leg.wa.gov

69.50.202 Nomenclature. The controlled substances listed or to be listed in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 are included by whatever official, common, usual, chemical, or trade name designated. [1971 ex.s. c 308 s 69.50.202.]

69.50.203 Schedule I tests. (a) [(1)] The commission shall place a substance in Schedule I upon finding that the substance:

(1) [(a)] has high potential for abuse;

(2) [(b)] has no currently accepted medical use in treatment in the United States; and

(3) [(c)] lacks accepted safety for use in treatment under medical supervision.

(b) [(2)] The commission may place a substance in Schedule I without making the findings required by subsection (a) [(1)] of this section if the substance is controlled under Schedule I of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 s 88; 1993 c 187 s 3; 1971 ex.s. c 308 s 69.50.203.]

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

(a) [(1)] Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

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

(2) [(b)] Acetylmethadol;

(3) [(c)] Allylprodine;

(4) [(d)] Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(5) [(e)] Alphameprodine;

(6) [(f)] Alphamethadol;

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

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

(9) [(i)] Benzethidine;

(10) [(j)] Betacetylmethadol;

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

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

(13) [(m)] Betameprodine;

(14) [(n)] Betamethadol;

(15) [(o)] Betaprodine;

(16) [(p)] Clonitazene;

(17) [(q)] Dextromoramide;

(18) [(r)] Diampromide;

(19) [(s)] Diethylthiambutene;

(20) [(t)] Difenoxin;

(21) [(u)] Dimenoxadol;

(22) [(v)] Dimepheptanol;

(23) [(w)] Dimethylthiambutene;

(24) [(x)] Dioxaphetyl butyrate;

(25) [(y)] Dipipanone;

(26) [(z)] Ethylmethylthiambutene;

(27) [(aa)] Etonitazene;

(28) [(bb)] Etoxeridine;

(29) [(cc)] Furethidine;

(30) [(dd)] Hydroxypethidine;

(31) [(ee)] Ketobemidone;

(32) [(ff)] Levomoramide;

(33) [(gg)] Levophenacylmorphan;

(34) [(hh)] 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);

(35) [(ii)] 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(36) [(jj)] Morpheridine;

(37) [(kk)] MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(38) [(ll)] Noracymethadol;

(39) [(mm)] Norlevorphanol;

(40) [(nn)] Normethadone;

(41) [(oo)] Norpipanone;

(42) [(pp)] Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(43) [(qq)] PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(44) [(rr)] Phenadoxone;

(45) [(ss)] Phenampromide;

(46) [(tt)] Phenomorphan;

(47) [(uu)] Phenoperidine;

(48) [(vv)] Piritramide;

(49) [(ww)] Proheptazine;

(50) [(xx)] Properidine;

(51) [(yy)] Propiram;

(52) [(zz)] Racemoramide;

(53) [(aaa)] Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide);

(54) [(bbb)] Tilidine;

(55) [(ccc)] Trimeperidine.

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

(1) [(a)] Acetorphine;

(2) [(b)] Acetyldihydrocodeine;

(3) [(c)] Benzylmorphine;

(4) [(d)] Codeine methylbromide;

(5) [(e)] Codeine-N-Oxide;

(6) [(f)] Cyprenorphine;

(7) [(g)] Desomorphine;

(8) [(h)] Dihydromorphine;

(9) [(i)] Drotebanol;

(10) [(j)] Etorphine, except hydrochloride salt;

(11) [(k)] Heroin;

(12) [(l)] Hydromorphinol;

(13) [(m)] Methyldesorphine;

(14) [(n)] Methyldihydromorphine;

(15) [(o)] Morphine methylbromide;

(16) [(p)] Morphine methylsulfonate;

(17) [(q)] Morphine-N-Oxide;

(18) [(r)] Myrophine;

(19) [(s)] Nicocodeine;

(20) [(t)] Nicomorphine;

(21) [(u)] Normorphine;

(22) [(v)] Pholcodine;

(23) [(w)] Thebacon.

(c) [(3)] Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

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

(2) [(b)] 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methyl-phenethylamine; 4-bromo-2,5-DMA;

(3) [(c)] 4-bromo-2,5-dimethoxyphenethylamine: Some tradeorothernames:2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) [(d)] 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) [(e)] 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) [(f)] 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) [(g)] 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) [(h)] 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) [(i)] 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(10) [(j)] 3,4-methylenedioxy amphetamine;

(11) [(k)] 3,4-methylenedioxymethamphetamine (MDMA);

(12) [(l)] 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) [(m)] N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine,N-hydroxy MDA;

(14) [(n)] 3,4,5-trimethoxy amphetamine;

(15) [(o)] Alpha-methyltryptamine: Other name: AMT;

(16) [(p)] Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(17) [(q)] Cannabis;

(18) [(r)] Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(19) [(s)] Dimethyltryptamine: Some trade or other names: DMT;

(20) [(t)] 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;

(21) [(u)] Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(22) [(v)] Lysergic acid diethylamide;

(23) [(w)] Mescaline;

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

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

(26) [(z)] N-ethyl-3-piperidyl benzilate;

(27) [(aa)] N-methyl-3-piperidyl benzilate;

(28) [(bb)] Psilocybin;

(29) [(cc)] Psilocyn;

(30) [(dd)](i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genera Cannabis, as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the genera Cannabis, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

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

(B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

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

(D) That is chemically synthesized and either:

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

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

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

(ii) Hemp and industrial hemp, as defined in RCW 15.140.020, are excepted from the categories of controlled substances identified under this section;

(31) [(ee)] Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) [(ff)] Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

(33) [(gg)] Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexly)-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP;

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

(d) [(4)] Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) [(a)] Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) [(b)] Mecloqualone;

(3) [(c)] Methaqualone.

(e) [(5)] Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) [(a)] Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenly-2-oxazolamine;

(2) [(b)] N-Benzylpiperazine: Some other names: BZP,1-benzylpiperazine;

(3)[(c)]Cathinone,alsoknownas2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) [(d)] Fenethylline;

(5) [(e)] Methcathinone: Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

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

(7) [(g)] N-ethylamphetamine;

(8) [(h)] N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2022 c 16 s 53; 2019 c 158 s 13; 2015 2nd sp.s. c 4 s 1203; 2010 c 177 s 2; 1993 c 187 s 4; 1986 c 124 s 3; 1980 c 138 s 1; 1971 ex.s. c 308 s 69.50.204.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2019 c 158: See RCW 15.140.900.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.205 Schedule II tests. (a) [(1)] The commission shall place a substance in Schedule II upon finding that:

(1) [(a)] the substance has high potential for abuse;

(2) [(b)] the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) [(c)] the abuse of the substance may lead to severe psychological or physical dependence.

(b) [(2)] The commission may place a substance in Schedule II without making the findings required by subsection (a) [(1)] of this section if the substance is controlled under Schedule II of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 s 89; 1993 c 187 s 5; 1971 ex.s. c 308 s 69.50.205.]

69.50.206 Schedule II. (a) [(1)] The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) [(2)] Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) [(a)] Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw opium;

(ii) Opium extracts;

(iii) Opium fluid;

(iv) Powdered opium;

(v) Granulated opium;

(vi) Tincture of opium;

(vii) Codeine;

(viii) Dihydroetorphine;

(ix) Ethylmorphine;

(x) Etorphine hydrochloride;

(xi) Hydrocodone;

(xii) Hydromorphone;

(xiii) Metopon;

(xiv) Morphine;

(xv) Oripavine;

(xvi) Oxycodone;

(xvii) Oxymorphone; and

(xviii) Thebaine.

(2) [(b)] Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subsection (b)(1) [(2)(a)] of this section, but not including the isoquinoline alkaloids of opium.

(3) [(c)] Opium poppy and poppy straw.

(4) [(d)] Coca leaves and any salt, compound, derivative, or preparation of coca leaves including cocaine and ecgonine, and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(5) [(e)] Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.)

(c) [(3)] Opiates. Unless specifically excepted or unless in another schedule, any of the following synthetic opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) [(a)] Alfentanil;

(2) [(b)] Alphaprodine;

(3) [(c)] Anileridine;

(4) [(d)] Bezitramide;

(5) [(e)] Bulk dextropropoxyphene (nondosage forms);

(6) [(f)] Carfentanil;

(7) [(g)] Dihydrocodeine;

(8) [(h)] Diphenoxylate;

(9) [(i)] Fentanyl;

(10) [(j)] Isomethadone;

(11) [(k)] Levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(12) [(l)] Levomethorphan;

(13) [(m)] Levorphanol;

(14) [(n)] Metazocine;

(15) [(o)] Methadone;

(16) [(p)] Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(17) [(q)] Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

(18) [(r)] Pethidine (meperidine);

(19) [(s)] Pethidine—Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(20) [(t)] Pethidine—Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(21) [(u)] Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(22) [(v)] Phenazocine;

(23) [(w)] Piminodine;

(24) [(x)] Racemethorphan;

(25) [(y)] Racemorphan;

(26) [(z)] Remifentanil;

(27) [(aa)] Sufentanil;

(28) [(bb)] Tapentadol.

(d) [(4)] Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) [(a)] Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) [(b)] Methamphetamine, its salts, isomers, and salts of its isomers;

(3) [(c)] Phenmetrazine and its salts;

(4) [(d)] Methylphenidate;

(5) [(e)] Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(e) [(5)] Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) [(a)] Amobarbital;

(2) [(b)] Glutethimide;

(3) [(c)] Pentobarbital;

(4) [(d)] Phencyclidine;

(5) [(e)] Secobarbital.

(f) [(6)] Hallucinogenic substances.

Nabilone: Some trade or other names are (±)-trans3-(1,1-dimethlheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.

(g) [(7)] Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) [(a)] Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(2) [(b)] Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2010 c 177 s 3; 1993 c 187 s 6; 1986 c 124 s 4; 1980 c 138 s 2; 1971 ex.s. c 308 s 69.50.206.]

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.207 Schedule III tests. (a) [(1)] The commission shall place a substance in Schedule III upon finding that:

(1) [(a)] the substance has a potential for abuse less than the substances included in Schedules I and II;

(2) [(b)] the substance has currently accepted medical use in treatment in the United States; and

(3) [(c)] abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(b) [(2)] The commission may place a substance in Schedule III without making the findings required by subsection (a) [(1)] of this section if the substance is controlled under Schedule III of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 s 90; 1993 c 187 s 7; 1971 ex.s. c 308 s 69.50.207.]

69.50.208 Schedule III. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(a) [(1)] Stimulants. Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) [(a)] Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal Controlled Substances Act, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(2) [(b)] Benzphetamine;

(3) [(c)] Chlorphentermine;

(4) [(d)] Clortermine;

(5) [(e)] Phendimetrazine.

(b) [(2)] Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) [(a)] Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) [(b)] Any suppository dosage form containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) [(c)] Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(4) [(d)] Chlorhexadol;

(5) [(e)] Embutramide;

(6) [(f)] Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;

(7) [(g)] Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: (<plus-minus>)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(8) [(h)] Lysergic acid;

(9) [(i)] Lysergic acid amide;

(10) [(j)] Methyprylon;

(11) [(k)] Sulfondiethylmethane;

(12) [(l)] Sulfonethylmethane;

(13) [(m)] Sulfonmethane;

(14) [(n)] Tiletamine and zolazepam or any of their salts—some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one flupyrazapon.

(c) [(3)] Nalorphine.

(d) [(4)] Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection:

(1) [(a)] Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) [(b)] Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) [(c)] Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) [(d)] Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) [(e)] Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) [(f)] Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) [(g)] Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) [(h)] Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) [(5)] Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

(f) [(6)] Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product. Some other names for dronabinol: [6a R-trans]-6a,7,8, 10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d] pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(g) [(7)] Anabolic steroids. The term "anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, that promotes muscle growth and includes:

(1) [(a)] 3β,17-dihydroxy-5a-androstane;

(2) [(b)] 3α,17β-dihydroxy-5a-androstane;

(3) [(c)] 5α-androstan-3,17-dione;

(4) [(d)] 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

(5) [(e)] 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

(6) [(f)] 4-androstenediol (3β,17β-dihydroxy-androst-4-ene);

(7) [(g)] 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

(8) [(h)] 1-androstenedione ([5α]-androst-1-en-3,17-dione);

(9) [(i)] 4-androstenedione (androst-4-en-3,17-dione);

(10) [(j)] 5-androstenedione (androst-5-en-3,17-dione);

(11) [(k)] Bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(12) [(l)] Boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

(13) [(m)] Calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(14) [(n)] Clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

(15) [(o)] Dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

(16) [(p)] Δ1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);

(17) [(q)] 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

(18) [(r)] Drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

(19) [(s)] Ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

(20) [(t)] Fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

(21) [(u)] Formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

(22) [(v)] Furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

(23) [(w)] 13β-ethyl-17β-hydroxygon-4-en-3-one;

(24) [(x)] 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

(25) [(y)] 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

(26) [(z)] Mestanolone (17α-methyl-17β-hydroxy-5-androstan-3-one);

(27) [(aa)] Mesterolone (1α methyl-17β-hydroxy-[5α]-androstan-3-one);

(28) [(bb)] Methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

(29) [(cc)] Methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

(30) [(dd)] Methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

(31) [(ee)] 17α-methyl-3β,17β-dihydroxy-5a-androstane;

(32) [(ff)] 17α-methyl-3α,17β-dihydroxy-5a-androstane;

(33) [(gg)] 17α-methyl-3β,17β-dihydroxyandrost-4-ene;

(34) [(hh)] 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);

(35) [(ii)] Methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);

(36) [(jj)] Methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);

(37) [(kk)] Methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

(38) [(ll)] Mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

(39) [(mm)] 17α-methyl-Δ1-dihydrotestosterone (17bβ-hydroxy-17α-methyl-5α-androst-1-en-3-one) (also known as '17-α-methyl-1-testosterone');

(40) [(nn)] Nandrolone (17β-hydroxyestr-4-en-3-one);

(41) [(oo)] 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

(42) [(pp)] 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

(43) [(qq)] 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene);

(44) [(rr)] 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

(45) [(ss)] 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(46) [(tt)] 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(47) [(uu)] Norbolethone (13β, 17α-diethyl-17β-hydroxygon-4-en-3-one);

(48) [(vv)] Norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

(49) [(ww)] Norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

(50) [(xx)] Normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

(51) [(yy)] Oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

(52) [(zz)] Oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

(53) [(aaa)] Oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

(54) [(bbb)] Stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

(55) [(ccc)] Stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

(56) [(ddd)] Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(57) [(eee)] Testosterone (17β-hydroxyandrost-4-en-3-one);

(58) [(fff)] Tetrahydrogestrinone (13β, 17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

(59) [(ggg)] Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

(60) [(hhh)] Any salt, ester, or ether of a drug or substance described in this section. Such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the secretary of the department of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this section.

The commission may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (a)(1) and (2) [(1)(a) and (b)] of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2013 c 19 s 91; 2010 c 177 s 4; 1993 c 187 s 8; 1986 c 124 s 5; 1980 c 138 s 3; 1971 ex.s. c 308 s 69.50.208.]

Commission may change schedules of controlled substances: RCW 69.50.201.

69.50.209 Schedule IV tests. (a) [(1)] The commission shall place a substance in Schedule IV upon finding that:

(1) [(a)] the substance has a low potential for abuse relative to substances in Schedule III;

(2) [(b)] the substance has currently accepted medical use in treatment in the United States; and

(3) [(c)] abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule III.

(b) [(2)] The commission may place a substance in Schedule IV without making the findings required by subsection (a) [(1)] of this section if the substance is controlled under Schedule IV of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 s 92; 1993 c 187 s 9; 1971 ex.s. c 308 s 69.50.209.]

69.50.210 Schedule IV. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(a) [(1)] Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their

salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) [(a)] Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) [(b)] Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(b) [(2)] Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) [(a)] Alprazolam;
(2) [(b)] Barbital;
(3) [(c)] Bromazepam;
(4) [(d)] Camazepam;
(5) [(e)] Carisoprodol;
(6) [(f)] Chloral betaine;
(7) [(g)] Chloral hydrate;
(8) [(h)] Chlordiazepoxide;
(9) [(i)] Clobazam;
(10) [(j)] Clonazepam;
(11) [(k)] Clorazepate;
(12) [(l)] Clotiazepam;
(13) [(m)] Cloxazolam;
(14) [(n)] Delorazepam;
(15) [(o)] Diazepam;
(16) [(p)] Dichloralphenazone;
(17) [(q)] Estazolam;
(18) [(r)] Ethchlorvynol;
(19) [(s)] Ethinamate;
(20) [(t)] Ethyl loflazepate;
(21) [(u)] Fludiazepam;
(22) [(v)] Flunitrazepam;
(23) [(w)] Flurazepam;
(24) [(x)] Halazepam;
(25) [(y)] Haloxazolam;
(26) [(z)] Ketazolam;
(27) [(aa)] Loprazolam;
(28) [(bb)] Lorazepam;
(29) [(cc)] Lormetazepam;
(30) [(dd)] Mebutamate;
(31) [(ee)] Medazepam;
(32) [(ff)] Meprobamate;
(33) [(gg)] Methohexital;
(34) [(hh)] Methylphenobarbital (mephobarbital);
(35) [(ii)] Midazolam;
(36) [(jj)] Nimetazepam;
(37) [(kk)] Nitrazepam;
(38) [(ll)] Nordiazepam;
(39) [(mm)] Oxazepam;
(40) [(nn)] Oxazolam;
(41) [(oo)] Paraldehyde;
(42) [(pp)] Petrichloral;
(43) [(qq)] Phenobarbital;
(44) [(rr)] Pinazepam;
(45) [(ss)] Prazepam;
(46) [(tt)] Quazepam;
(47) [(uu)] Temazepam;
(48) [(vv)] Tetrazepam;
(49) [(ww)] Triazolam;
(50) [(xx)] Zaleplon;
(51) [(yy)] Zolpidem; and
(52) [(zz)] Zopiclone.

(c) [(3)] Fenfluramine. Any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(d) [(4)] Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) [(a)] Cathine((+)norpseudoephedrine);
(2) [(b)] Diethylpropion;
(3) [(c)] Fencamfamin;
(4) [(d)] Fenproporex;
(5) [(e)] Mazindol;
(6) [(f)] Mefenorex;
(7) [(g)] Modafinil;
(8) [(h)] Pemoline (including organometallic complexes and chelates thereof);
(9) [(i)] Phentermine;
(10) [(j)] Pipradrol;
(11) [(k)] Sibutramine;
(12) [(l)] SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

(e) [(5)] Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts:

(1) [(a)] Pentazocine;
(2) [(b)] Butorphanol, including its optical isomers.

The commission may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) [(2)] of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2013 c 19 s 93; 2010 c 177 s 5; 1993 c 187 s 10; 1986 c 124 s 6; 1981 c 147 s 2; 1980 c 138 s 4; 1971 ex.s. c 308 s 69.50.210.]

Commission may change schedules of controlled substances: RCW 69.50.201.

69.50.211 Schedule V tests. (a) [(1)] The commission shall place a substance in Schedule V upon finding that:

(1) [(a)] the substance has low potential for abuse relative to the controlled substances included in Schedule IV;

(2) [(b)] the substance has currently accepted medical use in treatment in the United States; and

(3) [(c)] abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule IV.

(b) [(2)] The commission may place a substance in Schedule V without being required to make the findings required by subsection (a) [(1)] of this section if the substance is controlled under Schedule V of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol. [2013 c 19 s 94; 1993 c 187 s 11; 1971 ex.s. c 308 s 69.50.211.]

69.50.212 Schedule V. Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule V:

(a) [(1)] Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) [(a)] Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) [(b)] Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) [(c)] Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) [(d)] Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) [(e)] Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) [(f)] Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(b) [(2)] Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(c) [(3)] Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) [(a)] Lacosamid, [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(2) [(b)] Pregabalin{(S)-3-(aminomethyl)-5-methylhexanoic acid}.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201. [2010 c 177 s 6; 1993 c 187 s 12; 1986 c 124 s 7; 1980 c 138 s 5; 1971 ex.s. c 308 s 69.50.212.]

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.213 Republishing of schedules. The commission shall publish updated schedules annually. Failure to publish updated schedules is not a defense in any administrative or judicial proceeding under this chapter. [2013 c 19 s 95; 1993 c 187 s 13; 1971 ex.s. c 308 s 69.50.213.]

69.50.214 Controlled substance analog. A controlled substance analog, to the extent intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in Schedule I. Within thirty days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the commission of information relevant to emergency scheduling as provided for in RCW 69.50.201(e) [(5)]. After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place. [2013 c 19 s 96; 1993 c 187 s 14.]

ARTICLE III
REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED SUBSTANCES

69.50.301 Rules—Fees. The commission may adopt rules and the department may charge reasonable fees, relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state. [2013 c 19 s 97; 1993 c 187 s 15; 1991 c 229 s 9; 1989 1st ex.s. c 9 s 431; 1971 ex.s. c 308 s 69.50.301.]

Additional notes found at www.leg.wa.gov

69.50.302 Registration requirements. (1) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the commission in accordance with the commission's rules.

(2) A person registered by the commission under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this Article.

(3) The following persons need not register and may lawfully possess controlled substances under this chapter:

(a) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment. This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(b) A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V.

(4) The commission may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and

safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 18.64.022 and 18.64.026 for violation of any provisions of this chapter.

(5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(6) The department, at the direction of the commission, may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the commission. [2024 c 121 s 45; 2013 c 19 s 98; 2011 c 336 s 839; 1993 c 187 s 16; 1989 1st ex.s. c 9 s 432; 1971 ex.s. c 308 s 69.50.302.]

Additional notes found at www.leg.wa.gov

69.50.303 Registration. (1) The commission shall register an applicant to manufacture, distribute, dispense, or conduct research with controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the commission shall consider the following factors:

(a) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(b) compliance with applicable state and local law;

(c) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(d) any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

(e) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(f) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(g) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(h) any other factors relevant to and consistent with the public health and safety.

(2) Registration under subsection (1) of this section does not entitle a registrant to manufacture or distribute controlled substances included in Schedule I or II other than those specified in the registration.

(3) Practitioners must be registered, or exempted under RCW 69.50.302(4), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The commission need not require separate registration under this Article for practitioners engaging in research with nonnarcotic substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I may conduct research with substances included in Schedule I within this state upon furnishing the commission evidence of that federal registration.

(4) A manufacturer or distributor registered under the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section. The commission may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act. [2024 c 121 s 46; 2013 c 19 s 99; 1993 c 187 s 17; 1989 1st ex.s. c 9 s 433; 1971 ex.s. c 308 s 69.50.303.]

Additional notes found at www.leg.wa.gov

69.50.304 Denial and discipline of registration—Seizure or placement under seal of controlled substances. (1) This chapter and chapter 18.64 RCW govern the denial of registrations and the discipline of registrations issued under RCW 69.50.303. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

(2) In addition to any other grounds, the commission may take action against the registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, dispense, or conduct research with a controlled substance upon finding that the registrant has:

(a) furnished false or fraudulent material information in any application filed under this chapter;

(b) been convicted of a felony under any state or federal law relating to any controlled substance;

(c) had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, dispense, or conduct research with controlled substances; or

(d) committed acts that would render registration under RCW 69.50.303 inconsistent with the public interest as determined under that section.

(3) The commission may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(4) If the commission suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(5) The commission may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The commission shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure

the return of the controlled substance and the conditions under which it will be returned. The commission may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of 180 days after the controlled substance was seized or placed under seal. The costs incurred by the commission in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(6) The commission shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances. [2024 c 121 s 47; 2013 c 19 s 100; 1993 c 187 s 18; 1989 1st ex.s. c 9 s 434; 1986 c 124 s 8; 1971 ex.s. c 308 s 69.50.304.]

Additional notes found at www.leg.wa.gov

69.50.306 Records of registrants. Persons registered, or exempted from registration under RCW 69.50.302(d) [(4)], to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the commission issues. [2013 c 19 s 102; 1971 ex.s. c 308 s 69.50.306.]

69.50.308 Prescriptions. (a) [(1)] A controlled substance may be dispensed only as provided in this section. Prescriptions electronically communicated must also meet the requirements under RCW 69.50.312.

(b) [(2)] Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written or electronically communicated prescription of a practitioner.

(1) [(a)] Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility or a hospice program; and

(iii) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) [(b)] Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) [(c)] Under (1) and (2) [(a) and (b)] of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) [(3)] In emergency situations, as defined by rule of the commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306.

(d) [(4)] A prescription for a substance included in Schedule II may not be refilled. A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(e) [(5)] Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing.

(f) [(6)] A written, oral, or electronically communicated prescription for a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, for a resident in a long-term care facility or hospice program may be communicated to the pharmacy by an authorized agent of the prescriber. A registered nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this section, without need for a written agency agreement.

(g) [(7)] The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless renewed by the practitioner.

(h) [(8)] A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

(i) [(9)] A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

(j) [(10)] A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

(k) [(11)] No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(l) [(12)] An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

(4) [(13)] For the purposes of this section, the terms "long-term care facility" and "hospice program" have the meaning[s] provided in RCW 18.64.011. [2016 c 148 s 8;

2013 c 276 s 3; 2013 c 19 s 103; 2012 c 10 s 46; 2001 c 248 s 1; 1993 c 187 s 19; 1971 ex.s. c 308 s 69.50.308.]

Reviser's note: This section was amended by 2013 c 19 s 103 and by 2013 c 276 s 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

69.50.309 Containers. A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner, and the owner of any animal for which such controlled substance has been prescribed, sold, or dispensed may lawfully possess it only in the container in which it was delivered to him or her by the person selling or dispensing the same. [2012 c 117 s 367; 1971 ex.s. c 308 s 69.50.309.]

69.50.310 Sodium pentobarbital—Registration of humane societies and animal control agencies for use in animal control. On and after September 21, 1977, a humane society and animal control agency may apply to the commission for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The commission may issue a limited registration to carry out the provisions of this section. Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. [2024 c 121 s 48; 2013 c 19 s 104; 1989 1st ex.s. c 9 s 435; 1977 ex.s. c 197 s 1.]

Additional notes found at www.leg.wa.gov

69.50.311 Triplicate prescription form program—Compliance by health care practitioners. Any licensed health care practitioner with prescription or dispensing authority shall, as a condition of licensure and as directed by the practitioner's disciplinary board, consent to the requirement, if imposed, of complying with a triplicate prescription form program as may be established by rule by the department of health. [1989 1st ex.s. c 9 s 436; 1984 c 153 s 20.]

Additional notes found at www.leg.wa.gov

69.50.312 Electronic communication of prescription information—Exceptions—Waiver—Penalty—Commission may adopt rules. (1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V, must be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) Prescription drug orders may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(c) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The following are exempt from subsection (1) of this section:

(a) Prescriptions issued by veterinarians, as that practice is defined in RCW 18.92.010;

(b) Prescriptions issued for a patient of a long-term care facility as defined in RCW 18.64.011, or a hospice program as defined in RCW 18.64.011;

(c) When the electronic system used for the communication of prescription information is unavailable due to a temporary technological or electronic failure;

(d) Prescriptions issued that are intended for prescription fulfillment and dispensing outside Washington state;

(e) When the prescriber and pharmacist are employed by the same entity, or employed by entities under common ownership or control;

(f) Prescriptions issued for a drug that the United States food and drug administration or the United States drug enforcement administration requires to contain certain elements that are not able to be accomplished electronically;

(g) Any controlled substance prescription that requires compounding as defined in RCW 18.64.011;

(h) Prescriptions issued for the dispensing of a nonpatient specific prescription under a standing order, approved protocol for drug therapy, collaborative drug therapy agreement, in response to a public health emergency, or other circumstances allowed by statute or rule where a practitioner may issue a nonpatient specific prescription;

(i) Prescriptions issued under a drug research protocol;

(j) Prescriptions issued by a practitioner with the capability of electronic communication of prescription information under this section, when the practitioner reasonably determines it is impractical for the patient to obtain the electronically communicated prescription in a timely manner, and such delay would adversely impact the patient's medical condition; or

(k) Prescriptions issued by a prescriber who has received a waiver from the department.

(3) The department must develop a waiver process for the requirements of subsection (1) of this section for practitioners due to economic hardship, technological limitations that are not reasonably in the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner. The waiver must be limited to one year or less, or for any other specified time frame set by the department.

(4) A pharmacist who receives a written, oral, or faxed prescription is not required to verify that the prescription properly meets any exemptions under this section. Pharmacists may continue to dispense and deliver medications from otherwise valid written, oral, or faxed prescriptions.

(5) An individual who violates this section commits a civil violation. Disciplinary authorities may impose a fine of two hundred fifty dollars per violation, not to exceed five thousand dollars per calendar year. Fines imposed under this section must be allocated to the health professions account.

(6) Systems used for the electronic communication of prescription information must:

(a) Comply with federal laws and rules for electronically communicated prescriptions for controlled substances included in Schedules II through V, as required by Title 21 C.F.R. parts 1300, 1304, 1306, and 1311;

(b) Meet the national council for prescription drug prescriber/pharmacist interface SCRIPT standard as determined by the department in rule;

(c) Have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records;

(d) Provide an explicit opportunity for practitioners to indicate their preference on whether a therapeutically equivalent generic drug may be substituted; and

(e) Include the capability to input and track partial fills of a controlled substance prescription in accordance with RCW 18.64.265. [2019 c 314 s 16; (2019 c 314 s 15 expired January 1, 2021). Prior: 2013 c 276 s 4; 2013 c 19 s 105; 1998 c 222 s 4.]

Expiration date—Effective date—2019 c 314: "(1) Section 15 of this act expires January 1, 2021.

(2) Section 16 of this act takes effect January 1, 2021." [2019 c 314 s 44.]

Declaration—2019 c 314: See note following RCW 18.22.810.

69.50.315 Medical assistance—Drug-related overdose—Prosecution for possession. (1) A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.

(2) A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3) The protection in this section from prosecution for possession crimes under RCW 69.50.4013 shall not be grounds for suppression of evidence in other criminal charges. [2015 c 205 s 4; 2010 c 9 s 2.]

Intent—2015 c 205: See note following RCW 69.41.095.

Intent—2010 c 9: "The legislature intends to save lives by increasing timely medical attention to drug overdose victims through the establishment of limited immunity from prosecution for people who seek medical assistance in a drug overdose situation. Drug overdose is the leading cause of unintentional injury death in Washington state, ahead of motor vehicle-related deaths. Washington state is one of sixteen states in which drug overdoses cause more deaths than traffic accidents. Drug overdose mortality rates have increased significantly since the 1990s, according to the centers for disease control and prevention, and illegal and prescription drug overdoses killed more than thirty-eight thousand people nationwide in 2006, the last year for which firm data is available. The Washington state department of health reports that in 1999 unintentional drug poisoning was responsible for four hundred three deaths in this state; in 2007, the number had increased to seven hundred sixty-one, compared with six hundred ten motor vehicle-related deaths that same year. Many drug overdose fatalities occur because peers delay or forego calling 911 for fear of arrest or police involvement, which researchers continually identify as the most significant barrier to the ideal first response of calling emergency services." [2010 c 9 s 1.]

69.50.317 Opioid drugs—Communication with patient. (1) Any practitioner who writes the first prescription for an opioid during the course of treatment to any patient must, under professional rules, discuss the following with the patient:

(a) The risks of opioids, including risk of dependence and overdose;

(b) Pain management alternatives to opioids, including nonopioid pharmacological treatments, and nonpharmacological treatments available to the patient, at the discretion of the practitioner and based on the medical condition of the patient; and

(c) A written copy of the warning language provided by the department under RCW 43.70.765.

(2) If the patient is under eighteen years old or does not have the capacity to make a health care decision, the discussion required by subsection (1) of this section must include the patient's parent, guardian, or the person identified in RCW 7.70.065, unless otherwise provided by law.

(3) The practitioner shall document completion of the requirements in subsection (1) of this section in the patient's health care record.

(4) To fulfill the requirements of subsection (1) of this section, a practitioner may designate any individual who holds a credential issued by a disciplining authority under RCW 18.130.040 to conduct the discussion.

(5) Violation of this section constitutes unprofessional conduct under chapter 18.130 RCW.

(6) This section does not apply to:

(a) Opioid prescriptions issued for the treatment of pain associated with terminal cancer or other terminal diseases, or for palliative, hospice, or other end-of-life care of where the practitioner determines the health, well-being, or care of the patient would be compromised by the requirements of this section and documents such basis for the determination in the patient's health care record; or

(b) Administration of an opioid in an inpatient or outpatient treatment setting.

(7) This section does not apply to practitioners licensed under chapter 18.92 RCW.

(8) The department shall review this section by March 31, 2026, and report to the appropriate committees of the legislature on whether this section should be retained, repealed, or amended. [2021 c 270 s 4; 2019 c 314 s 17.]

Effective date—2021 c 270: See note following RCW 7.70.065.

Declaration—2019 c 314: See note following RCW 18.22.810.

69.50.320 Registration of department of fish and wildlife for use in chemical capture programs—Rules. The department of fish and wildlife may apply to the commission for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs. The department of fish and wildlife must not permit a person to

administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The commission may issue a limited registration to carry out the provisions of this section. The commission may adopt rules to ensure strict compliance with the provisions of this section. The commission, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. In addition to any other grounds, the commission may suspend or revoke a registration issued under this chapter upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. [2024 c 121 s 49; 2013 c 19 s 106; 2003 c 175 s 2.]

Findings—2003 c 175: "The legislature finds that the department of fish and wildlife is responsible for the proper management of the state's diverse wildlife resources. Wildlife management often requires the department of fish and wildlife to immobilize individual animals in order for the animals to be moved, treated, examined, or for other legitimate purposes. The legislature finds that it is often necessary for the department to use certain controlled substances to accomplish these purposes. Therefore, the legislature finds that the department of fish and wildlife, in coordination with the *board of pharmacy, must be enabled to use approved controlled substances in order to accomplish its legitimate wildlife management goals." [2003 c 175 s 1.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "board of pharmacy" to "pharmacy quality assurance commission."

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

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

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

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

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

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

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

(B) The board must require license forfeiture on or before twenty-four calendar months of license issuance if a cannabis retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the cir-

cumstances warrant extending the forfeiture period beyond twenty-four calendar months.

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

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

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

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

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

(d) The board may issue cannabis retailer licenses pursuant to this chapter and RCW 69.50.335. [2022 c 16 s 54; 2020 c 236 s 6; 2018 c 132 s 3. Prior: 2017 c 317 s 1; 2017 c 316 s 2; 2016 c 170 s 1; 2015 c 70 s 5; 2014 c 192 s 2; 2013 c 3 s 4 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—2020 c 236: See note following RCW 69.50.335.

Effective date—2018 c 132 s 3: "Section 3 of this act takes effect July 1, 2018." [2018 c 132 s 4.]

Findings—2017 c 317: "The legislature finds that protecting the state's children, youth, and young adults under the legal age to purchase and consume marijuana [cannabis], by establishing limited restrictions on the advertising of marijuana [cannabis] and marijuana [cannabis] products, is necessary to assist the state's efforts to discourage and prevent underage consumption and the potential risks associated with underage consumption. The legislature finds that these restrictions assist the state in maintaining a strong and effective regulatory and enforcement system as specified by the federal government. The legislature finds this act leaves ample opportunities for licensed marijuana [cannabis] businesses to market their products to those who are of legal age to purchase them, without infringing on the free speech rights of business owners. Finally, the legislature finds that the state has a substantial and compelling interest in enacting this act aimed at protecting Washington's children, youth, and young adults." [2017 c 317 s 12.]

Application—2017 c 317: "This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after July 23, 2017." [2017 c 317 s 25.]

Effective date—2017 c 316 ss 2 and 3: "Sections 2 and 3 of this act take effect July 1, 2018." [2017 c 316 s 4.]

Effective date—2016 c 170: "This act takes effect July 1, 2016." [2016 c 170 s 3.]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.3251 Cannabis manufacture, sale, distribution prohibited without a license—Tribal agreements—Synthetic cannabinoids prohibited. (1) Except as otherwise provided in this chapter or as permitted under an agreement between the state and a tribe entered into under RCW 43.06.490, no person may manufacture, sell, or distribute cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products, or any cannabis products without a valid license issued by the board or commission.

(2) Except as permitted under an agreement between the state and a tribe entered into under RCW 43.06.490, any person performing any act requiring a license under this title, without having in force an appropriate and valid license issued to the person, is in violation of this chapter.

(3) The producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited, except for products approved by the United States food and drug administration. [2023 c 365 s 5.]

Construction—2023 c 365: See note following RCW 69.50.326.

69.50.3255 Cannabis producers and processors—Cannabis waste. (1) A licensed cannabis producer and a licensed cannabis processor may sell cannabis waste to a person not licensed under this chapter if:

(a) The cannabis waste would not be designated as dangerous or hazardous waste under:

(i) Chapter 70A.300 RCW and rules adopted under that chapter; and

(ii) Cannabis waste disposal rules adopted by the board;

(b) The licensee notifies the board and the Washington state department of agriculture before the sale. Such notice must include information about the quantity and sale price of cannabis waste transferred and the name of the person or entity that purchased the cannabis waste; and

(c) The licensee makes all sales available to the public on an equal and nondiscriminatory basis.

(2) Cannabis waste not sold in accordance with subsection (1) of this section and not designated as dangerous or hazardous waste under chapter 70A.300 RCW, rules adopted pursuant to that chapter, or cannabis waste disposal rules adopted by the board must be rendered unusable before leaving a licensed producer, processor, or laboratory.

(3) For the purposes of this section, "cannabis waste" means solid waste generated during cannabis production or processing that has a THC concentration of 0.3 percent or less. "Cannabis waste" does not include "hemp" or "industrial hemp" as those terms are defined in RCW 15.140.020.

(4) Nothing in this chapter prohibits producers or processors from selling cannabis waste to a person not licensed under this chapter if such transfer is pursuant to the requirements of this section.

(5) The board may adopt rules necessary to implement this section. [2024 c 243 s 1.]

69.50.326 Cannabis producers, processors—Use of additives to enhance CBD concentration of authorized products—Rules. (1) Licensed cannabis producers and licensed cannabis processors may use a CBD product as an additive for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, and sale under this chapter. Except as otherwise provided

in subsection (2) of this section, such CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter.

(2) Subject to the requirements set forth in (a) through (c) of this subsection, and for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, or sale under this chapter, licensed cannabis producers and licensed cannabis processors may use a CBD product obtained from a source not licensed under this chapter, provided the CBD product:

(a) Is not cannabis, or a cannabis product, as defined in this chapter;

(b) Is not a synthetic cannabinoid; and

(c) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established under this chapter and the applicable administrative rules.

(3) Subject to the requirements of this subsection (3), the board may enact rules necessary to implement the requirements of this section. Such rule making is limited to regulations pertaining to laboratory testing and product safety standards for those cannabidiol products used by licensed producers and processors in the manufacture of cannabis products marketed by licensed retailers under this chapter. The purpose of such rule making must be to ensure the safety and purity of cannabidiol products used by cannabis producers and processors licensed under this chapter and incorporated into products sold by licensed recreational cannabis retailers. This rule-making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under this chapter. [2023 c 365 s 3; 2022 c 16 s 55; 2018 c 132 s 1.]

Construction—2023 c 365: "Nothing in this act shall be construed to require any agency to purchase a liquid chromatography-mass spectrometry instrument." [2023 c 365 s 6.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.50.327 Cannabis processors—Incorporation of characterizing flavor in vapor products. (1) Except as provided in subsection (2) of this section, cannabis processors may incorporate in cannabis vapor products a characterizing flavor if the characterizing flavor is derived from botanical terpenes naturally occurring in the cannabis plant, regardless of source, and if the characterizing flavor mimics the terpene profile found in a cannabis plant. Characterizing flavors authorized under this section do not include any synthetic terpenes.

(2) If the board determines a characterizing flavor otherwise authorized under this section may pose a risk to public health or youth access, the board may, by rule adopted under RCW 69.50.342, prohibit the use in cannabis vapor products of such a characterizing flavor. [2022 c 16 s 56; 2020 c 133 s 4.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Effective date—2020 c 133: See notes following RCW 69.50.342.

69.50.3271 Products combining cannabis and alcohol prohibited. It is unlawful to manufacture, import, offer, or sell in this state a consumable product that contains cannabis or any form of tetrahydrocannabinol in combination with beer, wine, spirits, or any other type of liquor in the same product. [2023 c 217 s 1.]

69.50.328 Cannabis producers, processors—No direct or indirect financial interest in licensed cannabis retailers. Neither a licensed cannabis producer nor a licensed cannabis processor shall have a direct or indirect financial interest in a licensed cannabis retailer. [2022 c 16 s 57; 2013 c 3 s 5 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.331 Application for license—Renewal fee reimbursement, social equity plan. (1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, or for the renewal of a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, the board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, cancellation, or renewal or denial thereof, of any license, the board may consider any prior criminal arrests or convictions of the applicant, any public safety administrative violation history record with the board, and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(b) No license of any kind may be issued to:

(i) A person under the age of 21 years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The board may, in its discretion, subject to RCW 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products thereunder must be suspended or terminated, as the case may be.

(b) The board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, and consider mitigating and aggravating circumstances in any case and deviate from any prescribed penalty, under rules the board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must return the license to the licensee at the expiration or termination of the period of suspension. The board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the board to implement and enforce this chapter. All conditions and restrictions imposed by the board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of 21 years.

(7)(a) Before the board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, the county legislative authority or the official or employee selected by it, the tribal government, or port authority has the right to file with the board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The board may extend the time period for submitting written objections upon request from the authority notified by the board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, board representatives must present and defend the board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (e) of this subsection, the board may not issue a license for any premises within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged 21 years or older.

(b) A city, county, or town may permit the licensing of premises within 1,000 feet but not less than 100 feet of the

facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within 1,000 feet but not less than 100 feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within 1,000 feet but not less than 100 feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to cannabis producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a cannabis research facility.

(e) The board must issue a certificate of compliance if the premises met the requirements under (a), (b), (c), or (d) of this subsection on the date of the application. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor.

(f) The board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(9) A city, town, or county may adopt an ordinance prohibiting a cannabis producer or cannabis processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

(11) The board may not issue a cannabis retail license for any premises not currently licensed if:

(a) The board receives a written objection from the legislative authority of an incorporated city or town, or county legislative authority, relating to the physical location of the proposed premises;

(b) The objection to the location from the incorporated city or town, or county legislative authority, is received by the board within 20 days of the board notifying the incorporated city or town, or county legislative authority, of the proposed cannabis retail location; and

(c) The objection to the issuance of a cannabis retail license at the specified location is based on a preexisting local ordinance limiting outlet density in a specific geographic area. For purposes of this subsection (11), a preexisting local ordinance is an ordinance enacted and in effect before the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed. No objection related to the physical location of a proposed premises may be made by a local government under this subsection (11) based on a local ordinance enacted after the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed.

(12) After January 1, 2024, all cannabis licensees are encouraged but are not required to submit a social equity plan to the board. Upon confirmation by the board that a cannabis licensee who is not a social equity applicant, and who does not hold a social equity license issued under RCW 69.50.335, has submitted a social equity plan, the board must within 30 days reimburse such a licensee an amount equal to the cost of the licensee's annual cannabis license renewal fee. The license renewal fee reimbursement authorized under this subsection is subject to the following limitations:

(a) The board may provide reimbursement one time only to any licensed entity; and

(b) Any licensed entity holding more than one cannabis license is eligible for reimbursement of the license renewal fee on only one license. [2023 c 220 s 2; 2022 c 16 s 58; 2020 c 154 s 1; 2019 c 394 s 7; 2017 c 317 s 2; 2015 2nd sp.s. c 4 s 301; 2015 c 70 s 6; 2013 c 3 s 6 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—2019 c 394: See note following RCW 69.50.563.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.334 Denial of application—Opportunity for hearing. (1) The action, order, or decision of the board as to any denial of an application for the reissuance of a license to

produce, process, or sell cannabis, or as to any revocation, suspension, or modification of any license to produce, process, or sell cannabis, or as to the administrative review of a notice of unpaid trust fund taxes under RCW 69.50.565, must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(2) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(3) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (6) of this section, prior to the suspension of any license.

(4) An opportunity for a hearing must be provided to any person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(5) No hearing may be required under this section until demanded by the applicant, licensee, or person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(6) The board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board. [2022 c 16 s 59; 2015 2nd sp.s. c 4 s 201; 2013 c 3 s 7 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—2015 2nd sp.s. c 4: "(1)(a) The legislature finds the implementation of Initiative Measure No. 502 has established a clearly disadvantaged regulated legal market with respect to prices and the ability to compete with the unregulated medical dispensary market and the illicit market. The legislature further finds that it is crucial that the state continues to ensure a safe, highly regulated system in Washington that protects valuable state revenues while continuing efforts towards disbanding the unregulated marijuana [cannabis] markets. The legislature further finds that ongoing evaluation on the impact of meaningful marijuana [cannabis] tax reform for the purpose of stabilizing revenues is crucial to the overall effort of protecting the citizens and resources of this state. The legislature further finds that a partnership with local jurisdictions in this effort is imperative to the success of the legislature's policy objective. The legislature further finds that sharing revenues to promote a successful partnership in achieving the legislature's intent should be transparent and hold local jurisdictions accountable for their use of state shared revenues. Therefore, the legislature intends to reform the current tax structure for the regulated legal marijuana [cannabis] system to create price parity with the large medical and illicit markets with the specific objective of increasing the market share of the legal and highly regulated marijuana [cannabis] market. The legislature further intends to share marijuana [cannabis] tax revenues with local jurisdictions for public safety purposes and to facilitate the ongoing process of ensuring a safe regulated marijuana [cannabis] market in all communities across the state.

(b) The legislature further finds marijuana [cannabis] use for qualifying patients is a valid and necessary option health care professionals may recommend for their patients. The legislature further finds that while recognizing the difference between recreational and medical use of marijuana [cannabis], it is also imperative to distinguish that the authorization for medical use of marijuana [cannabis] is different from a valid prescription provided by a doctor to a patient. The legislature further finds the authorization for medical use of marijuana [cannabis] is unlike over-the-counter medications that require no oversight by a health care professional. The legislature further finds that due to the unique characterization of authorizations for the medical use of marijuana [cannabis], the policy of providing a tax preference benefit for patients using an authorization should in no way be construed as precedent for changes in the treatment of prescription medications or over-the-counter medications. Therefore, the legislature intends to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana [cannabis] purchased or obtained for medical use when authorized by a health care professional.

(2)(a) This subsection is the tax preference performance statement for the retail sales and use tax exemption for marijuana [cannabis] purchased or obtained by qualifying patients or their designated providers provided in RCW 82.08.9998(1) and 82.12.9998(1). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to accomplish the general purposes indicated in RCW 82.32.808(2)(e).

(c) It is the legislature's specific public policy objective to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana [cannabis] purchased or obtained for medical use when authorized by a health care professional.

(d) To measure the effectiveness of the exemption provided in chapter 4, Laws of 2015 2nd sp. sess. in achieving the specific public policy objective described in (c) of this subsection, the department of revenue must provide the necessary data and assistance to the state liquor and cannabis board for the report required in RCW 69.50.535." [2015 2nd sp.s. c 4 s 101.]

Effective dates—2015 2nd sp.s. c 4: "(1) Except as provided otherwise in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

(2) Except for section 503 of this act, part V of this act takes effect October 1, 2015.

(3) Sections 203 and 1001 of this act take effect July 1, 2016.

(4) Sections 302, 503, 901, 1204, and 1601 of this act and part XV of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 24, 2015." [2015 2nd sp.s. c 4 s 1605.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.335 Cannabis retailer, processor, producer licenses—Issue, reissue of licenses—Social equity applicants—Rules—Definitions. (1)(a) Beginning December 1, 2020, and until July 1, 2032, cannabis retailer licenses, cannabis processor licenses, and cannabis producer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of cannabis retailer licenses established before January 1, 2020, by the board, may be issued or reissued to an applicant who meets the cannabis retailer license, cannabis processor license, or cannabis producer license requirements of this chapter.

(b) In accordance with (a) of this subsection, the board may issue or reissue:

(i) Up to 100 cannabis processor licenses immediately; and

(ii) Beginning January 1, 2025, up to 10 cannabis producer licenses, which must be issued in conjunction with a cannabis processor license.

(c) In addition to the cannabis retailer licenses and cannabis producer licenses that may be issued under (a) and (b) of this subsection, beginning January 1, 2023, and continuing every three years until July 1, 2032, the board may, with the approval of the legislature through the passage of a bill,

increase the number of cannabis retailer licenses and cannabis producer licenses for the social equity program based on:

(i) The most recent census data available as of January 1, 2023; and

(ii) The annual population estimates published by the office of financial management.

(d) In addition to the cannabis retailer licenses that may be issued under (a) of this subsection, beginning January 1, 2024, and until July 1, 2032, the board may issue up to 52 cannabis retailer licenses for the social equity program.

(e)(i) At the time of licensure, all licenses issued under the social equity program under this section may be located in any city, town, or county in the state that allows cannabis retail, cannabis production, or cannabis processing business activities, as applicable, at the proposed location, regardless of:

(A) Whether a cannabis retailer license, cannabis producer license, or cannabis processor license was originally allocated to or issued in another city, town, or county; and

(B) The maximum number of retail cannabis licenses established by the board for each county under RCW 69.50.345.

(ii) The board must adopt rules establishing a threshold of the number of licenses created by this section that can be located in each county.

(f) After a social equity license has been issued under this section for a specific location, the location of the licensed business may not be moved to a city, town, or county different from the city, town, or county for which it was initially licensed.

(2)(a) In order to be considered for a cannabis retailer license, cannabis processor license, or cannabis producer license under subsection (1) of this section, an applicant must be a social equity applicant and submit required cannabis license materials to the board. If the application proposes ownership by more than one person, then at least 51 percent of the proposed ownership structure must reflect the qualifications of a social equity applicant.

(b) Persons holding an existing cannabis retailer license or title certificate for a cannabis retailer business in a local jurisdiction subject to a ban or moratorium on cannabis retail businesses may apply for a license under this section.

(3)(a) In determining the priority for issuance of a license among applicants, the board must select a third-party contractor to identify and score social equity applicants, using a scoring rubric developed by the board. The board must rely on the score provided by the third-party contractor in issuing licenses.

(b) The board may deny any application submitted under this subsection if:

(i) The board determines that, upon the advice of the third-party contractor, the application does not meet the social equity licensing requirements of this chapter; or

(ii) The board determines the application does not otherwise meet licensing requirements.

(4) The board must adopt rules to implement this section. Prior to adopting any rule implementing this section, the board must consider advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section only be transferred to or assumed by individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant for a period of at least five years from the date of initial licensure.

(5) The annual fee for issuance, reissuance, or renewal for any license under this section must be waived through July 1, 2032.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Disproportionately impacted area" means a census tract or comparable geographic area within Washington state where community members were more likely to be impacted by the war on drugs. These areas must be determined in rule by the board, in consultation with the office of equity, using a standardized statistical equation to identify areas with demographic indicators consistent with populations most impacted by the war on drugs. These areas must be assessed to account for demographic changes in the composition of the population over time. Disproportionately impacted areas must include census tracts or comparable geographic areas in the top 15th percentile in at least two of the following demographic indicators of populations most impacted by the war on drugs:

(i) The area has a high rate of people living under the federal poverty level;

(ii) The area has a high rate of people who did not graduate from high school;

(iii) The area has a high rate of unemployment; or

(iv) The area has a high rate of people receiving public assistance.

(b) "Social equity applicant" means an applicant who has at least 51 percent ownership and control by one or more individuals who meet at least two of the following qualifications:

(i) Lived in a disproportionately impacted area in Washington state for a minimum of five years between 1980 and 2010;

(ii) Has been arrested or convicted of a cannabis offense or has a family member who has been arrested or convicted of a cannabis offense;

(iii) Had a household income in the year prior to submitting an application under this section that was less than the median household income within the state of Washington as calculated by the United States census bureau; or

(iv) Is both a socially and economically disadvantaged individual as defined by the office of minority and women's business enterprises under chapter 39.19 RCW.

(c) "Social equity goals" means:

(i) Increasing the number of cannabis retailer, producer, and processor licenses held by social equity applicants from disproportionately impacted areas; and

(ii) Reducing accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of cannabis prohibition laws.

(7) Except for the process detailed in subsection (1) of this section, the process for creating new cannabis retail licenses under this chapter remains unaltered. [2023 c 220 s 3; 2022 c 16 s 60; 2021 c 169 s 2; 2020 c 236 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—2020 c 236: "(1) The legislature finds that additional efforts are necessary to reduce barriers to entry to the cannabis indus-

try for individuals and communities most adversely impacted by the enforcement of cannabis-related laws. In the interest of establishing a cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of drug-related laws, including cannabis-related laws, the legislature finds a social equity program should be created.

(2) The legislature finds that individuals who have been arrested or incarcerated due to drug laws, and those who have resided in areas of high poverty, suffer long-lasting adverse consequences, including impacts to employment, business ownership, housing, health, and long-term financial well-being. The legislature also finds that family members, especially children, and communities of those who have been arrested or incarcerated due to drug laws, suffer from emotional, psychological, and financial harms as a result of such arrests and incarceration. The legislature further finds that individuals in disproportionately impacted areas suffered the harms of enforcement of cannabis-related laws. Those communities face greater difficulties accessing traditional banking systems and capital for establishing businesses.

(3) The legislature therefore finds that in the interest of remedying harms resulting from the enforcement of cannabis-related laws in disproportionately impacted areas, creating a social equity program will further an equitable cannabis industry by promoting business ownership among individuals who have resided in areas of high poverty and high enforcement of cannabis-related laws. The social equity program should offer, among other things, financial and technical assistance and license application benefits to individuals most directly and adversely impacted by the enforcement of cannabis-related laws who are interested in starting cannabis business enterprises. It is the intent of the legislature that implementation of the social equity program authorized by this act not result in an increase in the number of marijuana [cannabis] retailer licenses above the limit on the number of marijuana [cannabis] retailer licenses in the state established by the [Washington state liquor and cannabis] board before January 1, 2020." [2020 c 236 s 1.]

69.50.339 Transfer of license to produce, process, or sell cannabis—Reporting of proposed sales of outstanding or issued stock of a corporation. (1) If the board approves, a license to produce, process, or sell cannabis may be transferred, without charge, to the surviving spouse or domestic partner of a deceased licensee if the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party to receive a cannabis producer's, cannabis processor's, or cannabis retailer's license, the board may require a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding or issued stock of a corporation licensed under chapter 3, Laws of 2013, or any proposed change in the officers of such a corporation, must be reported to the board, and board approval must be obtained before the changes are made. A fee of seventy-five dollars will be charged for the processing of the change of stock ownership or corporate officers. [2022 c 16 s 62; 2013 c 3 s 8 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.342 State liquor and cannabis board—Rules. (1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where cannabis is produced or processed, and inspection of the retail outlets and premises where cannabis is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where cannabis is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of cannabis, useable cannabis, cannabis concentrates, cannabis health and beauty aids, and cannabis-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters;

(m) The prohibition of any type of device used in conjunction with a cannabis vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of cannabis products, including cannabis vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; and

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each cannabis vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each cannabis vapor product.

(2) Rules adopted on retail outlets holding medical cannabis endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed cannabis businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed cannabis businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter. [2022 c 16 s 63; 2020 c 133 s 3; 2019 c 394 s 4; 2015 2nd sp.s. c 4 s 1601; 2015 c 70 s 7; 2013 c 3 s 9 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—2020 c 133: "The legislature finds that recent reports of lung illnesses associated with vapor products demand serious attention by the state in the interest of protecting public health and preventing youth access. While state law grants the liquor and cannabis board broad authority to regulate vapor products containing marijuana [cannabis], the legislature finds that risks to public health and youth access can be mitigated by clarifying that the board is granted specific authority to prohibit the use of any additive, solvent, ingredient, or compound in marijuana [cannabis] vapor product production and processing and to prohibit any device used in conjunction with a marijuana [cannabis] vapor product." [2020 c 133 s 1.]

Effective date—2020 c 133: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 25, 2020]." [2020 c 133 s 5.]

Findings—2019 c 394: See note following RCW 69.50.563.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.345 State liquor and cannabis board—Rules—Procedures and criteria. The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(2)(a) Except as provided in RCW 69.50.335, determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(i) Population distribution;

(ii) Security and safety issues;

(iii) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(iv) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider infor-

mation contained in the medical cannabis authorization database established in RCW 69.51A.230.

(b)(i) In making the determination under (a) of this subsection, the board must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density.

(ii) An incorporated city or town, or county legislative authority, may enact an ordinance prescribing outlet density limitations. An ordinance may not affect licenses issued before the effective date of the ordinance prescribing outlet density limitations.

(iii) The board may adopt rules to identify how local jurisdiction input will be evaluated;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under 21 years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board. [2023 c 220 s 5; (2023 c 220 s 4 expired July 1, 2024); 2022 c 16 s 65; (2022 c 16 s 64 expired July 1, 2024). Prior: 2019 c 393 s 2; 2019 c 277 s 6; 2018 c 43 s 2; 2015 c 70 s 8; 2013 c 3 s 10 (Initiative Measure No. 502, approved November 6, 2012).]

Effective date—2023 c 220 s 5: "Section 5 of this act takes effect July 1, 2024." [2023 c 220 s 9.]

Expiration date—2023 c 220 s 4: "Section 4 of this act expires July 1, 2024." [2023 c 220 s 8.]

Effective date—2022 c 16 ss 65 and 68: "Sections 65 and 68 of this act take effect July 1, 2024." [2022 c 16 s 174.]

Expiration date—2022 c 16 ss 64 and 67: "Sections 64 and 67 of this act expire July 1, 2024." [2022 c 16 s 173.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2019 c 393: "This act takes effect January 1, 2020." [2019 c 393 s 6.]

Intent—2019 c 393: See note following RCW 69.50.346.

Effective date—2019 c 277 ss 2 and 6: See note following RCW 69.50.348.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.346 Labels on retail products. (1) The label on a cannabis product package, including cannabis concentrates, useable cannabis, or cannabis-infused products, sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the cannabis producer and processor;

(b) The lot numbers of the product;

(c) The THC concentration and CBD concentration of the product;

(d) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(e) Language required by RCW 69.04.480; and

(f) A disclaimer, subject to the following conditions:

(i) Where there is one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "This statement has not

been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."; and

(ii) Where there is more than one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(2)(a) For cannabis products that have been identified by the department in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant cannabis product, the product label and labeling may include a structure or function claim describing the intended role of a product to maintain the structure or any function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(b) A statement made under (a) of this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(3) The labels and labeling may not be:

(a) False or misleading; or

(b) Especially appealing to children.

(4) The label is not required to include the business or trade name or Washington state unified business identifier number of, or any information about, the cannabis retailer selling the cannabis product.

(5) A cannabis product is not in violation of any Washington state law or rule of the board solely because its label or labeling contains:

(a) Directions or recommended conditions of use; or

(b) A warning describing the psychoactive effects of the cannabis product, provided that the warning is truthful and not misleading.

(6) This section does not create any civil liability on the part of the state, the board, any other state agency, officer, employee, or agent based on a cannabis licensee's description of a structure or function claim or the product's intended role under subsection (2) of this section.

(7) Nothing in this section shall apply to a drug, as defined in RCW 69.50.101, or a pharmaceutical product approved by the United States food and drug administration. [2023 c 365 s 4; 2022 c 16 s 66; 2019 c 393 s 3; 2018 c 43 s 1.]

Construction—2023 c 365: See note following RCW 69.50.326.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2019 c 393: "The legislature intends to allow additional information on the labels and labeling of marijuana [cannabis] products to assist consumers in making purchases of these products.

The legislature declares that labels and labeling should not make any disease claim indicating the product is intended for use in the diagnosis, treatment, cure, or prevention of any disease.

The legislature recognizes that it may be useful for a label or labeling to describe the intended role of a marijuana [cannabis] product that contains nutrients or other dietary ingredients, including herbs and other botanicals, to maintain a structure or function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading." [2019 c 393 s 1.]

Effective date—2019 c 393: See note following RCW 69.50.345.

69.50.348 Representative samples of cannabis, useable cannabis, or cannabis-infused products—Product testing—Fees. (1) On a schedule determined by the board, every licensed cannabis producer and processor must submit representative samples of cannabis, useable cannabis, or cannabis-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state department of agriculture. The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the board under RCW 69.50.342 or the department of health under RCW 69.50.375. In conducting tests of cannabis product samples, testing laboratories must adhere to laboratory quality standards adopted by the state department of agriculture under chapter 15.150 RCW. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Independent, third-party testing laboratories performing cannabis product testing under subsection (1) of this section must obtain and maintain accreditation.

(3) Licensees must submit the results of inspection and testing for quality assurance and product standards required under RCW 69.50.342 to the board on a form developed by the board.

(4) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the board then, except as otherwise provided by the board in rule, the entire lot from which the sample was taken must be destroyed.

(5) The department of agriculture may determine, assess, and collect annual fees to support the direct and indirect costs of implementing a state cannabis product testing laboratory accreditation program and laboratory quality standards program, except for the initial program development costs. The department of agriculture may establish a payment schedule requiring periodic installments of the annual fee. The department of agriculture must review and update its fee schedule biennially. The costs of cannabis product testing laboratory accreditation are those incurred by the department of agriculture in administering and enforcing the accreditation program. The costs may include, but are not limited to, the costs incurred in undertaking the following accreditation functions:

(a) Evaluating the protocols and procedures used by a laboratory;

(b) Performing on-site audits;

(c) Evaluating participation and successful completion of proficiency testing;

(d) Determining the capability of a laboratory to produce accurate and reliable test results; and

(e) Such other accreditation activities as the department of agriculture deems appropriate.

(6) The department of agriculture and the interagency coordination team created in RCW 15.150.020 must act cooperatively to ensure effective implementation and administration of this section.

(7) All fees collected under this section must be deposited in the dedicated cannabis account created in RCW 69.50.530. [2024 c 69 s 2. Prior: 2022 c 135 s 6; (2022 c 135 s 5 expired July 1, 2024); 2022 c 16 s 68; (2022 c 16 s 67

expired July 1, 2024); 2019 c 277 s 2; (2019 c 277 s 1 expired July 1, 2024); 2013 c 3 s 11 (Initiative Measure No. 502, approved November 6, 2012).]

Effective date—2024 c 69 s 2: "Section 2 of this act takes effect July 1, 2024." [2024 c 69 s 4.]

Effective date—2022 c 135 s 6: "Section 6 of this act takes effect July 1, 2024." [2022 c 135 s 8.]

Expiration date—2022 c 135 s 5: "Section 5 of this act expires July 1, 2024." [2022 c 135 s 7.]

Purpose—2022 c 135: See note following RCW 15.150.010.

Effective date—2022 c 16 ss 65 and 68: See note following RCW 69.50.345.

Expiration date—2022 c 16 ss 64 and 67: See note following RCW 69.50.345.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2019 c 277 ss 2 and 6: "Sections 2 and 6 of this act take effect July 1, 2024." [2019 c 277 s 8.]

Expiration date—2019 c 277 s 1: "Section 1 of this act expires July 1, 2024." [2019 c 277 s 7.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.351 Board members and employees—Conflict of interest. Except as provided by chapter 42.52 RCW, no member of the board and no employee of the board shall have any interest, directly or indirectly, in the producing, processing, or sale of cannabis, useable cannabis, or cannabis-infused products, or derive any profit or remuneration from the sale of cannabis, useable cannabis, or cannabis-infused products other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with the business. [2022 c 16 s 69; 2013 c 3 s 12 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.354 Retail outlet licenses. There may be licensed, in no greater number in each of the counties of the state than as the board shall deem advisable, retail outlets established for the purpose of making cannabis concentrates, useable cannabis, and cannabis-infused products available for sale to adults aged twenty-one and over. Retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed cannabis retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law. [2022 c 16 s 70; 2015 c 70 s 9; 2014 c 192 s 3; 2013 c 3 s 13 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.357 Retail outlets—Rules. (1)(a) Retail outlets may not sell products or services other than cannabis concentrates, useable cannabis, cannabis-infused products, or paraphernalia intended for the storage or use of cannabis concentrates, useable cannabis, or cannabis-infused products.

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

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

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

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

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

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

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

(5)(a) By December 31, 2024, licensed cannabis retailers shall post a conspicuous notice at the point of sale in retail outlets with information about: (i) The potential health risks and adverse health impacts that may be associated with the consumption of high THC cannabis; (ii) the potentially much higher risks that may be present for younger persons under age 25 as well as for persons who have or are at risk for developing certain mental health conditions or psychotic disorders; and (iii) where to find help in case of negative effects and resources for quitting or reducing cannabis consumption. The

notice must be the same or substantially the same as the notice developed by the department of health under this subsection (5).

(b) The department of health shall develop the notice required under this section and make it available to licensed cannabis retailers. The notice must, at a minimum, identify the information specified in (a)(i) through (iii) of this subsection, and may include additional information.

(6) The board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated cannabis account created under RCW 69.50.530. [2024 c 360 s 4; 2022 c 16 s 71. Prior: 2017 c 317 s 13; 2017 c 131 s 1; 2016 c 171 s 1; 2015 2nd sp.s. c 4 s 203; 2015 c 70 s 12; 2014 c 192 s 4; 2013 c 3 s 14 (Initiative Measure No. 502, approved November 6, 2012).]

Finding—Intent—2024 c 360: "The legislature finds that there is a growing body of research evidencing that consuming cannabis with high concentrations of THC may be harmful to some people, including younger persons and persons who have or are at risk for developing certain mental health conditions or psychotic disorders. Products like THC-infused vape oils, shatter, and dabs can contain close to 100 percent THC, and may carry risks not commonly associated with consumption of useable cannabis flower or other cannabis products with relatively lower THC concentrations. In the interest of public health, the legislature intends to review studies and consider increasing the minimum legal age of sale of high THC cannabis products to age 25, and the legislature intends to require caution notices, developed by the department of health, to be posted at the point of sale in cannabis retail outlets to raise awareness about possible health impacts and risks associated with high THC cannabis. The legislature further intends to implement and study health interventions, gather data, and ensure that new research, data, and information concerning the impacts of high THC cannabis continues to be incorporated into state policy." [2024 c 360 s 1.]

Intent—2024 c 360: "The legislature intends to provide the department of health with recurring funding available each fiscal year, beginning in fiscal year 2025, to allow the department of health to issue requests for proposals and contract for targeted public health messages and social marketing campaigns directed toward individuals most likely to suffer negative impacts of high THC products including persons under 25 years of age and persons living with mental health challenges. Messages and media campaigns funded must include information about risks, comparative dosing of cannabis products, and resources for persons seeking support for quitting or decreasing their intake of tetrahydrocannabinol. The content of public health messages and social marketing campaigns must be developed in partnership with persons targeted by the messages and campaigns and in consultation with professionals proficient in public health communication and in cannabis research." [2024 c 360 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Effective date—2016 c 171: "This act takes effect July 1, 2016." [2016 c 171 s 2.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: "Sections 12, 19, 20, 23 through 26, 31, 35, 40, and 49 of this act take effect July 1, 2016." [2015 c 70 s 50.]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.360 Cannabis retailers, employees of retail outlets—Certain acts not criminal or civil offenses. The following acts, when performed by a validly licensed cannabis retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of cannabis concentrates, useable cannabis, or cannabis-infused products that have been properly packaged and labeled from a cannabis processor validly licensed under this chapter;

(2) Possession of quantities of cannabis concentrates, useable cannabis, or cannabis-infused products that do not exceed the maximum amounts established by the board under RCW 69.50.345(5);

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of cannabis concentrates, useable cannabis, or cannabis-infused product to any person 21 years of age or older:

(a) One ounce of useable cannabis;

(b) 16 ounces of cannabis-infused product in solid form;

(c) 72 ounces of cannabis-infused product in liquid form unless the cannabis-infused product in liquid form is packaged in individual units containing no more than four milligrams of THC per unit;

(d) 200 milligrams of THC within a cannabis-infused product in liquid form if the product is packaged in individual units containing no more than four milligrams of THC per unit; or

(e) Seven grams of cannabis concentrate; and

(4) Purchase and receipt of cannabis concentrates, useable cannabis, or cannabis-infused products that have been properly packaged and labeled from a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490. [2024 c 9 s 1; 2022 c 16 s 72. Prior: 2015 c 207 s 6; 2015 c 70 s 13; 2014 c 192 s 5; 2013 c 3 s 15 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.363 Cannabis processors, employees—Certain acts not criminal or civil offenses. The following acts, when performed by a validly licensed cannabis processor or employee of a validly licensed cannabis processor in compliance with rules adopted by the board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of cannabis that has been properly packaged and labeled from a cannabis producer validly licensed under chapter 3, Laws of 2013;

(2) Possession, processing, packaging, and labeling of quantities of cannabis, useable cannabis, and cannabis-infused products that do not exceed the maximum amounts established by the board under RCW 69.50.345(4);

(3) Delivery, distribution, and sale of useable cannabis or cannabis-infused products to a cannabis retailer validly licensed under chapter 3, Laws of 2013; and

(4) Delivery, distribution, and sale of useable cannabis, cannabis concentrates, or cannabis-infused products to a fed-

erally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490. [2022 c 16 s 73; 2015 c 207 s 7; 2013 c 3 s 16 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.366 Cannabis producers, employees—Certain acts not criminal or civil offenses. The following acts, when performed by a validly licensed cannabis producer or employee of a validly licensed cannabis producer in compliance with rules adopted by the board to implement and enforce this chapter, do not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of cannabis that do not exceed the maximum amounts established by the board under RCW 69.50.345(3);

(2) Delivery, distribution, and sale of cannabis to a cannabis processor or another cannabis producer validly licensed under this chapter;

(3) Delivery, distribution, and sale of immature plants or clones and cannabis seeds to a licensed cannabis researcher, and to receive or purchase immature plants or clones and seeds from a licensed cannabis researcher; and

(4) Delivery, distribution, and sale of cannabis or useable cannabis to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490. [2022 c 16 s 74; 2017 c 317 s 6; 2015 c 207 s 8; 2013 c 3 s 17 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.369 Cannabis producers, processors, researchers, retailers—Advertisements—Rules—Penalty. (1) No licensed cannabis producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, any sign or other advertisement for a cannabis business or cannabis product, including useable cannabis, cannabis concentrates, or cannabis-infused product, in any form or through any medium whatsoever within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(2) Except for the use of billboards as authorized under this section, licensed cannabis retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name, stating the location of the business, and identifying the nature of the business. Each sign must be no larger than one thousand six hundred square inches and be permanently affixed to a building or other structure. The location and content of the retail cannabis signs authorized under this subsection are subject to all other requirements and restrictions established in this section for indoor signs, outdoor signs, and other cannabis-related advertising methods.

(3) A cannabis licensee may not utilize transit advertisements for the purpose of advertising its business or product line. "Transit advertisements" means advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

(4) A cannabis licensee may not engage in advertising or other marketing practice that specifically targets persons residing outside of the state of Washington.

(5) All signs, billboards, or other print advertising for cannabis businesses or cannabis products must contain text stating that cannabis products may be purchased or possessed only by persons twenty-one years of age or older.

(6) A cannabis licensee may not:

(a) Take any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of cannabis and cannabis products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of cannabis or cannabis products;

(b) Use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or image likely to be appealing to youth, where such objects, images, or depictions indicate an intent to cause youth to become interested in the purchase or consumption of cannabis products; or

(c) Use or employ a commercial mascot outside of, and in proximity to, a licensed cannabis business. A "commercial mascot" means live human being, animal, or mechanical device used for attracting the attention of motorists and passersby so as to make them aware of cannabis products or the presence of a cannabis business. Commercial mascots include, but are not limited to, inflatable tube displays, persons in costume, or wearing, holding, or spinning a sign with a cannabis-related commercial message or image, where the intent is to draw attention to a cannabis business or its products.

(7) A cannabis licensee that engages in outdoor advertising is subject to the advertising requirements and restrictions set forth in this subsection (7) and elsewhere in this chapter.

(a) All outdoor advertising signs, including billboards, are limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. Such signs may not contain any depictions of cannabis plants, cannabis products, or images that might be appealing to children. The board is granted rule-making authority to regulate the text and images that are permissible on outdoor advertising. Such rule making must be consistent with other administrative rules generally applicable to the advertising of cannabis businesses and products.

(b) Outdoor advertising is prohibited:

(i) On signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located in an adult only facility; and

(ii) Billboards that are visible from any street, road, highway, right-of-way, or public parking area are prohibited, except as provided in (c) of this subsection.

(c) Licensed retail outlets may use a billboard or outdoor sign solely for the purpose of identifying the name of the business, the nature of the business, and providing the public with directional information to the licensed retail outlet. Billboard advertising is subject to the same requirements and restrictions as set forth in (a) of this subsection.

(d) Advertising signs within the premises of a retail cannabis business outlet that are visible to the public from outside the premises must meet the signage regulations and requirements applicable to outdoor signs as set forth in this section.

(e) The restrictions and regulations applicable to outdoor advertising under this section are not applicable to:

(i) An advertisement inside a licensed retail establishment that sells cannabis products that is not placed on the inside surface of a window facing outward; or

(ii) An outdoor advertisement at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but in no event more than fourteen days before the event, and that does not advertise any cannabis product other than by using a brand name to identify the event.

(8) Merchandising within a retail outlet is not advertising for the purposes of this section.

(9) This section does not apply to a noncommercial message.

(10)(a) The board must:

(i) Adopt rules implementing this section and specifically including provisions regulating the billboards and outdoor signs authorized under this section; and

(ii) Fine a licensee one thousand dollars for each violation of this section until the board adopts rules prescribing penalties for violations of this section. The rules must establish escalating penalties including fines and up to suspension or revocation of a cannabis license for subsequent violations.

(b) Fines collected under this subsection must be deposited into the dedicated cannabis account created under RCW 69.50.530.

(11) A city, town, or county may adopt rules of outdoor advertising by licensed cannabis retailers that are more restrictive than the advertising restrictions imposed under this chapter. Enforcement of restrictions to advertising by a city, town, or county is the responsibility of the city, town, or county. [2022 c 16 s 75; 2017 c 317 s 14; 2015 2nd sp.s. c 4 s 204; 2013 c 3 s 18 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.372 Cannabis research license. (1) A cannabis research license is established that permits a licensee to produce, process, and possess cannabis for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of cannabis-derived drug products;

(c) To conduct research on the efficacy and safety of administering cannabis as part of medical treatment; and

(d) To conduct genomic or agricultural research.

(2) As part of the application process for a cannabis research license, an applicant must submit to the board's designated scientific reviewer a description of the research that is intended to be conducted. The board must select a scientific reviewer to review an applicant's research project and determine that it meets the requirements of subsection (1) of this section, as well as assess the following:

(a) Project quality, study design, value, or impact;

(b) Whether applicants have the appropriate personnel, expertise, facilities/infrastructure, funding, and human/animal/other federal approvals in place to successfully conduct the project; and

(c) Whether the amount of cannabis to be grown by the applicant is consistent with the project's scope and goals.

If the scientific reviewer determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A cannabis research licensee may only sell cannabis grown or within its operation to other cannabis research licensees. The board may revoke a cannabis research license for violations of this subsection.

(4) A cannabis research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the scientific reviewer and meet the requirements of subsection (1) of this section.

(5) In establishing a cannabis research license, the board may adopt rules on the following:

(a) Application requirements;

(b) Cannabis research license renewal requirements, including whether additional research projects may be added or considered;

(c) Conditions for license revocation;

(d) Security measures to ensure cannabis is not diverted to purposes other than research;

(e) Amount of plants, useable cannabis, cannabis concentrates, or cannabis-infused products a licensee may have on its premises;

(f) Licensee reporting requirements;

(g) Conditions under which cannabis grown by licensed cannabis producers and other product types from licensed cannabis processors may be donated to cannabis research licensees; and

(h) Additional requirements deemed necessary by the board.

(6) The production, processing, possession, delivery, donation, and sale of cannabis, including immature plants or clones and seeds, in accordance with this section, RCW 69.50.366(3), and the rules adopted to implement and enforce this section and RCW 69.50.366(3), by a validly licensed cannabis researcher, shall not be a criminal or civil offense under Washington state law. Every cannabis research license must be issued in the name of the applicant, must specify the location at which the cannabis researcher intends to operate, which must be within the state of Washington, and the holder thereof may not allow any other person to use the license.

(7) The application fee for a cannabis research license is two hundred fifty dollars. The annual fee for issuance and renewal of a cannabis research license is one thousand three hundred dollars. The applicant must pay the cost of the review process directly to the scientific reviewer as designated by the board.

(8) The scientific reviewer shall review any reports made by cannabis research licensees under board rule and provide the board with its determination on whether the research project continues to meet research qualifications under this section.

(9) For the purposes of this section, "scientific reviewer" means an organization that convenes or contracts with persons who have the training and experience in research practice and research methodology to determine whether a project meets the criteria for a cannabis research license under this section and to review any reports submitted by cannabis research licensees under board rule. "Scientific reviewers" include, but are not limited to, educational institutions, research institutions, peer review bodies, or such other organizations that are focused on science or research in its day-to-day activities. [2022 c 16 s 76. Prior: 2017 c 317 s 3; 2017 c 316 s 3; 2016 sp.s. c 9 s 1; 2015 2nd sp.s. c 4 s 1501; 2015 c 71 s 1.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Effective date—2017 c 316: See note following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.375 Cannabis retailers—Medical cannabis endorsement. (1) A medical cannabis endorsement to a cannabis retail license is hereby established to permit a cannabis retailer to sell cannabis for medical use to qualifying patients and designated providers. This endorsement also permits such retailers to provide cannabis at no charge, at their discretion, to qualifying patients and designated providers.

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

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

(a) Not authorize the medical use of cannabis for qualifying patients at the retail outlet or permit health care professionals to authorize the medical use of cannabis for qualifying patients at the retail outlet;

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

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

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

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

(f) Meet other requirements as adopted by rule of the department or the board.

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

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

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

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

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

(e) Training requirements for employees.

(5) A cannabis retailer holding an endorsement to sell cannabis to qualifying patients or designated providers must train its employees on:

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

(b) Recognition of valid recognition cards; and

(c) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of cannabis concentrates, useable cannabis, and cannabis-infused products, available for sale when assisting qualifying patients and designated providers at the retail outlet. [2022 c 16 s 77; 2015 c 70 s 10.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.378 Cannabis retailer holding medical cannabis endorsement—THC concentration in products. A cannabis retailer or a cannabis retailer holding a medical cannabis endorsement may sell products with a THC concentration of 0.3 percent or less. Cannabis retailers holding a medical cannabis endorsement may also provide these products at no charge to qualifying patients or designated providers. [2022 c 16 s 78; 2015 c 70 s 11.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.380 Cannabis producers, processors, retailers prohibited from making certain sales of cannabis, cannabis products. (1) Cannabis producers, processors, and retail-

ers are prohibited from making sales of any cannabis or cannabis product, if the sale of the cannabis or cannabis product is conditioned upon the buyer's purchase of any service or noncannabis product. This subsection applies whether the buyer purchases such service or noncannabis product at the time of sale of the cannabis or cannabis product, or in a separate transaction.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Cannabis product" means "useable cannabis," "cannabis concentrates," and "cannabis-infused products," as those terms are defined in RCW 69.50.101.

(b) "Noncannabis product" includes paraphernalia, promotional items, lighters, bags, boxes, containers, and such other items as may be identified by the board.

(c) "Selling price" has the same meaning as in RCW 69.50.535.

(d) "Service" includes memberships and any other services identified by the board. [2022 c 16 s 79; 2015 2nd sp.s. c 4 s 211.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.382 Common carriers—Transportation or delivery of cannabis, useable cannabis, cannabis concentrates, immature plants or clones, cannabis seeds, and cannabis-infused products—Employees prohibited from carrying or using firearm during such services—Exceptions—Use of state ferry routes. (1) A licensed cannabis producer, cannabis processor, cannabis researcher, or cannabis retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under RCW 69.50.385, to physically transport or deliver, as authorized under this chapter, cannabis, useable cannabis, cannabis concentrates, immature plants or clones, cannabis seeds, and cannabis-infused products between licensed cannabis businesses located within the state.

(2) An employee of a common carrier engaged in cannabis-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to RCW 69.50.385, the board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the board under RCW 69.50.385.

(3) A common carrier licensed under RCW 69.50.385 may, for the purpose of transporting and delivering cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized under, and in accordance with, this section and RCW 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law. [2022 c 16 s 80; 2017 c 317 s 7; 2015 2nd sp.s. c 4 s 501.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.385 Common carriers—Licensing—State liquor and cannabis board to adopt rules. (1) The board must adopt rules providing for an annual licensing procedure of a common carrier who seeks to transport or deliver cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products within the state.

(2) The rules for licensing must:

(a) Establish criteria for considering the approval or denial of a common carrier's original application or renewal application;

(b) Provide minimum qualifications for any employee authorized to drive or operate the transportation or delivery vehicle, including a minimum age of at least twenty-one years;

(c) Address the safety of the employees transporting or delivering the products, including issues relating to the carrying of firearms by such employees;

(d) Address the security of the products being transported, including a system of electronically tracking all products at both the point of pickup and the point of delivery; and

(e) Set reasonable fees for the application and licensing process.

(3) The board may adopt rules establishing the maximum amounts of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products that may be physically transported or delivered at one time by a common carrier as provided under RCW 69.50.382. [2022 c 16 s 81; 2015 2nd sp.s. c 4 s 502.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.390 Licensed retailers prohibited from operating vending machines, drive-through purchase facilities for the sale of cannabis products. (1) A retailer licensed under this chapter is prohibited from operating a vending machine, as defined in RCW 82.08.080(3) for the sale of cannabis products at retail or a drive-through purchase facility where cannabis products are sold at retail and dispensed through a window or door to a purchaser who is either in or on a motor vehicle or otherwise located outside of the licensed premises at the time of sale.

(2) The board may not issue, transfer, or renew a cannabis retail license for any licensee in violation of the provisions of subsection (1) of this section. [2022 c 16 s 82; 2015 2nd sp.s. c 4 s 1301.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.395 Licensed cannabis businesses, agreements—Disclosure to state liquor and cannabis board. (1) A licensed cannabis business may enter into an agreement with any person, business, or other entity for:

(a) Any goods or services that are registered as a trademark under federal law, under chapter 19.77 RCW, or under any other state or international trademark law;

(b) Any unregistered trademark, trade name, or trade dress; or

(c) Any trade secret, technology, or proprietary information used to manufacture a cannabis product or used to provide a service related to any cannabis business.

(2) Any agreements entered into by a licensed cannabis business, as authorized under this section, must be disclosed to the board and may include:

(a) A royalty fee or flat rate calculated based on sales of each product that includes the intellectual property or was manufactured or sold using the licensed intellectual property or service, provided that the royalty fee is no greater than an amount equivalent to ten percent of the licensed cannabis business's gross sales derived from the sale of such product;

(b) A flat rate or lump sum calculated based on time or milestones;

(c) Terms giving either party exclusivity or qualified exclusivity as it relates to use of the intellectual property;

(d) Quality control standards as necessary to protect the integrity of the intellectual property;

(e) Enforcement obligations to be undertaken by the licensed cannabis business;

(f) Covenants to use the licensed intellectual property; and

(g) Assignment of licensor improvements of the intellectual property.

(3) A person, business, or entity that enters into an agreement with a licensed cannabis business, where both parties to the agreement are in compliance with the terms of this section, is exempt from the requirement to qualify for a cannabis business license for purposes of the agreements authorized by subsection (1) of this section.

(4) All agreements entered into by a licensed cannabis business, as authorized by this section, are subject to the board's recordkeeping requirements as established by rule. [2022 c 16 s 83; 2019 c 380 s 1; 2017 c 317 s 16.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

ARTICLE IV
OFFENSES AND PENALTIES

69.50.401 Prohibited acts: A—Penalties. (1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW, except as provided in RCW 69.50.475;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of cannabis in compliance with the terms set forth in RCW 69.50.360, 69.50.363, or 69.50.366 shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

(4) The fines in this section apply to adult offenders only. [2022 c 16 s 84; 2019 c 379 s 2; 2015 c 265 s 34; 2013 c 3 s 19 (Initiative Measure No. 502, approved November 6, 2012); 2005 c 218 s 1; 2003 c 53 s 331. Prior: 1998 c 290 s 1; 1998 c 82 s 2; 1997 c 71 s 2; 1996 c 205 s 2; 1989 c 271 s 104; 1987 c 458 s 4; 1979 c 67 s 1; 1973 2nd ex.s. c 2 s 1; 1971 ex.s. c 308 s 69.50.401.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Serious drug offenders, notice of release or escape: RCW 72.09.710.

Additional notes found at www.leg.wa.gov

69.50.4011 Counterfeit substances—Penalties—Referral to assessment and services. (1) Except as authorized by this chapter, it is unlawful for any person to:

(a) Create or deliver a counterfeit substance;

(b) Knowingly possess a counterfeit substance; or

(c) Knowingly use a counterfeit substance in a public place.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than 10 years, fined not more than $25,000, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than 10 years, fined not more than $25,000, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3)(a) A violation of subsection (1)(b) or (c) of this section is a gross misdemeanor punishable by imprisonment of up to 180 days, or by a fine of not more than $1,000, or by both such imprisonment and fine, however, if the defendant has two or more prior convictions under subsection (1)(b) or (c) of this section occurring after July 1, 2023, a violation of subsection (1)(b) or (c) of this section is punishable by imprisonment for up to 364 days, or by a fine of not more than $1,000, or by both such imprisonment and fine. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(b) No person may be charged under both subsection (1)(b) and (c) of this section relating to the same course of conduct.

(c) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(4) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(5) For the purposes of this section, "use a counterfeit substance" means to introduce the substance into the human body by injection, inhalation, ingestion, or any other means. [2023 sp.s. c 1 s 1; (2021 c 311 s 8 expired July 1, 2023); 2003 c 53 s 332.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: "Sections 1 through 5, 7 through 11, and 41 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023." [2023 sp.s. c 1 s 42.]

Expiration date—2023 sp.s. c 1; 2021 c 311 ss 8-10 and 12: "Sections 8 through 10 and 12 of this act expire July 1, 2023." [2023 sp.s. c 1 s 41; 2021 c 311 s 29.]

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4012 Delivery of substance in lieu of controlled substance—Penalty. (1) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such controlled substance.

(2) Any person who violates this section is guilty of a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 s 333.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4013 Possession, use of controlled substance—Penalty—Referral to assessment and services—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery. (1) Except as otherwise authorized by this chapter, it is unlawful for any person to:

(a) Knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice; or

(b) Knowingly use a controlled substance in a public place, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(2)(a) Except as provided in RCW 69.50.4014 or 69.50.445, a violation of subsection (1)(a) or (b) of this section is a gross misdemeanor punishable by imprisonment of up to 180 days in jail, or by a fine of not more than $1,000, or by both such imprisonment and fine, however, if the defendant has two or more prior convictions under subsection (1)(a) or (b) of this section occurring after July 1, 2023, a violation of subsection (1)(a) or (b) of this section is punishable by imprisonment for up to 364 days, or by a fine of not more than $1,000, or by both such imprisonment and fine. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(b) No person may be charged under both subsection (1)(a) and (b) of this section relating to the same course of conduct.

(c) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(3)(a) The possession, by a person 21 years of age or older, of useable cannabis, cannabis concentrates, or cannabis-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

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

(4)(a) The delivery by a person 21 years of age or older to one or more persons 21 years of age or older, during a single 24 hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following cannabis products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable cannabis;

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

(iii) 36 ounces of cannabis-infused product in liquid form unless the cannabis-infused product in liquid form is packaged in individual units containing no more than four milligrams of THC per unit;

(iv) 100 milligrams of THC within a cannabis-infused product in liquid form if the product is packaged in individual units containing no more than four milligrams of THC per unit; or

(v) Three and one-half grams of cannabis concentrates.

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

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

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

(5) No person under 21 years of age may manufacture, sell, distribute, or knowingly possess cannabis, cannabis-infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

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

(7) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(8) For the purposes of this section, "use a controlled substance" means to introduce the substance into the human body by injection, inhalation, ingestion, or any other means. [2024 c 9 s 2; 2023 sp.s. c 1 s 2; 2022 c 16 s 86; (2022 c 16 s 85 expired July 1, 2023); (2021 c 311 s 9 expired July 1, 2023); 2017 c 317 s 15; 2015 2nd sp.s. c 4 s 503; 2015 c 70 s 14; 2013 c 3 s 20 (Initiative Measure No. 502, approved November 6, 2012); 2003 c 53 s 334.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

Effective date—2022 c 16 ss 5, 9, 86, and 88: "Sections 5, 9, 86, and 88 of this act take effect July 1, 2023." [2022 c 16 s 172.]

Expiration date—2022 c 16 ss 4, 8, 85, and 87: "Sections 4, 8, 85, and 87 of this act expire July 1, 2023." [2022 c 16 s 171.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Expiration date—2021 c 311 ss 8-10 and 12: See note following RCW 69.50.4011.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4014 Possession of forty grams or less of cannabis—Penalty—Referral to assessment and services. (1) Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of knowing possession of 40 grams or less of cannabis is guilty of a misdemeanor. The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services.

(2) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115. [2023 sp.s. c 1 s 3; 2022 c 16 s 88; (2022 c 16 s 87 expired July 1, 2023); (2021 c 311 s 10 expired July 1, 2023); 2015 2nd sp.s. c 4 s 505; 2003 c 53 s 335.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

Effective date—2022 c 16 ss 5, 9, 86, and 88: See note following RCW 69.50.4013.

Expiration date—2022 c 16 ss 4, 8, 85, and 87: See note following RCW 69.50.4013.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Expiration date—2021 c 311 ss 8-10 and 12: See note following RCW 69.50.4011.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4015 Involving a person under eighteen in unlawful controlled substance transaction—Penalty. (1) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a

transaction unlawfully to manufacture, sell, or deliver a controlled substance.

(2) A violation of this section is a class C felony punishable according to chapter 9A.20 RCW. [2003 c 53 s 336.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4016 Provisions not applicable to offenses under RCW 69.50.410. RCW 69.50.401 through 69.50.4015 shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410. [2003 c 53 s 337.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4017 Alternatives to prosecution—Pretrial diversion. (1) Nothing in this section prevents the defendant, with the consent of the prosecuting attorney as required by RCW 2.30.030, from seeking to resolve charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available therapeutic courts or other alternatives to prosecution including, but not limited to, a stipulated order of continuance or deferred prosecution. Nothing in this section prevents the defendant or the prosecuting attorney from seeking or agreeing to, or the court from ordering, any other resolution of charges or terms of supervision that suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice.

(2) In any jurisdiction with a recovery navigator program established under RCW 71.24.115, an arrest and jail alternative program established under RCW 36.28A.450, or a law enforcement assisted diversion program established under RCW 71.24.589, any defendant charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) may make a motion to participate in pretrial diversion and agree to waive his or her right to a speedy trial if the motion is granted, subject to the following:

(a) In any case where the defendant is only charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), and the defendant has not been convicted of any offenses committed after July 1, 2023, the court shall grant the motion, continue the hearing, and refer the defendant to a recovery navigator program established under RCW 71.24.115, an arrest and jail alternative program established under RCW 36.28A.450, or a law enforcement assisted diversion program established under RCW 71.24.589.

(b) In any case where the defendant does not meet the criteria described in (a) of this subsection, the court may grant the motion, continue the hearing, and refer the defendant to a recovery navigator program established under RCW 71.24.115, an arrest and jail alternative program established under RCW 36.28A.450, or a law enforcement assisted diversion program established under RCW 71.24.589.

(c) In all cases, the court may not grant the motion unless the prosecuting attorney consents to the defendant's participation in pretrial diversion. The prosecuting attorney is strongly encouraged to agree to diversion in any case where the defendant is only charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c). The prosecuting attorney may divert additional charges related to substance use disorder for nonfelony offenses that are not crimes against persons.

(3) Prior to granting the defendant's motion to participate in pretrial diversion under this section, the court shall provide the defendant and the defendant's counsel with the following information:

(a) A full description of the procedures for pretrial diversion;

(b) A general explanation of the roles and authority of the probation department, the prosecuting attorney, the recovery navigator program under RCW 71.24.115, arrest and jail alternative program under RCW 36.28A.450, or law enforcement assisted diversion program under RCW 71.24.589, and the court in the process;

(c) A clear statement that the court may grant pretrial diversion with respect to any offense under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged, provided that the defendant pleads not guilty to the charge or charges and waives his or her right to a speedy trial, and that upon the defendant's successful completion of pretrial diversion, as specified in subsection (11) of this section, and motion of the defendant, prosecuting attorney, court, or probation department, the court must dismiss the charge or charges against the defendant;

(d) A clear statement that if the defendant has not made substantial progress with treatment or services provided that are appropriate to the defendant's circumstances or, if applicable, community service, the prosecuting attorney may make a motion to terminate pretrial diversion and schedule further proceedings as otherwise provided in this section;

(e) An explanation of criminal record retention and disposition resulting from participation in pretrial diversion and the defendant's rights relative to answering questions about his or her arrest and pretrial diversion following successful completion; and

(f) A clear statement that under federal law it is unlawful for any person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(4) If the court grants the defendant's motion to participate in pretrial diversion under this section, the recovery navigator program established under RCW 71.24.115, the arrest and jail alternative program established under RCW 36.28A.450, or the law enforcement assisted diversion program established under RCW 71.24.589, shall provide the court written confirmation of completion of the assessment and a statement indicating the defendant's enrollment or referral to any specific service or program. The confirmation and statement of the recovery navigator program established under RCW 71.24.115, the arrest and jail alternative program established under RCW 36.28A.450, or the law enforcement assisted diversion program established under RCW 71.24.589 shall be filed under seal with the court, and a copy shall be given to the prosecuting attorney, defendant, and defendant's counsel. The confirmation and statement are confidential and exempt from disclosure under chapter 42.56

RCW. The court shall endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

(5) Subject to the availability of funds appropriated for this specific purpose, the assessment and recommended treatment or services must be provided at no cost for defendants who have been found to be indigent by the court.

(6) If the assessment conducted by the recovery navigator program established under RCW 71.24.115, the arrest and jail alternative program established under RCW 36.28A.450, or the law enforcement assisted diversion program established under RCW 71.24.589 includes a referral to any treatment or services, the recovery navigator program established under RCW 71.24.115, the arrest and jail alternative program established under RCW 36.28A.450, the law enforcement assisted diversion program established under RCW 71.24.589, or service provider shall provide the court with regular written status updates on the defendant's progress on a schedule acceptable to the court. The updates must be provided at least monthly and be filed under seal with the court, with copies given to the prosecuting attorney, defendant, and defendant's counsel. The updates and their copies are confidential and exempt from disclosure under chapter 42.56 RCW. The court shall endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

(7) If the assessment conducted by the recovery navigator program established under RCW 71.24.115, the arrest and jail alternative program established under RCW 36.28A.450, or the law enforcement assisted diversion program established under RCW 71.24.589 does not recommend any treatment or services, the defendant must instead complete an amount of community service as determined by the court, but not to exceed 120 hours of community service, in order to complete pretrial diversion.

(8) Admissions made by the individual in the course of receiving services from the recovery navigator program established under RCW 71.24.115, the arrest and jail alternative program established under RCW 36.28A.450, or the law enforcement assisted diversion program established under RCW 71.24.589 may not be used against the individual in the prosecution's case in chief.

(9) A defendant's participation in pretrial diversion under this section does not constitute a conviction, a stipulation to facts, or an admission of guilt for any purpose.

(10) If it appears to the prosecuting attorney that the defendant is not substantially complying with the recommended treatment or services as reflected by a written status update, the prosecuting attorney may make a motion for termination from pretrial diversion.

(a) After notice to the defendant, the court must hold a hearing to determine whether pretrial diversion shall be terminated.

(b) Before the hearing, the defendant and the defendant's counsel shall be advised of the nature of the alleged noncompliance and provided discovery of evidence supporting the allegation, including names and contact information of witnesses.

(c) At the hearing, the court must consider the following factors:

(i) The nature of the alleged noncompliance; and

(ii) Any other mitigating circumstances, including, but not limited to, the defendant's efforts and due diligence, the availability of services in the geographic area, and the treatment and services offered to the defendant.

(d) If the court finds the defendant is not substantially complying with the recommended treatment or services and thereafter terminates pretrial diversion, it shall state the grounds for its decision succinctly in the record and provide the prosecuting attorney, the defendant, and the defendant's counsel with a written order.

(11) If the defendant successfully completes pretrial diversion, including in one of the following ways, the charge or charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) must be dismissed:

(a) If the assessment prepared by the recovery navigator program, arrest and jail alternative program, or law enforcement assisted diversion program included a recommendation for treatment or services, the defendant successfully completes pretrial diversion either by having 12 months of substantial compliance with the assessment and recommended treatment or services and progress toward recovery goals as reflected by the written status updates or by successfully completing the recommended treatment or services, whichever occurs first; or

(b) If the assessment prepared by the recovery navigator program, arrest and jail alternative program, or law enforcement assisted diversion program did not include a recommendation for treatment or services, the defendant successfully completes pretrial diversion by completing the community service described in subsection (7) of this section and submitting proof of completion to the court.

(12) Beginning January 1, 2025, the recovery navigator programs established under RCW 71.24.115, arrest and jail alternative programs established under RCW 36.28A.450, and law enforcement assisted diversion programs established under RCW 71.24.589 shall input data and information in the data integration platform under RCW 71.24.908 for each case where the defendant participates in pretrial diversion under this section, including but not limited to the following:

(a) Whether the pretrial diversion was terminated or was successfully completed and resulted in a dismissal;

(b) The race, ethnicity, gender, gender expression or identity, disability status, and age of the defendant; and

(c) Any other appropriate data and information as determined by the health care authority. [2023 sp.s. c 1 s 9.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

69.50.4018 Sentencing considerations. When sentencing an individual for a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the court is encouraged to utilize any other resolution of the charges or terms of supervision that suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice. [2023 sp.s. c 1 s 10.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

69.50.402 Prohibited acts: B—Penalties. (1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a Schedule II controlled substance by the commission pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a Schedule II controlled substance and designated as a nonnarcotic stimulant by the commission pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy, or for the treatment of hyperkinesis, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the treatment of any other disease states or conditions for which the United States food and drug administration has approved an indication, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the commission before the investigation has been begun: PROVIDED, That the commission, in consultation with the Washington medical commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the commission of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the Washington medical commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both. [2019 c 55 s 12; 2016 c 150 s 1; 2013 c 19 s 107; 2010 c 177 s 7; 2003 c 53 s 338; 1994 sp.s. c 9 s 740; 1980 c 138 s 6; 1979 ex.s. c 119 s 1; 1971 ex.s. c 308 s 69.50.402.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.403 Prohibited acts: C—Penalties. (1) It is unlawful for any person knowingly or intentionally:

(a) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by *RCW 69.50.307;

(b) To use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person;

(c) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address;

(d) To falsely assume the title of, or represent herself or himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance;

(e) To make or utter any false or forged prescription or false or forged written order;

(f) To affix any false or forged label to a package or receptacle containing controlled substances;

(g) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;

(h) To possess a false or fraudulent prescription with intent to obtain a controlled substance; or

(i) To attempt to illegally obtain controlled substances by providing more than one name to a practitioner when obtaining a prescription for a controlled substance. If a person's name is legally changed during the time period that he or she is receiving health care from a practitioner, the person shall inform all providers of care so that the medical and pharmacy records for the person may be filed under a single name identifier.

(2) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of such substance, shall not be deemed a privileged communication.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both. [2003 c 53 s 339; 1996 c 255 s 1; 1993 c 187 s 21; 1971 ex.s. c 308 s 69.50.403.]

***Reviser's note:** RCW 69.50.307 was repealed by 2001 c 248 s 2.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.404 Penalties under other laws. Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. [1971 ex.s. c 308 s 69.50.404.]

69.50.405 Bar to prosecution. If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [1971 ex.s. c 308 s 69.50.405.]

69.50.406 Distribution to persons under age eighteen. (1) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine, including its salts, isomers, and salts of isomers, or flunitrazepam, including its salts, isomers, and salts of isomers, listed in Schedule IV, to a person under eighteen years of age is guilty of a class A felony punishable by the fine authorized by RCW 69.50.401(2) (a) or (b), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(2) (a) or (b), or by both.

(2) Except as provided in RCW 69.50.475, any person eighteen years of age or over who violates RCW 69.50.401 by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his or her junior is guilty of a class B felony punishable by the fine authorized by RCW 69.50.401(2) (c), (d), or (e), by a term of imprisonment up to twice that authorized by RCW 69.50.401(2) (c), (d), or (e), or both. [2019 c 379 s 3; 2005 c 218 s 2; 2003 c 53 s 340; 1998 c 290 s 2; 1996 c 205 s 7; 1987 c 458 s 5; 1971 ex.s. c 308 s 69.50.406.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.407 Conspiracy. Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy. [1971 ex.s. c 308 s 69.50.407.]

69.50.408 Second or subsequent offenses. (1) Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(2) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, cannabis, depressant, stimulant, or hallucinogenic drugs.

(3) This section does not apply to offenses under RCW 69.50.4013. [2022 c 16 s 89; 2003 c 53 s 341; 1989 c 8 s 3; 1971 ex.s. c 308 s 69.50.408.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.410 Prohibited acts: D—Penalties. (1) Except as authorized by this chapter it is a class C felony for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of cannabis.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2)(a) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense.

(b) Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3)(a) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation.

(b) Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: PROVIDED, That the indeterminate sentence review board under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) Whether or not a mandatory minimum term has expired, an offender serving a sentence under this section may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(5) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United States, up to the amount of five hundred thousand dollars on each count.

(6) Any person, addicted to the use of controlled substances, who voluntarily applies to the department of social and health services for the purpose of participating in a rehabilitation program approved by the department for addicts of controlled substances shall be immune from prosecution for subsection (1) [of this section] offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his or her voluntary participation in the program of the department of social and health services. All applications for immunity

under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

(7) This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 through 69.50.4015. [2022 c 16 s 90; 2003 c 53 s 342; 1999 c 324 s 6; 1975-'76 2nd ex.s. c 103 s 1; 1973 2nd ex.s. c 2 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.412 Prohibited acts: E—Penalties. (1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare a controlled substance other than cannabis. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare a controlled substance other than cannabis. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his or her junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases. [2022 c 16 s 91; 2021 c 311 s 14; 2019 c 64 s 22. Prior: 2013 c 3 s 22 (Initiative Measure No. 502, approved November 6, 2012); 2012 c 117 s 368; 2002 c 213 s 1; 1981 c 48 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Explanatory statement—2019 c 64: See note following RCW 1.20.110.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Additional notes found at www.leg.wa.gov

69.50.4121 Drug paraphernalia—Selling—Penalty. (1) Every person who sells or permits to be sold to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than cannabis. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Miniature cocaine spoons and cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

(i) Air-driven pipes; and

(j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits distribution or use of public health supplies including, but not limited to, syringe equipment, smoking equipment, or drug testing equipment, through public health programs, community-based HIV prevention programs, outreach, shelter, and housing programs, and pharmacies. Public health and syringe service program staff taking samples of substances and using drug testing equipment for the purpose of analyzing the composition of the substances or detecting the presence of certain substances are acting legally and are exempt from arrest and prosecution under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c). [2023 sp.s. c 1 s 7; 2022 c 16 s 92; 2013 c 3 s 23 (Initiative Measure No. 502, approved November 6, 2012); 2002 c 213 s 2; 1998 c 317 s 1.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.413 Health care practitioners—Suspension of license for violation of chapter. The license of any licensed health care practitioner shall be suspended for any violation of this chapter. The suspension shall run concurrently with, and not less than, the term of the sentence for the violation. [1984 c 153 s 21.]

69.50.414 Sale or transfer of controlled substance to minor—Cause of action by parent—Damages. The parent or legal guardian of any minor to whom a controlled substance, as defined in RCW 69.50.101, is sold or transferred, shall have a cause of action against the person who sold or transferred the controlled substance for all damages to the minor or his or her parent or legal guardian caused by such sale or transfer. Damages shall include: (a) [(1)] Actual damages, including the cost for treatment or rehabilitation of the minor child's drug dependency, (b) [(2)] forfeiture to the parent or legal guardian of the cash value of any proceeds

received from such sale or transfer of a controlled substance, and (c) [(3)] reasonable attorney fees.

This section shall not apply to a practitioner, as defined in RCW 69.50.101, who sells or transfers a controlled substance to a minor pursuant to a valid prescription or order. [2020 c 18 s 24; 1986 c 124 s 10.]

Explanatory statement—2020 c 18: See note following RCW 43.79A.040.

69.50.415 Controlled substances homicide—Penalty. (1) A person who unlawfully delivers a controlled substance in violation of RCW 69.50.401(2) (a), (b), or (c) which controlled substance is subsequently used by the person to whom it was delivered, resulting in the death of the user, is guilty of controlled substances homicide.

(2) Controlled substances homicide is a class B felony punishable according to chapter 9A.20 RCW. [2003 c 53 s 343; 1996 c 205 s 8; 1987 c 458 s 2.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.416 Counterfeit substances prohibited—Penalties. (1) It is unlawful for any person knowingly or intentionally to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

(2) It is unlawful for any person knowingly or intentionally to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both. [2003 c 53 s 344; 1993 c 187 s 22.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.418 Tableting and encapsulating machines prohibited—Penalties. (1) It is unlawful for any person to possess, purchase, deliver, sell, or possess with intent to sell a tableting machine or encapsulating machine knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance, other than cannabis, in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony.

(3) For the purposes of this section:

(a) "Encapsulating machine" means manual, semiautomatic, or fully automatic equipment that can be used to fill shells or capsules with powdered or granular solids or semisolid material to produce coherent solid contents.

(b) "Tableting machine" means manual, semiautomatic, or fully automatic equipment that can be used to compact, compress, or mold powdered or granular solids or semisolid material to produce fused coherent solid tablets. [2023 c 66 s 1.]

Short title—2023 c 66: "This act may be known and cited as the Tyler Lee Yates act." [2023 c 66 s 3.]

69.50.420 Violations—Juvenile driving privileges. (1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered. [2016 c 136 s 11; 1989 c 271 s 120; 1988 c 148 s 5.]

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Additional notes found at www.leg.wa.gov

69.50.430 Additional fine for certain felony violations. (1) Every adult offender convicted of a felony violation of RCW 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403, 69.50.406, 69.50.407, 69.50.410, or 69.50.415 must be fined one thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the adult offender to be indigent, this additional fine may not be suspended or deferred by the court.

(2) On a second or subsequent conviction for violation of any of the laws listed in subsection (1) of this section, the adult offender must be fined two thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the adult offender to be indigent, this additional fine may not be suspended or deferred by the court.

(3) In addition to any other civil or criminal penalty, every person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling to a purchaser any product that contains any amount of any synthetic cannabinoid, as identified in RCW 69.50.204, must be fined not less than ten thousand dollars and not more

than five hundred thousand dollars. If, however, the person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling any product that contains any amount of any synthetic cannabinoid, as identified in RCW 69.50.204, to a purchaser under the age of eighteen, the minimum penalty is twenty-five thousand dollars if the person is at least two years older than the minor. Unless the court finds the person to be indigent, this additional fine may not be suspended or deferred by the court. [2015 2nd sp.s. c 4 s 1204; 2015 c 265 s 36; 2003 c 53 s 345; 1989 c 271 s 106.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.435 Violations committed in or on certain public places or facilities—Additional penalty—Defenses—Construction—Definitions. (1) Any person who violates RCW 69.50.401 by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under RCW 69.50.401 or who violates RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of cannabis to a person:

(a) In a school;

(b) On a school bus;

(c) Within one thousand feet of a school bus route stop designated by the school district;

(d) Within one thousand feet of the perimeter of the school grounds;

(e) In a public park;

(f) In a public housing project designated by a local governing authority as a drug-free zone;

(g) On a public transit vehicle;

(h) In a public transit stop shelter;

(i) At a civic center designated as a drug-free zone by the local governing authority; or

(j) Within one thousand feet of the perimeter of a facility designated under (i) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(2) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, in a public housing project designated by a local governing authority as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(3) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, the public park, the public housing project designated by a local governing authority as a drug-free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(4) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401 for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(5) In a prosecution under this section, a map produced or reproduced by any municipality, school district, county, transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, transit authority, or pub-

lic housing authority if the map or diagram is otherwise admissible under court rule.

(6) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(a) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(b) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(c) "School bus route stop" means a school bus stop as designated by a school district;

(d) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(e) "Public transit vehicle" means any motor vehicle, streetcar, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(f) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(g) "Stop shelter" means a passenger shelter designated by a transit authority;

(h) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

(i) "Public housing project" means the same as "housing project" as defined in RCW 35.82.020.

(7) The fines imposed by this section apply to adult offenders only. [2022 c 16 s 93; 2015 c 265 s 37; 2003 c 53 s 346. Prior: 1997 c 30 s 2; 1997 c 23 s 1; 1996 c 14 s 2; 1991 c 32 s 4; prior: 1990 c 244 s 1; 1990 c 33 s 588; 1989 c 271 s 112.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Findings—Intent—1997 c 30: "The legislature finds that a large number of illegal drug transactions occur in or near public housing projects. The legislature also finds that this activity places the families and children residing in these housing projects at risk for drug-related crimes and increases the general level of fear among the residents of the housing project and the areas surrounding these projects. The intent of the legislature is to allow local governments to designate public housing projects as drug-free zones." [1997 c 30 s 1.]

Findings—Intent—1996 c 14: "The legislature finds that a large number of illegal drug transactions occur in or near publicly owned places used for recreational, educational, and cultural purposes. The legislature also finds that this activity places the people using these facilities at risk for drug-related crimes, discourages the use of recreational, educational, and cultural facilities, blights the economic development around these facilities, and increases the general level of fear among the residents of the areas surrounding these facilities. The intent of the legislature is to allow local governments to designate a perimeter of one thousand feet around publicly owned places used primarily for recreation, education, and cultural activities as drug-free zones." [1996 c 14 s 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

69.50.438 Cathinone or methcathinone—Additional fine. In addition to any other civil or criminal penalty, every person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling to a purchaser any product that contains any amount of any cathinone or methcathinone, as identified in RCW 69.50.204, must be fined not less than ten thousand dollars and not more than five hundred thousand dollars. If, however, the person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling any product that contains any amount of any cathinone or methcathinone, as identified in RCW 69.50.204, to a purchaser under the age of eighteen, the minimum penalty is twenty-five thousand dollars if the person is at least two years older than the minor. Unless the court finds the person to be indigent, this additional fine may not be suspended or deferred by the court. [2015 2nd sp.s. c 4 s 1205.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.440 Possession with intent to manufacture—Penalty. (1) It is unlawful for any person to possess ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, including its salts, isomers, and salts of isomers.

(2) Any person who violates this section is guilty of a class B felony and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost. [2005 c 218 s 3; 2003 c 53 s 347; 2002 c 134 s 1; 2000 c 225 s 4; 1997 c 71 s 3; 1996 c 205 s 1.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

69.50.445 Opening package of or consuming cannabis, useable cannabis, cannabis-infused products, or cannabis concentrates in view of general public or public place—Penalty. (1) It is unlawful to open a package containing cannabis, useable cannabis, cannabis-infused products, or cannabis concentrates, or consume cannabis, useable cannabis, cannabis-infused products, or cannabis concentrates, in view of the general public or in a public place.

(2) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(3) A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW. [2022 c 16 s 94; 2015 2nd sp.s. c 4 s 401; 2013 c 3 s 21 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.450 Butane or other explosive gases. (1) Nothing in this chapter permits anyone other than a validly licensed cannabis processor to use butane or other explosive gases to extract or separate resin from cannabis or to produce or process any form of cannabis concentrates or cannabis-infused products that include cannabis concentrates not purchased from a validly licensed cannabis retailer as an ingredient. The extraction or separation of resin from cannabis, the processing of cannabis concentrates, and the processing of cannabis-infused products that include cannabis concentrates not purchased from a validly licensed cannabis retailer as an ingredient by any person other than a validly licensed cannabis processor each constitute manufacture of cannabis in violation of RCW 69.50.401. Cooking oil, butter, and other nonexplosive home cooking substances may be used to make cannabis extracts for noncommercial personal use.

(2) Except for the use of butane, the board may not enforce this section until it has adopted the rules required by RCW 69.51A.270. [2022 c 16 s 95; 2015 c 70 s 15.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.455 Synthetic cannabinoids—Unfair or deceptive practice under RCW 19.86.020. (1) It is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any synthetic cannabinoid. The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business.

(2) "Synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204(c)(30) [(3)(dd)] or by the pharmacy quality assurance commission under RCW 69.50.201. [2015 2nd sp.s. c 4 s 1201.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.460 Cathinone or methcathinone—Unfair or deceptive practice under RCW 19.86.020. It is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any cathinone or methcathinone as identified in RCW 69.50.204(e) (3) and (5) [(5) (c) and (e)]. The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business. [2015 2nd sp.s. c 4 s 1202.]

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.465 Conducting or maintaining cannabis club—Penalty. (1) It is unlawful for any person to conduct or maintain a cannabis club by himself or herself or by associating with others, or in any manner aid, assist, or abet in conducting or maintaining a cannabis club.

(2) It is unlawful for any person to conduct or maintain a public place where cannabis is held or stored, except as provided for a licensee under this chapter, or consumption of cannabis is permitted.

(3) Any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(4) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Cannabis club" means a club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume cannabis on the premises.

(b) "Public place" means, in addition to the definition provided in RCW 66.04.010, any place to which admission is charged or for which any pecuniary gain is realized by the owner or operator of such place. [2022 c 16 s 96; 2015 2nd sp.s. c 4 s 1401.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.470 Medication disposal, no penalty for compliance. It is not a violation of this chapter to possess or deliver a controlled substance in compliance with chapter 69.48 RCW. [2018 c 196 s 23.]

69.50.475 Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty. (1) Except as otherwise authorized in this chapter and as provided in subsection (2) of this section, an employee of a retail outlet who sells cannabis products to a person under the age of twenty-one years in the course of his or her employment is guilty of a gross misdemeanor.

(2) An employee of a retail outlet may be prosecuted under RCW 69.50.401 or 69.50.406 or any other applicable provision, if the employee sells cannabis products to a person the employee knows is under the age of twenty-one and not otherwise authorized to purchase cannabis products under this chapter, or if the employee sells or otherwise provides cannabis products to a person under the age of twenty-one outside of the course of his or her employment. [2022 c 16 s 97; 2019 c 379 s 1.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

ARTICLE V
ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

69.50.500 Powers of enforcement personnel. (a) [(1)] It is hereby made the duty of the *state board of pharmacy, the department, the **state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) [(2)] Employees of the department of health, who are so designated by the *board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter. [2013 c 3 s 24 (Initiative Measure No. 502, approved November 6, 2012); 1989 1st ex.s. c 9 s 437; 1971 ex.s. c 308 s 69.50.500.]

Reviser's note: *(1) Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

**(2) The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 s 3.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Additional notes found at www.leg.wa.gov

69.50.501 Administrative inspections. The commission may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to RCW 69.50.502 an officer or employee designated by the commission, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the commission may:

(a) inspect and copy records required by this chapter to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (5) of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(c) inventory any stock of any controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with chapter 34.05 RCW, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) if the owner, operator, or agent in charge of the controlled premises consents;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(e) in all other situations in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing. [2013 c 19 s 108; 1971 ex.s. c 308 s 69.50.501.]

69.50.502 Warrants for administrative inspections. Issuance and execution of administrative inspection warrants shall be as follows:

(1) A judge of a superior court, or a judge of a district court within his or her jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he or she shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(b) Be directed to a person authorized by RCW 69.50.500 to execute it;

(c) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(d) Identify the item or types of property to be seized, if any;

(e) Direct that it be served during normal business hours and designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court in which the inspection was made. [2012 c 117 s 369; 1971 ex.s. c 308 s 69.50.502.]

69.50.503 Injunctions. (a) [(1)] The superior courts of this state have jurisdiction to restrain or enjoin violations of this chapter.

(b) [(2)] The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section. [1971 ex.s. c 308 s 69.50.503.]

69.50.504 Cooperative arrangements. The commission shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. [2013 c 19 s 109; 1971 ex.s. c 308 s 69.50.504.]

69.50.505 Seizure and forfeiture. (1) The following are subject to seizure and forfeiture and no property right exists in them:

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

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

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

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

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

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

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

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

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

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

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

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

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

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason

of any act or omission committed or omitted without the owner's knowledge or consent;

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

(iii) The possession of cannabis shall not result in the forfeiture of real property unless the cannabis is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of cannabis, and a substantial nexus exists between the possession of cannabis and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of cannabis possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell cannabis, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of cannabis or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of cannabis or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

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

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

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

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

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

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

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

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

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or

4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

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

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

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

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

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

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

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

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

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

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

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

(9)(a) By January 31st of each year, each seizing agency shall remit to the state an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year for deposit into the *behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

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

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

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

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

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

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

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

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

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

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

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

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

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

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

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

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

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

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

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

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency. [2022 c 162 s 1; 2022 c 16 s 98; 2013 c 3 s 25 (Initiative Measure No. 502, approved November 6, 2012). Prior: 2009 c 479 s 46; 2009 c 364 s 1; 2008 c 6 s 631; 2003 c 53 s 348; 2001 c 168 s 1; 1993 c 487 s 1; 1992 c 211 s 1; prior: (1992 c 210 s 5 repealed by 1992 c 211 s 2); 1990 c 248 s 2; 1990 c 213 s 12; 1989 c 271 s 212; 1988 c 282 s 2; 1986 c 124 s 9; 1984 c 258 s 333; 1983 c 2 s 15; prior: 1982 c 189 s 6; 1982 c 171 s 1; prior: 1981 c 67 s 32; 1981 c 48 s 3; 1977 ex.s. c 77 s 1; 1971 ex.s. c 308 s 69.50.505.]

Reviser's note: *(1) The "behavioral health loan repayment program account" was changed to the "behavioral health loan repayment and scholarship program account" by 2024 c 369 s 6.

(2) This section was amended by 2022 c 16 s 98 and by 2022 c 162 s 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2022 c 162: "This act takes effect July 1, 2022." [2022 c 162 s 7.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Findings—1989 c 271: "The legislature finds that: Drug offenses and crimes resulting from illegal drug use are destructive to society; the nature of drug trafficking results in many property crimes and crimes of violence; state and local governmental agencies incur immense expenses in the investigation, prosecution, adjudication, incarceration, and treatment of drug-related offenders and the compensation of their victims; drug-related offenses are difficult to eradicate because of the profits derived from the criminal activities, which can be invested in legitimate assets and later used for further criminal activities; and the forfeiture of real assets where a substantial nexus exists between the commercial production or sale of the substances and the real property will provide a significant deterrent to crime by removing the profit incentive of drug trafficking, and will provide a revenue source that will partially defray the large costs incurred by government as a result of these crimes. The legislature recognizes that seizure of real property is a very powerful tool and should not be applied in cases in which a manifest injustice would occur as a result of forfeiture of an innocent spouse's community property interest." [1989 c 271 s 211.]

Intent—1984 c 258: See note following RCW 3.34.130.

Additional notes found at www.leg.wa.gov

69.50.506 Burden of proof; liabilities. (a) [(1)] It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.

(b) [(2)] In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, he or she is presumed not to be the holder of the registration or form. The burden of proof is upon him or her to rebut the presumption.

(c) [(3)] No liability is imposed by this chapter upon any authorized state, county, or municipal officer, engaged in the lawful performance of his or her duties. [2012 c 117 s 370; 1971 ex.s. c 308 s 69.50.506.]

69.50.507 Judicial review. All final determinations, findings, and conclusions of the commission under this chapter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the superior court wherein he or she resides or in the superior court of Thurston county, such review to be in conformity with the administrative procedure act, chapter 34.05 RCW. [2013 c 19 s 110; 2012 c 117 s 371; 1971 ex.s. c 308 s 69.50.507.]

69.50.508 Education and research. (a) [(1)] The commission may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

(1) [(a)] promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(2) [(b)] assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) [(c)] consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) [(d)] evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) [(e)] disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(6) [(f)] assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) [(2)] The commission may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:

(1) [(a)] establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) [(b)] make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;

(ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,

(3) [(c)] enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(c) [(3)] The commission may enter into contracts for educational and research activities without performance bonds.

(d) [(4)] The commission may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) [(5)] The commission may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. [2013 c 19 s 111; 1971 ex.s. c 308 s 69.50.508.]

69.50.509 Search and seizure of controlled substances. If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, district court, or municipal court that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, knowingly possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him or her to search the premises designated and described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter. [2023 sp.s. c 1 s 5; 1987 c 202 s 228; 1971 ex.s. c 308 s 69.50.509.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

Intent—1987 c 202: See note following RCW 2.04.190.

69.50.510 Search and seizure at rental premises—Notification of landlord. Whenever a controlled substance which is manufactured, distributed, dispensed, or acquired in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known by the law enforcement agency, of the seizure and the location of the seizure. [1988 c 150 s 9.]

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.50.511 Cleanup of hazardous substances at illegal drug manufacturing facility—Rules. Law enforcement agencies who during the official investigation or enforcement of any illegal drug manufacturing facility come in contact with or are aware of any substances suspected of being hazardous as defined in RCW 70A.305.020, shall notify the department of ecology for the purpose of securing a contractor to identify, clean up, store, and dispose of suspected hazardous substances, except for those random and representative samples obtained for evidentiary purposes. Whenever possible, a destruct order covering hazardous substances which may be described in general terms shall be obtained concurrently with a search warrant. Materials that have been photographed, fingerprinted, and subsampled by police shall be destroyed as soon as practical. The department of ecology shall make every effort to recover costs from the parties responsible for the suspected hazardous substance. All recoveries shall be deposited in the account or fund from which contractor payments are made.

The department of ecology may adopt rules to carry out its responsibilities under this section. The department of ecology shall consult with law enforcement agencies prior to adopting any rule or policy relating to this section. [2021 c 65 s 65; 2007 c 104 s 17; 1990 c 213 s 13; 1989 c 271 s 228.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Additional notes found at www.leg.wa.gov

69.50.515 Pharmacies—Cannabis—Notification and disposal. (1) Upon finding one ounce or less of cannabis inadvertently left at a retail store holding a pharmacy license, the store manager or employee must promptly notify the local law enforcement agency. After notification to the local law enforcement agency, the store manager or employee must properly dispose of the cannabis.

(2) For the purposes of this section, "properly dispose" means ensuring that the product is destroyed or rendered incapable of use by another person. [2022 c 16 s 99; 2013 c 133 s 1.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.50.525 Diversion prevention and control—Report. (a) [(1)] As used in this section, "diversion" means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

(b) [(2)] The department shall regularly prepare and make available to other state regulatory, licensing, and law enforcement agencies a report on the patterns and trends of actual distribution, diversion, and abuse of controlled substances.

(c) [(3)] The department shall enter into written agreements with local, state, and federal agencies for the purpose of improving identification of sources of diversion and to improve enforcement of and compliance with this chapter and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent, and control drug diversion and drug abuse. The department shall convene periodic meetings to coordinate a state diversion prevention and control program. The department shall arrange for cooperation and exchange of information among agencies and with neighboring states and the federal government. [1998 c 245 s 109; 1993 c 187 s 20.]

69.50.530 Dedicated cannabis account. The dedicated cannabis account is created in the state treasury. All moneys received by the board, or any employee thereof, from cannabis-related activities must be deposited in the account. Unless otherwise provided in chapter 4, Laws of 2015 2nd sp. sess., all cannabis excise taxes collected from sales of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under this chapter from cannabis producer, cannabis processor, cannabis researcher, and cannabis retailer licenses, must be deposited in the account. Moneys in the account may only be spent after appropriation. [2023 c 470 s 1014. Prior: 2022 c 169 s 1; 2022 c 16 s 100; 2018 c 299 s 909; 2016 sp.s. c 36 s 942; 2015 2nd sp.s. c 4 s 1101; 2013 c 3 s 26 (Initiative Measure No. 502, approved November 6, 2012).]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2018 c 299: See note following RCW 43.41.433.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.535 Cannabis excise tax—Medical exemption—State liquor and cannabis board to review tax level—Reports—State and federal antitrust laws. (1)(a) There is levied and collected a cannabis excise tax equal to thirty-seven percent of the selling price on each retail sale in this state of cannabis concentrates, useable cannabis, and cannabis-infused products. This tax is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use taxes apply. The tax must be separately itemized from the state and local retail sales tax on the sales receipt provided to the buyer.

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

(2)(a) Until June 30, 2029, the tax levied by subsection (1) of this section does not apply to sales by a cannabis retailer with a medical cannabis endorsement to qualifying patients or designated providers who have been issued a recognition card, of cannabis concentrates, useable cannabis, or cannabis-infused products, identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

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

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

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

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

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

(a) "Retail sale" has the same meaning as in RCW 82.08.010.

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

(c) "Product" means cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products.

(d) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.

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

(b) The board must report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature every two years. The report at a minimum must include the following:

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

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

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

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

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

(vi) Gross cannabis sales and tax collections in Oregon; and

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

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

(7) The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among retailers as to the selling price of any goods sold. [2024 c 79 s 1; 2022 c 16 s 101; 2015 2nd sp.s. c 4 s 205; 2014 c 192 s 7; 2013 c 3 s 27 (Initiative Measure No. 502, approved November 6, 2012).]

Tax preference performance statement—2024 c 79 s 1: "(1) This section is the tax preference performance statement for the tax preference contained in section 1, chapter 79, Laws of 2024. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to ensure medical cannabis products are accessible and affordable for qualifying patients and designated providers.

(4) The joint legislative audit and review committee must include in its review of this tax preference an evaluation of:

(a) Any change in the number of qualifying patients or designated providers;

(b) Any change in the amount, types, or sales of tax-exempt products, as identified in section 1 of this act; and

(c) Any other information the joint legislative audit and review committee deems necessary to evaluate the tax preference in section 1 of this act.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may access any data collected by the department of health or the liquor and cannabis board or any other data collected by the state.

(6) The joint legislative audit and review committee must submit a report of its findings to the legislature by December 1, 2028." [2024 c 79 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.540 Appropriations. (1) For the purposes of this subsection (1), the legislature must appropriate the amounts provided in this subsection:

(a) $12,500,000 annually to the board for administration of this chapter as appropriated in the omnibus appropriations act;

(b) $11,000,000 annually to the department of health for the following:

(i) Creation, implementation, operation, and management of a cannabis, vapor product, and commercial tobacco education and public health program that contains the following:

(A) A cannabis use public health hotline that provides referrals to substance abuse treatment providers, uses evidence-based or research-based public health approaches to minimizing the harms associated with cannabis use, and does not solely advocate an abstinence-only approach;

(B) Programs that support development and implementation of coordinated intervention strategies for the prevention and reduction of commercial tobacco, vapor product, and cannabis use by youth and cannabis cessation treatment services, including grant programs to local health departments or other local community agencies;

(C) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by cannabis use; and

(D) Outreach to priority populations regarding commercial tobacco, vapor product, and cannabis use, prevention, and cessation; and

(ii) The Washington poison control center;

(c)(i) $3,000,000 annually to the department of commerce to fund cannabis social equity grants under RCW 43.330.540; and

(ii) $200,000 annually to the department of commerce to fund technical assistance through a roster of mentors under RCW 43.330.540;

(d) $200,000 annually, until June 30, 2032, to the health care authority to contract with the Washington state institute for public policy to conduct the cost-benefit evaluations and produce the reports described in RCW 69.50.550;

(e) $25,000 annually to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by cannabis use;

(f) $300,000 annually to the University of Washington and $175,000 annually to the Washington State University for research on the short-term and long-term effects of cannabis use to include, but not be limited to, formal and informal methods for estimating and measuring intoxication and impairments, and for the dissemination of such research;

(g) $550,000 annually to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW;

(h) $2,423,000 for fiscal year 2022 and $2,423,000 for fiscal year 2023 to the Washington state patrol for a drug enforcement task force;

(i) $270,000 for fiscal year 2022 and $290,000 for fiscal year 2023 to the department of ecology for implementation of accreditation of cannabis product testing laboratories;

(j) $800,000 for each of fiscal years 2020 through 2023 to the department of health for the administration of the cannabis authorization database; and

(k) $621,000 for fiscal year 2022 and $635,000 for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in cannabis.

(2) Subsections [Subsection] (1)(a) through (g) of this section must be adjusted annually based on the United States bureau of labor statistics' consumer price index for the Seattle area.

(3) After appropriation of the amounts identified in subsection (1) of this section, the legislature must annually appropriate such remaining amounts for the purposes listed in this subsection (3) as follows:

(a) Fifty-two percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(b) Eleven percent to the health care authority to:

(i) Design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(ii) Develop, implement, maintain, and evaluate programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the diagnostic and statistical manual of mental disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women. In deciding which programs and practices to fund under this subsection (3)(b)(ii), the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute; and

(iii) Contract with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(c)(i) One and one-half percent to counties, cities, and towns where licensed cannabis retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (3)(c)(i) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed cannabis retailers physically located in each jurisdiction. For purposes of this subsection (3)(c), 100 percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town;

(ii) Three and one-half percent to counties, cities, and towns ratably on a per capita basis. Counties must receive 60 percent of the distribution based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed cannabis producer, processor, or retailer;

(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount made under this subsection (3)(c), if any, for each county and city as determined in (c)(i) and (ii) of this subsection; and

(iv) Distribution amounts allocated to each county, city, and town in (c)(i) and (ii) of this subsection must be distributed in four installments by the last day of each fiscal quarter; and

(d) Thirty-two percent must be deposited in the state general fund. [2023 c 470 s 1015. Prior: 2022 c 169 s 2; 2022 c 16 s 102; 2021 c 334 s 986; prior: 2020 c 357 s 916; 2020 c 236 s 4; 2019 c 415 s 978; prior: 2018 c 299 s 910; 2018 c 201 s 8014; 2017 3rd sp.s. c 1 s 979; 2015 3rd sp.s. c 4 s 967; 2015 2nd sp.s. c 4 s 206; 2013 c 3 s 28 (Initiative Measure No. 502, approved November 6, 2012).]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Effective date—2020 c 357: See note following RCW 43.79.545.

Findings—Intent—2020 c 236: See note following RCW 69.50.335.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2018 c 299: See note following RCW 43.41.433.

Findings—Intent—Effective date—2018 c 201: See notes following RCW 41.05.018.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.550 Cost-benefit evaluations. (1) The Washington state institute for public policy shall conduct cost-benefit evaluations of the implementation of chapter 3, Laws of 2013. A preliminary report, and recommendations to appropriate committees of the legislature, shall be made by September 1, 2015, and the first final report with recommendations by September 1, 2017. Subsequent reports shall be due September 1, 2022, and September 1, 2032.

(2) The evaluation of the implementation of chapter 3, Laws of 2013 shall include, but not necessarily be limited to, consideration of the following factors:

(a) Public health, to include but not be limited to:

(i) Health costs associated with cannabis use;

(ii) Health costs associated with criminal prohibition of cannabis, including lack of product safety or quality control regulations and the relegation of cannabis to the same illegal market as potentially more dangerous substances; and

(iii) The impact of increased investment in the research, evaluation, education, prevention and intervention programs, practices, and campaigns identified in RCW 69.50.363 on rates of cannabis-related maladaptive substance use and diagnosis of cannabis-related substance use disorder, substance abuse, or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders;

(b) Public safety, to include but not be limited to:

(i) Public safety issues relating to cannabis use; and

(ii) Public safety issues relating to criminal prohibition of cannabis;

(c) Youth and adult rates of the following:

(i) Cannabis use;

(ii) Maladaptive use of cannabis; and

(iii) Diagnosis of cannabis-related substance use disorder, substance abuse, or substance dependence, including primary, secondary, and tertiary choices of substance;

(d) Economic impacts in the private and public sectors, including but not limited to:

(i) Jobs creation;

(ii) Workplace safety;

(iii) Revenues; and

(iv) Taxes generated for state and local budgets;

(e) Criminal justice impacts, to include but not be limited to:

(i) Use of public resources like law enforcement officers and equipment, prosecuting attorneys and public defenders, judges and court staff, the Washington state patrol crime lab and identification and criminal history section, jails and prisons, and misdemeanant and felon supervision officers to enforce state criminal laws regarding cannabis; and

(ii) Short and long-term consequences of involvement in the criminal justice system for persons accused of crimes relating to cannabis, their families, and their communities; and

(f) State and local agency administrative costs and revenues. [2022 c 16 s 103; 2013 c 3 s 30 (Initiative Measure No. 502, approved November 6, 2012).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.555 Taxes, fees, assessments, charges—Commercial activities covered by cannabis agreement between state and tribe. The taxes, fees, assessments, and other charges imposed by this chapter do not apply to commercial activities related to the production, processing, sale, and possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products covered by an agreement entered into under RCW 43.06.490. [2022 c 16 s 104; 2015 c 207 s 3.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

69.50.560 Controlled purchase programs—Persons under age twenty-one—Violation—Criminal penalty—Exceptions. (1) The board may conduct controlled purchase programs to determine whether:

(a) A cannabis retailer is unlawfully selling cannabis to persons under the age of twenty-one;

(b) A cannabis retailer holding a medical cannabis endorsement is selling to persons under the age of eighteen or selling to persons between the ages of eighteen and twenty-one who do not hold valid recognition cards; or

(c) A cooperative organized under RCW 69.51A.250 is permitting a person under the age of twenty-one to participate.

(2) Every person under the age of twenty-one years who purchases or attempts to purchase cannabis is guilty of a violation of this section. This section does not apply to:

(a) Persons between the ages of eighteen and twenty-one who hold valid recognition cards and purchase cannabis at a cannabis retail outlet holding a medical cannabis endorsement;

(b) Persons between the ages of eighteen and twenty-one years who are participating in a controlled purchase program authorized by the board under rules adopted by the board. Violations occurring under a private, controlled purchase program authorized by the board may not be used for criminal or administrative prosecution.

(3) A cannabis retailer who conducts an in-house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in-house controlled purchase program. The written description must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding the sale of cannabis during an in-house controlled purchase program.

(4) An in-house controlled purchase program authorized under this section shall be for the purposes of employee training and employer self-compliance checks. A cannabis retailer may not terminate an employee solely for a first-time failure to comply with company policies regarding the sale of cannabis during an in-house controlled purchase program authorized under this section.

(5) Every person between the ages of eighteen and twenty-one who is convicted of a violation of this section is guilty of a misdemeanor punishable as provided by RCW 9A.20.021. [2022 c 16 s 105; 2015 c 70 s 33.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2015 c 70 ss 21, 22, 32, and 33: See note following RCW 69.51A.230.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.561 Advice and consultation services—Licensed cannabis businesses. (1) The board may grant a licensee's application for advice and consultation as provided in RCW 69.50.342(3) and visit the licensee's licensed premises in order to provide such advice and consultation. Advice and consultation services are limited to the matters specified in the request affecting the interpretation and applicability of the standards in this chapter to the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means, and practices in the licensee's licensed premises. The board may provide for an alternative means of affording consultation and advice other than on-site consultation.

(2) The board must make recommendations on eliminating areas of concern disclosed within the scope of the on-site consultation. A visit to a licensee's licensed premises may not be considered an inspection or investigation under this chapter. During the visit, the board may not issue notices or citations and may not assess civil penalties. However, if the on-site visit discloses a violation with a direct or immediate relationship to public safety and the violation is not corrected, the board may investigate.

(3) This section does not provide immunity to a licensee who has applied for consultative services from inspections or investigations conducted under this chapter or from any inspection conducted as a result of a complaint before, during, or after the provision of consultative services.

(4) This section does not require an inspection of a licensee's licensed premises that has been visited for consultative purposes. However, if the premises are inspected after a visit, the board may consider any information obtained during the consultation visit in determining the nature of an alleged violation and the amount of penalties to be assessed, if any.

(5) Rules adopted under RCW 69.50.562 must provide that violations with a direct or immediate relationship to public safety discovered during the consultation visit must be corrected within a specified period of time and an inspection must be conducted at the end of that time period.

(6) All licensees requesting consultative services must be advised of this section and the rules adopted by the board relating to the voluntary compliance program. Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services in accordance with this section are not subject to inspection pursuant to chapter 42.56 RCW.

(7) The board may adopt rules on the frequency, manner, and method of providing consultative services to licensees. Rules may include scheduling of consultative services and prioritizing requests for the services while maintaining the enforcement requirements of this chapter. [2019 c 394 s 5.]

Findings—2019 c 394: See note following RCW 69.50.563.

69.50.562 Licensed cannabis businesses—Written warnings—Waiver of sanctions with no relationship to public safety—Compliance program—Penalties—Rules. (1) The board must prescribe procedures for the following:

(a) Issuance of written warnings or notices to correct in lieu of penalties, sanctions, or other violations with respect to regulatory violations that have no direct or immediate relationship to public safety as defined by the board;

(b) Waiving any fines, civil penalties, or administrative sanctions for violations, that have no direct or immediate relationship to public safety, and are corrected by the licensee within a reasonable amount of time as designated by the board; and

(c) A compliance program in accordance with chapter 43.05 RCW and RCW 69.50.342, whereby licensees may request compliance assistance and inspections without issuance of a penalty, sanction, or other violation provided that any noncompliant issues are resolved within a specified period of time.

(2) The board must adopt rules prescribing penalties for violations of this chapter. The board:

(a) May establish escalating penalties for violation of this chapter, provided that the cumulative effect of any such escalating penalties cannot last beyond two years and the escalation applies only to multiple violations that are the same or similar in nature;

(b) May not include cancellation of a license for a single violation, unless the board can prove by a preponderance of the evidence:

(i) Diversion of cannabis product to the illicit market or sales across state lines;

(ii) Furnishing of cannabis product to minors;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a cannabis license based on criminal history requirements;

(iv) The commission of noncannabis-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or alleged to be, any of the violations identified in (b)(i) through (iv) of this subsection (2);

(c) May include cancellation of a license for cumulative violations only if a cannabis licensee commits at least four violations within a two-year period of time;

(d) Must consider aggravating and mitigating circumstances and deviate from the prescribed penalties accordingly, and must authorize enforcement officers to do the same, provided that such penalty may not exceed the maximum escalating penalty prescribed by the board for that violation; and

(e) Must give substantial consideration to mitigating any penalty imposed on a licensee when there is employee misconduct that led to theviolation and the licensee:

(i) Established a compliance program designed to prevent the violation;

(ii) Performed meaningful training with employees designed to prevent the violation; and

(iii) Had not enabled or ignored the violation or other similar violations in the past.

(3) The board may not consider any violation that occurred more than two years prior as grounds for denial, suspension, revocation, cancellation, or nonrenewal, unless the board can prove by a preponderance of the evidence that the prior administrative violation evidences:

(a) Diversion of cannabis product to the illicit market or sales across state lines;

(b) Furnishing of cannabis product to minors;

(c) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a cannabis license based on criminal history requirements;

(d) The commission of noncannabis-related crimes; or

(e) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (a) through (d) of this subsection (3). [2022 c 16 s 106; 2019 c 394 s 6.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—2019 c 394: See note following RCW 69.50.563.

69.50.563 Licensed cannabis businesses—Civil penalty—Rules. (1) The board may issue a civil penalty without first issuing a notice of correction if:

(a) The licensee has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule;

(b) Compliance is not achieved by the date established by the board in a previously issued notice of correction and if the board has responded to a request for review of the date by reaffirming the original date or establishing a new date; or

(c) The board can prove by a preponderance of the evidence:

(i) Diversion of cannabis product to the illicit market or sales across state lines;

(ii) Furnishing of cannabis product to minors;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a cannabis license based on criminal history requirements;

(iv) The commission of noncannabis-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (c)(i) through (iv) of this subsection (1).

(2) The board may adopt rules to implement this section and RCW 43.05.160. [2022 c 16 s 107; 2019 c 394 s 3.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—2019 c 394: "The legislature finds that:

(1) In the years since the creation of a legal and regulated marketplace for adult use of cannabis, the industry, stakeholders, and state agencies have collaborated to develop a safe, fully regulated marketplace.

(2) As the regulated marketplace has been developing, Washington residents with a strong entrepreneurial spirit have taken great financial and personal risk to become licensed and part of this nascent industry.

(3) It should not be surprising that mistakes have been made both by licensees and regulators, and that both have learned from these mistakes leading to a stronger, safer industry.

(4) While a strong focus on enforcement is an important component of the regulated marketplace, a strong focus on compliance and education is also critically necessary to assist licensees who strive for compliance and in order to allow the board to focus its enforcement priorities on those violations that directly harm public health and safety.

(5) The risk taking entrepreneurs who are trying to comply with board regulations should not face punitive consequences for mistakes made during this initial phase of the industry that did not pose a direct threat to public health and safety." [2019 c 394 s 1.]

69.50.564 Licensed cannabis businesses—Settlement agreement. (1) This section applies to the board's issuance of administrative violations to licensed cannabis producers, processors, retailers, transporters, and researchers, when a settlement conference is held between a hearing officer or designee of the board and the cannabis licensee that received a notice of an alleged administrative violation or violations.

(2) If a settlement agreement is entered between a cannabis licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.

(3) For the purposes of this section:

(a) "Settlement agreement" means the agreement or compromise between a licensed cannabis producer, processor, retailer, researcher, transporter, or researcher and the hearing officer or designee of the board with authority to participate in the settlement conference, that:

(i) Includes the terms of the agreement or compromise regarding an alleged violation or violations by the licensee of this chapter, chapter 69.51A RCW, or rules adopted under either chapter, and any related penalty or licensing restriction; and

(ii) Is in writing and signed by the licensee and the hearing officer or designee of the board.

(b) "Settlement conference" means a meeting or discussion between a licensed cannabis producer, processor, retailer, researcher, transporter, researcher, or authorized representative of any of the preceding licensees, and a hearing officer or designee of the board, held for purposes such as discussing the circumstances surrounding an alleged violation of law or rules by the licensee, the recommended penalty, and any aggravating or mitigating factors, and that is intended to resolve the alleged violation before an administrative hearing or judicial proceeding is initiated. [2022 c 16 s 108; 2019 c 394 s 8.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—2019 c 394: See note following RCW 69.50.563.

69.50.565 Unpaid trust fund taxes—Limited liability business entities—Liability of responsible individuals—Administrative hearing. (1) Whenever the board determines that a limited liability business entity has collected trust fund taxes and has failed to remit those taxes to the board and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the board may pursue collection of the entity's unpaid trust fund taxes, including penalties on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The board may presume that an entity is insolvent if the entity refuses to disclose to the board the nature of its assets and liabilities.

(2)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully failed to pay or to cause to be paid to the board the trust fund taxes due from the limited liability business entity.

(3)(a) Except as provided in this subsection (3)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the board during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the board but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the board.

(4) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes was due to reasons beyond their control as determined by the board by rule.

(5) Any person having been issued a notice of unpaid trust fund taxes under this section is entitled to an administrative hearing under RCW 69.50.334 and any such rules the board may adopt.

(6) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Chief executive" means: The president of a corporation or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(c) "Chief financial officer" means: The treasurer of a corporation or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(d) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(e) "Manager" has the same meaning as in *RCW 25.15.005.

(f) "Member" has the same meaning as in *RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(g) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(h)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with unpaid trust fund tax liability.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (7)(h)(iii), "taxpayer" means a limited liability business entity with unpaid trust fund taxes.

(i) "Trust fund taxes" means taxes collected from buyers and deemed held in trust under RCW 69.50.535.

(j) "Willfully failed to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action. [2015 2nd sp.s. c 4 s 202.]

***Reviser's note:** RCW 25.15.005 was repealed by 2015 c 188 s 108, effective January 1, 2016.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.570 Bundled transactions—Retail sales—Subject to tax—Exception. (1)(a) Except as provided in (b) of this subsection, a retail sale of a bundled transaction that includes cannabis product is subject to the tax imposed under RCW 69.50.535 on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under RCW 69.50.535, the portion of the price attributable to the nontaxable products are subject to the tax imposed by RCW 69.50.535 unless the seller can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Bundled transaction" means:

(i) The retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one product is a cannabis product subject to the tax under RCW 69.50.535; and

(ii) A cannabis product provided free of charge with the required purchase of another product. A cannabis product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the cannabis product provided free of charge.

(b) "Cannabis product" means "useable cannabis," "cannabis concentrates," and "cannabis-infused products" as defined in RCW 69.50.101.

(c) "Distinct and identifiable products" does not include packaging such as containers, boxes, sacks, bags, and bottles, or materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoeboxes, and dry cleaning garment bags.

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

(e) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, "true value" means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product. [2022 c 16 s 109; 2015 2nd sp.s. c 4 s 210.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.575 Cannabis health and beauty aids. (1) Cannabis health and beauty aids are not subject to the regulations and penalties of this chapter that apply to cannabis, cannabis concentrates, or cannabis-infused products.

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

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

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

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

(d) Is not intended for ingestion by humans or animals. [2022 c 16 s 110; 2015 2nd sp.s. c 4 s 701.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.580 Applicants for cannabis producer's, processor's, researcher's, or retailer's licenses—Signage—Public notice requirements. (1) Applicants for a cannabis producer's, cannabis processor's, cannabis researcher's or cannabis retailer's license under this chapter must display a sign provided by the board on the outside of the premises to be licensed notifying the public that the premises are subject to an application for such license. The sign must:

(a) Contain text with content sufficient to notify the public of the nature of the pending license application, the date of the application, the name of the applicant, and contact information for the board;

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

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

(d) Be posted within seven business days of the submission of the application to the board.

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

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

(b) For the purposes of this subsection, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. [2022 c 16 s 111; 2015 2nd sp.s. c 4 s 801.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.585 Branded promotional items—Nominal value—Personal services. (1)(a) Nothing in this chapter prohibits a producer or processor from providing retailers branded promotional items which are of nominal value, singly or in the aggregate. Such items include but are not limited to: Lighters, postcards, pencils, matches, shirts, hats, visors, and other similar items. Branded promotional items:

(i) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the producer or processor only;

(iii) May be provided by a producer or processor only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(iv) May not be targeted to youth, including any: (A) Statement, picture, or illustration that depicts a child or other person under legal age for consuming cannabis; (B) objects, such as toys or characters, suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume cannabis; (C) advertising designed in any manner that would be especially appealing to children or other persons under twenty-one years of age; or (D) advertising implying that the consumption of cannabis is fashionable or the accepted course of behavior for persons under twenty-one years of age.

(b) A producer or processor is not obligated to provide any such branded promotional items, and a retailer may not require a producer or processor to provide such branded promotional items as a condition for selling any cannabis to the retailer.

(c) Any producer, processor, or retailer or any other person asserting that the provision of branded promotional items as allowed in (a) of this subsection has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in (a) of this subsection may file a complaint with the state liquor and cannabis board. Upon receipt of a complaint the state liquor and cannabis board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the provision of branded promotional items has resulted in or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety or is otherwise inconsistent with (a) of this subsection the state liquor and cannabis board may issue an administrative violation notice to the producer, processor, or retailer. The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(2) Nothing in this chapter prohibits:

(a) Producers or processors from listing on their internet websites information related to retailers who sell or promote their products, including direct links to the retailers' internet websites; and

(b) Retailers from listing on their internet websites information related to producers or processors whose products those retailers sell or promote, including direct links to the producers or processors' websites; or

(c) Producers, processors, and retailers from producing, jointly or together with regional, state, or local industry associations, brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, producers, processors, and their products.

(3) Nothing in this chapter prohibits the performance of personal services offered from time to time by a producer or processor to retailers when the personal services are (a) conducted at a licensed premises, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation in events and the use of informational or educational activities at the premises of a retailer holding a license under this chapter. A producer or processor is not obligated to perform any such personal services, and a retail licensee may not require a producer or processor to conduct any personal service as a condition for selling cannabis to the retail licensee.

(4) For the purposes of this section, "nominal value" means a value of thirty dollars or less. [2016 sp.s. c 17 s 1.]

69.50.587 Cannabis science task force reports—Board rules. The liquor and cannabis board may adopt rules that address the findings and recommendations in the task force reports provided under *RCW 43.21A.735. [2019 c 277 s 4.]

***Reviser's note:** RCW 43.21A.735 expired December 31, 2022.

ARTICLE VI
MISCELLANEOUS

69.50.601 Pending proceedings. (a) [(1)] Prosecution for any violation of law occurring prior to May 21, 1971 is not affected or abated by this chapter. If the offense being prosecuted is similar to one set out in Article IV of this chapter, then the penalties under Article IV apply if they are less than those under prior law.

(b) [(2)] Civil seizures or forfeitures and injunctive proceedings commenced prior to May 21, 1971 are not affected by this chapter.

(c) [(3)] All administrative proceedings pending under prior laws which are superseded by this chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to May 21, 1971. Any substance controlled under prior law which is not listed within Schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) [(4)] The commission shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to May 21, 1971 and who are registered or licensed by the state.

(e) [(5)] This chapter applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following May 21, 1971. [2013 c 19 s 112; 1971 ex.s. c 308 s 69.50.601.]

69.50.602 Continuation of rules. Any orders and rules promulgated under any law affected by this chapter and in effect on May 21, 1971 and not in conflict with it continue in effect until modified, superseded or repealed. [1971 ex.s. c 308 s 69.50.602.]

69.50.603 Uniformity of interpretation. This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it. [1971 ex.s. c 308 s 69.50.603.]

69.50.604 Short title. This chapter may be cited as the Uniform Controlled Substances Act. [1971 ex.s. c 308 s 69.50.604.]

69.50.611 State preemption. The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality. [1989 c 271 s 601.]

69.50.612 State preemption—Drug paraphernalia. (1) The state of Washington hereby fully occupies and preempts the entire field of drug paraphernalia regulation within

the boundaries of the state including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia, except as provided in subsection (2) of this section. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to drug paraphernalia that are specifically authorized by state law and are consistent with this chapter. Such local ordinances must have the same penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law may not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

(2) Nothing in this chapter shall be construed to prohibit cities or counties from enacting laws or ordinances relating to the establishment or regulation of harm reduction services concerning drug paraphernalia. [2023 sp.s. c 1 s 8.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: See note following RCW 69.50.4011.

69.50.700 Expedited rule making. The board must use expedited rule making under RCW 34.05.353 to replace the term "marijuana" with the term "cannabis" throughout Title 314 WAC. [2022 c 16 s 168.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.50.710 Federal law—"Marijuana" to refer to "cannabis." The term "marijuana" as used under federal law generally refers to the term "cannabis" used throughout the Revised Code of Washington. [2022 c 16 s 169.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Chapter 69.51 RCW
CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH ACT

Sections

69.51.010 Short title. This chapter may be cited as the Controlled Substances Therapeutic Research Act. [1979 c 136 s 1.]

69.51.020 Legislative purpose. The legislature finds that recent research has shown that the use of cannabis may alleviate the nausea and ill effects of cancer chemotherapy and radiology, and, additionally, may alleviate the ill effects of glaucoma. The legislature further finds that there is a need for further research and experimentation regarding the use of cannabis under strictly controlled circumstances. It is for this purpose that the controlled substances therapeutic research act is hereby enacted. [2022 c 16 s 112; 1979 c 136 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.51.030 Definitions. As used in this chapter:

(1) "Cannabis" means all parts of the plant of the genus Cannabis L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin;

(2) "Commission" means the pharmacy quality assurance commission;

(3) "Department" means the department of health; and

(4) "Practitioner" means a physician licensed pursuant to chapter 18.71 or 18.57 RCW. [2022 c 16 s 113; 2013 c 19 s 113; 1989 1st ex.s. c 9 s 438; 1979 c 136 s 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Additional notes found at www.leg.wa.gov

69.51.040 Controlled substances therapeutic research program. (1) There is established in the commission the controlled substances therapeutic research program. The program shall be administered by the department. The commission shall promulgate rules necessary for the proper administration of the Controlled Substances Therapeutic Research Act. In such promulgation, the commission shall take into consideration those pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse.

(2) Except as provided in RCW 69.51.050(4), the controlled substances therapeutic research program shall be limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the patient qualification review committee by a practitioner as being involved in a life-threatening or sense-threatening situation. No patient may be admitted to the controlled substances therapeutic research program without full disclosure by the practitioner of the experimental nature of this program and of the possible risks and side effects of the proposed treatment in accordance with the informed consent provisions of chapter 7.70 RCW.

(3) The commission shall provide by rule for a program of registration with the department of bona fide controlled substance therapeutic research projects. [2013 c 19 s 114; 1989 1st ex.s. c 9 s 439; 1979 c 136 s 4.]

Additional notes found at www.leg.wa.gov

69.51.050 Patient qualification review committee. (1) The commission shall appoint a patient qualification review committee to serve at its pleasure. The patient qualification review committee shall be comprised of:

(a) A physician licensed to practice medicine in Washington state and specializing in the practice of ophthalmology;

(b) A physician licensed to practice medicine in Washington state and specializing in the subspecialty of medical oncology;

(c) A physician licensed to practice medicine in Washington state and specializing in the practice of psychiatry; and

(d) A physician licensed to practice medicine in Washington state and specializing in the practice of radiology.

Members of the committee shall be compensated at the rate of fifty dollars per day for each day spent in the performance of their official duties, and shall receive reimburse-

ment for their travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The patient qualification review committee shall review all applicants for the controlled substance therapeutic research program and their licensed practitioners and certify their participation in the program.

(3) The patient qualification review committee and the commission shall insure that the privacy of individuals who participate in the controlled substance therapeutic research program is protected by withholding from all persons not connected with the conduct of the research the names and other identifying characteristics of such individuals. Persons authorized to engage in research under the controlled substance therapeutic research program may not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was granted, except to the extent necessary to permit the commission to determine whether the research is being conducted in accordance with the authorization.

(4) The patient qualification review committee may include other disease groups for participation in the controlled substances therapeutic research program after pertinent medical data have been presented by a practitioner to both the committee and the commission, and after approval for such participation has been granted pursuant to pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse. [2013 c 19 s 115; 1979 c 136 s 5.]

69.51.060 Sources and distribution of cannabis. (1) The commission shall obtain cannabis through whatever means it deems most appropriate and consistent with regulations promulgated by the United States food and drug administration, the drug enforcement agency, and the national institute on drug abuse, and pursuant to the provisions of this chapter.

(2) The commission may use cannabis which has been confiscated by local or state law enforcement agencies and has been determined to be free from contamination.

(3) The commission shall distribute the analyzed cannabis to approved practitioners and/or institutions in accordance with rules promulgated by the commission. [2022 c 16 s 114; 2013 c 19 s 116; 1979 c 136 s 6.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.51.080 Cannabis and related products considered Schedule II substances. (1) The enumeration of tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in RCW 69.50.204 as a Schedule I controlled substance does not apply to the use of cannabis, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols by certified patients pursuant to the provisions of this chapter.

(2) Cannabis, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols shall be considered Schedule II substances as enumerated in RCW 69.50.206 only for the purposes enumerated in this chapter. [1979 c 136 s 8.]

Chapter 69.51A RCW
MEDICAL CANNABIS
(Formerly: Medical marijuana)

Sections

69.51A.005 Purpose and intent. (1) The legislature finds that:

(a) There is medical evidence that some patients with terminal or debilitating medical conditions may, under their health care professional's care, benefit from the medical use of cannabis. Some of the conditions for which cannabis appears to be beneficial include, but are not limited to:

(i) Nausea, vomiting, and cachexia associated with cancer, HIV-positive status, AIDS, hepatitis C, anorexia, and their treatments;

(ii) Severe muscle spasms associated with multiple sclerosis, epilepsy, and other seizure and spasticity disorders;

(iii) Acute or chronic glaucoma;

(iv) Crohn's disease; and

(v) Some forms of intractable pain.

(b) Humanitarian compassion necessitates that the decision to use cannabis by patients with terminal or debilitating medical conditions is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion.

(2) Therefore, the legislature intends that, so long as such activities are in strict compliance with this chapter:

(a) Qualifying patients with terminal or debilitating medical conditions who, in the judgment of their health care pro-

fessionals, may benefit from the medical use of cannabis, shall not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law based solely on their medical use of cannabis, notwithstanding any other provision of law;

(b) Persons who act as designated providers to such patients shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law, notwithstanding any other provision of law, based solely on their assisting with the medical use of cannabis; and

(c) Health care professionals shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law for the proper authorization of medical use of cannabis by qualifying patients for whom, in the health care professional's professional judgment, the medical use of cannabis may prove beneficial.

(3) Nothing in this chapter establishes the medical necessity or medical appropriateness of cannabis for treating terminal or debilitating medical conditions as defined in RCW 69.51A.010.

(4) Nothing in this chapter diminishes the authority of correctional agencies and departments, including local governments or jails, to establish a procedure for determining when the use of cannabis would impact community safety or the effective supervision of those on active supervision for a criminal conviction, nor does it create the right to any accommodation of any medical use of cannabis in any correctional facility or jail. [2022 c 16 s 115; 2015 c 70 s 16; 2011 c 181 s 102; 2010 c 284 s 1; 2007 c 371 s 2; 1999 c 2 s 2 (Initiative Measure No. 692, approved November 3, 1998).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2007 c 371: "The legislature intends to clarify the law on medical marijuana [cannabis] so that the lawful use of this substance is not impaired and medical practitioners are able to exercise their best professional judgment in the delivery of medical treatment, qualifying patients may fully participate in the medical use of marijuana [cannabis], and designated providers may assist patients in the manner provided by this act without fear of state criminal prosecution. This act is also intended to provide clarification to law enforcement and to all participants in the judicial system." [2007 c 371 s 1.]

69.51A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

(b) An authorization is not a prescription as defined in RCW 69.50.101.

(2) "Cannabis" has the meaning provided in RCW 69.50.101.

(3) "Cannabis concentrates" has the meaning provided in RCW 69.50.101.

(4) "Cannabis processor" has the meaning provided in RCW 69.50.101.

(5) "Cannabis producer" has the meaning provided in RCW 69.50.101.

(6) "Cannabis retailer" has the meaning provided in RCW 69.50.101.

(7) "Cannabis retailer with a medical cannabis endorsement" means a cannabis retailer that has been issued a medical cannabis endorsement by the state liquor and cannabis board pursuant to RCW 69.50.375.

(8) "Cannabis-infused products" has the meaning provided in RCW 69.50.101.

(9) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of cannabis product.

(10) "Department" means the department of health.

(11) "Designated provider" means a person who is twenty-one years of age or older and:

(a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and holds a recognition card; or

(ii) Has been designated in writing by a qualifying patient to serve as the designated provider for that patient;

(b)(i) Has an authorization from the qualifying patient's health care professional; or

(ii)(A) Has been entered into the medical cannabis authorization database as being the designated provider to a qualifying patient; and

(B) Has been provided a recognition card;

(c) Is prohibited from consuming cannabis obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;

(d) Provides cannabis to only the qualifying patient that has designated him or her;

(e) Is in compliance with the terms and conditions of this chapter; and

(f) Is the designated provider to only one patient at any one time.

(12) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, or an *advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(13) "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

(14) "Low THC, high CBD" means products determined by the department to have a low THC, high CBD ratio under RCW 69.50.375. Low THC, high CBD products must be inhalable, ingestible, or absorbable.

(15) "Medical cannabis authorization database" means the secure and confidential database established in RCW 69.51A.230.

(16) "Medical use of cannabis" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

(17) "Plant" means a cannabis plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct

roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(18) "Public place" has the meaning provided in RCW 70.160.020.

(19) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

(ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(iii) Is a resident of the state of Washington at the time of such diagnosis;

(iv) Has been advised by that health care professional about the risks and benefits of the medical use of cannabis;

(v) Has been advised by that health care professional that they may benefit from the medical use of cannabis;

(vi)(A) Has an authorization from his or her health care professional; or

(B) Has been entered into the medical cannabis authorization database and has been provided a recognition card; and

(vii) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(20) "Recognition card" means a card issued to qualifying patients and designated providers by a cannabis retailer with a medical cannabis endorsement that has entered them into the medical cannabis authorization database.

(21) "Retail outlet" has the meaning provided in RCW 69.50.101.

(22) "Secretary" means the secretary of the department of health.

(23) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit authorization.

(24) "Terminal or debilitating medical condition" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications;

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications;

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications;

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications;

(g) Posttraumatic stress disorder; or

(h) Traumatic brain injury.

(25) "THC concentration" has the meaning provided in RCW 69.50.101.

(26) "Useable cannabis" has the meaning provided in RCW 69.50.101. [2022 c 16 s 116; 2020 c 80 s 44. Prior: 2015 c 70 s 17; 2010 c 284 s 2; 2007 c 371 s 3; 1999 c 2 s 6 (Initiative Measure No. 692, approved November 3, 1998).]

Reviser's note: *(1) The term "advanced registered nurse practitioner" was changed to "advanced practice registered nurse" by 2024 c 239 s 1, effective June 30, 2027.

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2022 c 16 ss 7, 51, and 116: See note following RCW 69.50.101.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2020 c 80 ss 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2007 c 371: See note following RCW 69.51A.005.

69.51A.030 Acts not constituting crimes or unprofessional conduct—Health care professionals not subject to penalties or liabilities. (1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of cannabis or that the patient may benefit from the medical use of cannabis; or

(b) Providing a patient or designated provider meeting the criteria established under RCW 69.51A.010 with an authorization, based upon the health care professional's assessment of the patient's medical history and current medical condition, if the health care professional has complied with this chapter and he or she determines within a professional standard of care or in the individual health care professional's medical judgment the qualifying patient may benefit from the medical use of cannabis.

(2)(a) A health care professional may provide a qualifying patient or that patient's designated provider with an authorization for the medical use of cannabis in accordance with this section.

(b) In order to authorize for the medical use of cannabis under (a) of this subsection, the health care professional must:

(i) Have a documented relationship with the patient, as a principal care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition;

(ii) Complete an in-person physical examination of the patient or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection;

(iii) Document the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of cannabis;

(iv) Inform the patient of other options for treating the terminal or debilitating medical condition and documenting in the patient's medical record that the patient has received this information;

(v) Document in the patient's medical record other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of cannabis; and

(vi) Complete an authorization on forms developed by the department, in accordance with subsection (3) of this section.

(c)(i) For a qualifying patient eighteen years of age or older, an authorization expires one year after its issuance. For a qualifying patient less than eighteen years of age, an authorization expires six months after its issuance.

(ii) An authorization may be renewed upon completion of an in-person physical examination or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection and, in compliance with the other requirements of (b) of this subsection.

(iii) Following an in-person physical examination to authorize the use of cannabis for medical purposes, the health care professional may determine and note in the patient's medical record that subsequent physical examinations for the purposes of renewing an authorization may occur through the use of telemedicine technology if the health care professional determines that requiring the qualifying patient to attend a physical examination in person to renew an authorization would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition.

(iv) When renewing a qualifying patient's authorization for the medical use of cannabis, the health care professional may indicate that the qualifying patient qualifies for a compassionate care renewal of his or her registration in the medical cannabis authorization database and recognition card if the health care professional determines that requiring the qualifying patient to renew a registration in person would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition. A compassionate care renewal of a qualifying patient's registration and recognition card allows the qualifying patient to receive renewals without the need to be physically present at a retailer and without the requirement to have a photograph taken.

(d) A health care professional shall not:

(i) Accept, solicit, or offer any form of pecuniary remuneration from or to a cannabis retailer, cannabis processor, or cannabis producer;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular cannabis retailer;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where cannabis is produced, processed, or sold;

(iv) Have a business or practice which consists primarily of authorizing the medical use of cannabis or authorize the medical use of cannabis at any location other than his or her practice's permanent physical location;

(v) Except as provided in RCW 69.51A.280, sell, or provide at no charge, cannabis concentrates, cannabis-infused products, or useable cannabis to a qualifying patient or designated provider; or

(vi) Hold an economic interest in an enterprise that produces, processes, or sells cannabis if the health care professional authorizes the medical use of cannabis.

(3) The department shall develop the form for the health care professional to use as an authorization for qualifying patients and designated providers. The form shall include the qualifying patient's or designated provider's name, address, and date of birth; the health care professional's name, address, and license number; the amount of cannabis recommended for the qualifying patient; a telephone number where the authorization can be verified during normal business hours; the dates of issuance and expiration; and a statement that an authorization does not provide protection from arrest unless the qualifying patient or designated provider is also entered in the medical cannabis authorization database and holds a recognition card.

(4) The appropriate health professions disciplining authority may inspect or request patient records to confirm compliance with this section. The health care professional must provide access to or produce documents, records, or other items that are within his or her possession or control within twenty-one calendar days of service of a request by the health professions disciplining authority. If the twenty-one calendar day limit results in a hardship upon the health care professional, he or she may request, for good cause, an extension not to exceed thirty additional calendar days. Failure to produce the documents, records, or other items shall result in citations and fines issued consistent with RCW 18.130.230. Failure to otherwise comply with the requirements of this section shall be considered unprofessional conduct and subject to sanctions under chapter 18.130 RCW.

(5) After a health care professional authorizes a qualifying patient for the medical use of cannabis, he or she may discuss with the qualifying patient how to use cannabis and the types of products the qualifying patient should seek from a retail outlet. [2022 c 16 s 117; 2019 c 203 s 1; 2015 c 70 s 18; 2011 c 181 s 301; 2010 c 284 s 3; 2007 c 371 s 4; 1999 c 2 s 4 (Initiative Measure No. 692, approved November 3, 1998).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2007 c 371: See note following RCW 69.51A.005.

69.51A.040 Compliance with chapter—Qualifying patients and designated providers not subject to penalties—Law enforcement not subject to liability. The medical use of cannabis in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the

terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, and investigating law enforcement officers and agencies may not be held civilly liable for failure to seize cannabis in this circumstance, if:

(1)(a)(i) The qualifying patient or designated provider has been entered into the medical cannabis authorization database and holds a valid recognition card or the qualifying patient or designated provider holds a valid authorization if the qualifying patient or designated provider has not been entered into the medical cannabis authorization database and has not been issued a recognition card, and the qualifying patient or designated provider possesses no more than the amount of cannabis concentrates, useable cannabis, plants, or cannabis-infused products authorized under RCW 69.51A.210.

(ii) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in RCW 69.51A.210 for the qualifying patient and designated provider, whether the plants, cannabis concentrates, useable cannabis, or cannabis-infused products are possessed individually or in combination between the qualifying patient and his or her designated provider. However, in accordance with RCW 69.51A.260, no more than 15 plants may be grown or located in any one housing unit other than a cooperative established pursuant to RCW 69.51A.250;

(b) The qualifying patient or designated provider presents his or her recognition card or, if the qualifying patient or designated provider does not have a recognition card, then his or her authorization, to any law enforcement officer who questions the patient or provider regarding his or her medical use of cannabis;

(c) The qualifying patient or designated provider keeps a copy of his or her recognition card if the qualifying patient or designated provider has a recognition card, or keeps a copy of his or her authorization if the qualifying patient or designated provider does not have a recognition card, and keeps a copy of the qualifying patient or designated provider's contact information posted prominently next to any plants, cannabis concentrates, cannabis-infused products, or useable cannabis located at his or her residence;

(d) The investigating law enforcement officer does not possess evidence that:

(i) The designated provider has converted cannabis produced or obtained for the qualifying patient for his or her own personal use or benefit; or

(ii) The qualifying patient sold, donated, or supplied cannabis to another person; and

(e) The designated provider has not served as a designated provider to more than one qualifying patient within a fifteen-day period; or

(2) The qualifying patient or designated provider participates in a cooperative as provided in RCW 69.51A.250. [2023 c 254 s 1; 2022 c 16 s 118; 2015 c 70 s 24; 2011 c 181 s 401; 2007 c 371 s 5; 1999 c 2 s 5 (Initiative Measure No. 692, approved November 3, 1998).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2007 c 371: See note following RCW 69.51A.005.

69.51A.045 Possession of plants, cannabis concentrates, useable cannabis, or cannabis-infused products exceeding lawful amount—Affirmative defense. (1) A qualifying patient or designated provider in possession of plants, cannabis concentrates, useable cannabis, or cannabis-infused products exceeding the limits set forth in this chapter but otherwise in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to cannabis through proof at trial, by a preponderance of the evidence, that the qualifying patient's necessary medical use exceeds the amounts set forth in RCW 69.51A.040.

(2) An investigating law enforcement officer may seize plants, cannabis concentrates, useable cannabis, or cannabis-infused products exceeding the amounts set forth in this chapter. In the case of plants, the qualifying patient or designated provider shall be allowed to select the plants that will remain at the location. The officer and his or her law enforcement agency may not be held civilly liable for failure to seize cannabis in this circumstance. [2022 c 16 s 120; 2015 c 70 s 29; 2011 c 181 s 405.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.050 Medical cannabis, lawful possession—State not liable. (1) The lawful possession or manufacture of medical cannabis as authorized by this chapter shall not result in the forfeiture or seizure of any property.

(2) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of medical cannabis or its use as authorized by this chapter.

(3) The state shall not be held liable for any deleterious outcomes from the medical use of cannabis by any qualifying patient. [2022 c 16 s 121; 1999 c 2 s 7 (Initiative Measure No. 692, approved November 3, 1998).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.51A.055 Limitations of chapter—Persons under supervision. (1)(a) The arrest and prosecution protections established in RCW 69.51A.040 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(b) The affirmative defense established in RCW 69.51A.045 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a cor-

rections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) RCW 69.51A.040 does not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision. [2023 c 254 s 2; 2015 c 70 s 30; 2011 c 181 s 1105.]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.060 Crimes—Limitations of chapter. (1) It shall be a class 3 civil infraction to use or display medical cannabis in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of cannabis. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical cannabis in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of cannabis for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of cannabis in any place of employment, in any youth center, in any correctional facility, or smoking cannabis in any public place or hotel or motel.

(5) Nothing in this chapter authorizes the possession or use of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products on federal property.

(6) Nothing in this chapter authorizes the use of medical cannabis by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(7) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of cannabis if an employer has a drug-free workplace.

(8) No person shall be entitled to claim the protection from arrest and prosecution under RCW 69.51A.040 for engaging in the medical use of cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances. [2023 c 254 s 3; 2022 c 16 s 122; 2019 c 204 s 3; 2015 c 70 s 31; 2011 c 181 s 501; 2010 c 284 s 4; 2007 c 371 s 6; 1999 c 2 s 8 (Initiative Measure No. 692, approved November 3, 1998).]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2007 c 371: See note following RCW 69.51A.005.

69.51A.100 Qualifying patient's designation of a specific designated provider—Provider's service as designated provider—Termination—Department may adopt rules. (1) A qualifying patient may revoke his or her designation of a specific designated provider and designate a different designated provider at any time. A revocation of designation must be in writing, signed and dated, and provided to the designated provider and, if applicable, the medical cannabis authorization database administrator. The protections of this chapter cease to apply to a person who has served as a designated provider to a qualifying patient seventy-two hours after receipt of that patient's revocation of his or her designation.

(2) A person may stop serving as a designated provider to a given qualifying patient at any time by revoking that designation in writing, signed and dated, and provided to the qualifying patient and, if applicable, the medical cannabis authorization database administrator. However, that person may not begin serving as a designated provider to a different qualifying patient until fifteen days have elapsed from the date the last qualifying patient designated him or her to serve as a designated provider.

(3) The department may adopt rules to implement this section, including a procedure to remove the name of the designated provider from the medical cannabis authorization database upon receipt of a revocation under this section. [2022 c 16 s 123; 2015 c 70 s 34; 2011 c 181 s 404.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.110 Suitability for organ transplant. A qualifying patient's medical use of cannabis as authorized by a health care professional may not be a sole disqualifying factor in determining the patient's suitability for an organ transplant, unless it is shown that this use poses a significant risk of rejection or organ failure. This section does not preclude a health care professional from requiring that a patient abstain from the medical use of cannabis, for a period of time determined by the health care professional, while waiting for a transplant organ or before the patient undergoes an organ transplant. [2011 c 181 s 408.]

69.51A.120 Parental rights or residential time—Not to be restricted. A qualifying patient or designated provider may not have his or her parental rights or residential time with a child restricted solely due to his or her medical use of cannabis in compliance with the terms of this chapter absent written findings supported by evidence that such use has resulted in a long-term impairment that interferes with the performance of parenting functions as defined under RCW 26.09.004. [2011 c 181 s 409.]

69.51A.130 State and municipalities—Not subject to liability. (1) No civil or criminal liability may be imposed by any court on the state or its officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

(2) No civil or criminal liability may be imposed by any court on cities, towns, and counties or other municipalities

and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties. [2011 c 181 s 1101.]

69.51A.210 Qualifying patients or designated providers—Authorization—Health care professional may include recommendations on amount of cannabis. As part of authorizing a qualifying patient or designated provider, the health care professional may include recommendations on the amount of cannabis that is likely needed by the qualifying patient for his or her medical needs and in accordance with this section.

(1) If the health care professional does not include recommendations on the qualifying patient's or designated provider's authorization, the cannabis retailer with a medical cannabis endorsement, when adding the qualifying patient or designated provider to the medical cannabis authorization database, shall enter into the database that the qualifying patient or designated provider may purchase or obtain at a retail outlet holding a medical cannabis endorsement a combination of the following: Forty-eight ounces of cannabis-infused product in solid form; three ounces of useable cannabis; two hundred sixteen ounces of cannabis-infused product in liquid form; or twenty-one grams of cannabis concentrates. The qualifying patient or designated provider may also grow, in his or her domicile, up to six plants for the personal medical use of the qualifying patient and possess up to eight ounces of useable cannabis produced from his or her plants. These amounts shall be specified on the recognition card that is issued to the qualifying patient or designated provider.

(2) If the health care professional determines that the medical needs of a qualifying patient exceed the amounts provided for in subsection (1) of this section, the health care professional must specify on the authorization that it is recommended that the patient be allowed to grow, in his or her domicile, up to fifteen plants for the personal medical use of the patient. A patient so authorized may possess up to sixteen ounces of useable cannabis in his or her domicile. The number of plants must be entered into the medical cannabis authorization database by the cannabis retailer with a medical cannabis endorsement and specified on the recognition card that is issued to the qualifying patient or designated provider.

(3) If a qualifying patient or designated provider with an authorization from a health care professional has not been entered into the medical cannabis authorization database, he or she may not receive a recognition card and may only purchase at a retail outlet, whether it holds a medical cannabis endorsement or not, the amounts established in RCW 69.50.360. In addition the qualifying patient or the designated provider may grow, in his or her domicile, up to four plants for the personal medical use of the qualifying patient and possess up to six ounces of useable cannabis in his or her domicile. [2022 c 16 s 124; 2015 c 70 s 19.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.220 Health care professionals may authorize medical use of cannabis—Qualifying patients under age eighteen. (1) Health care professionals may authorize the medical use of cannabis for qualifying patients who are under the age of eighteen if:

(a) The minor's parent or guardian participates in the minor's treatment and agrees to the medical use of cannabis by the minor; and

(b) The parent or guardian acts as the designated provider for the minor and has sole control over the minor's cannabis.

(2) The minor may not grow plants or purchase cannabis-infused products, useable cannabis, or cannabis concentrates from a cannabis retailer with a medical cannabis endorsement.

(3) Both the minor and the minor's parent or guardian who is acting as the designated provider must be entered in the medical cannabis authorization database and hold a recognition card.

(4) A health care professional who authorizes the medical use of cannabis by a minor must do so as part of the course of treatment of the minor's terminal or debilitating medical condition. If authorizing a minor for the medical use of cannabis, the health care professional must:

(a) Consult with other health care providers involved in the minor's treatment, as medically indicated, before authorization or reauthorization of the medical use of cannabis; and

(b) Reexamine the minor at least once every six months or more frequently as medically indicated. The reexamination must:

(i) Determine that the minor continues to have a terminal or debilitating medical condition and that the condition benefits from the medical use of cannabis; and

(ii) Include a follow-up discussion with the minor's parent or guardian to ensure the parent or guardian continues to participate in the treatment of the minor. [2022 c 16 s 125; 2015 c 70 s 20.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.225 Students who qualify for the medical use of cannabis—Consumption of cannabis-infused products on school grounds. A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume cannabis-infused products on school grounds, aboard a school bus, or while attending a school-sponsored event. The use must be in accordance with school policy relating to medical cannabis use on school grounds, aboard a school bus, or while attending a school-sponsored event, as adopted under RCW 28A.210.325. [2022 c 16 s 126; 2019 c 204 s 2.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

69.51A.230 Medical cannabis authorization database—Recognition cards. (1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical cannabis authorization database that allows:

(a) A cannabis retailer with a medical cannabis endorsement to add a qualifying patient or designated provider and include the amount of cannabis concentrates, useable cannabis, cannabis-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected cannabis-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A cannabis retailer holding a medical cannabis endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical cannabis authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical cannabis authorization database at a cannabis retailer with a medical cannabis endorsement. After a qualifying patient or designated provider is placed in the medical cannabis authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the cannabis retailer with a medical cannabis endorsement at the same time that the qualifying patient or designated provider is being placed in the medical cannabis authorization database in accordance with rules adopted by the department;

(d) The amount of cannabis concentrates, useable cannabis, cannabis-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4)(a) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical cannabis authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a cannabis retailer with a medical cannabis endorsement must reenter the qualifying patient or designated provider into the medical cannabis authorization database and a new recognition card will then be issued in accordance with department rules.

(b) A qualifying patient's registration in the medical cannabis authorization database and his or her recognition card may be renewed by a qualifying patient's designated provider without the physical presence of the qualifying patient at the retailer if the authorization from the health care professional indicates that the qualifying patient qualifies for a compassionate care renewal, as provided in RCW 69.51A.030. A qualifying patient receiving renewals under the compassionate care renewal provisions is exempt from the photograph requirements under subsection (3)(c) of this section.

(5) If a recognition card is lost or stolen, a cannabis retailer with a medical cannabis endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical cannabis authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical cannabis authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical cannabis authorization database if the patient or provider no longer qualifies for the medical use of cannabis. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical cannabis authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cybersecurity firm, vendor, or service.

(8) The medical cannabis authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical cannabis authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical cannabis authorization database may be released in aggregate form, with all personally identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical cannabis authorization database shall not be shared with the federal government or its agents unless the particular qualifying patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10) The department must charge a one dollar fee for each initial and renewal recognition card issued by a cannabis retailer with a medical cannabis endorsement. The cannabis retailer with a medical cannabis endorsement shall collect the fee from the qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. The department shall establish a schedule for cannabis retailers with a medical cannabis endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the dedicated cannabis account created under RCW 69.50.530.

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under *RCW 43.70.320.

(12) The department may adopt rules to implement this section. [2022 c 16 s 127. Prior: 2019 c 220 s 2; 2019 c 203 s 2; 2015 c 70 s 21.]

***Reviser's note:** 2019 c 220 amended RCW 69.51A.230 by providing that medical marijuana [cannabis] recognition card fees are to be deposited into the dedicated marijuana [cannabis] account created under RCW 69.50.530 rather than the health professions account under RCW 43.70.320. Consequently, the legislature likely intended that this reference to the health professions account be changed to the dedicated marijuana [cannabis] account under RCW 69.50.530 and fines collected for failure to comply with marijuana [cannabis] database requirements be deposited into the dedicated marijuana [cannabis] account rather than the health professions account under RCW 43.70.320.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2019 c 220: See note following RCW 43.70.320.

Effective date—2015 c 70 ss 21, 22, 32, and 33: "Sections 21, 22, 32, and 33 of this act are necessary for the immediate preservation of the public health, or safety, or support of the state government and its existing public institutions, and take effect immediately [April 24, 2015]." [2015 c 70 s 51.]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.235 Compassionate care renewals—Rules—Effective date. The compassionate care renewals permitted in RCW 69.51A.030 and 69.51A.230 take effect November 1, 2019. The department may adopt rules to implement these renewals and to streamline administrative functions. However, the policy established in these sections may not be delayed until the rules are adopted. [2019 c 203 s 3.]

69.51A.240 Unlawful actions—Criminal penalty. (1) It is unlawful for a person to knowingly or intentionally:

(a) Access the medical cannabis authorization database for any reason not authorized under RCW 69.51A.230;

(b) Disclose any information received from the medical cannabis authorization database in violation of RCW 69.51A.230 including, but not limited to, qualifying patient or designated provider names, addresses, or amount of cannabis for which they are authorized;

(c) Produce a recognition card or to tamper with a recognition card for the purpose of having it accepted by a cannabis retailer holding a medical cannabis endorsement in order to purchase cannabis as a qualifying patient or designated provider or to grow cannabis plants in accordance with this chapter;

(d) If a person is a designated provider to a qualifying patient, sell, donate, or supply cannabis produced or obtained for the qualifying patient to another person, or use the cannabis produced or obtained for the qualifying patient for the designated provider's own personal use or benefit; or

(e) If the person is a qualifying patient, sell, donate, or otherwise supply cannabis produced or obtained by the qualifying patient to another person.

(2) A person who violates this section is guilty of a class C felony. [2022 c 16 s 128; 2015 c 70 s 23.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.250 Cooperatives—Qualifying patients or designated providers may form—Requirements—Restrictions on locations—State liquor and cannabis board may adopt rules. (1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process cannabis only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a

qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf. All plants grown in the cooperative must be from an immature plant or clone purchased from a licensed cannabis producer as defined in RCW 69.50.101. Cooperatives may also purchase cannabis seeds from a licensed cannabis producer.

(2) Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process cannabis. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable cannabis or cannabis-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a cannabis retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW 69.50.331(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location does not comply with the requirements set forth in subsection (3) of this section.

(5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable cannabis that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products to a person who is not participating under this section.

(7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

(8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all cannabis grown in a cooperative.

(9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections. [2022 c 16 s 129; 2017 c 317 s 8; 2016 c 170 s 2; 2015 2nd sp.s. c 4 s 1001; 2015 c 70 s 26.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

Effective date—2016 c 170: See note following RCW 69.50.325.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.260 Housing unit—No more than fifteen plants may be grown or located—Exception—Civil penalties. (1) Notwithstanding any other provision of this chapter and even if multiple qualifying patients or designated providers reside in the same housing unit, no more than fifteen plants may be grown or located in any one housing unit other than a cooperative established pursuant to RCW 69.51A.250.

(2) Neither the production nor processing of cannabis or cannabis-infused products pursuant to this section nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

(3) Cities, towns, counties, and other municipalities may create and enforce civil penalties, including abatement procedures, for the growing or processing of cannabis and for keeping cannabis plants beyond or otherwise not in compliance with this section. [2022 c 16 s 130; 2015 c 70 s 27.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.270 Extracting or separating cannabis resin, producing or processing any form of cannabis concentrates or cannabis-infused products—State liquor and cannabis board to adopt rules. (1) Once the state liquor and cannabis board adopts rules under subsection (2) of this section, qualifying patients or designated providers may only extract or separate the resin from cannabis or produce or process any form of cannabis concentrates or cannabis-infused products in accordance with those standards.

(2) The state liquor and cannabis board must adopt rules permitting qualifying patients and designated providers to extract or separate the resin from cannabis using noncombustable methods. The rules must provide the noncombustible methods permitted and any restrictions on this practice. [2022 c 16 s 131; 2015 c 70 s 28.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.280 Topical, ingestible products—THC concentration. Neither this chapter nor chapter 69.50 RCW prohibits a health care professional from selling or donating topical, noningestible products that have a THC concentration of less than .3 percent to qualifying patients. [2015 c 70 s 35.]

Effective date—2015 c 70 ss 12, 19, 20, 23-26, 31, 35, 40, and 49: See note following RCW 69.50.357.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.290 Medical cannabis consultant certificate. A medical cannabis consultant certificate is hereby established.

(1) In addition to any other authority provided by law, the secretary of the department may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Establish forms and procedures necessary to administer this chapter;

(c) Approve training or education programs that meet the requirements of this section and any rules adopted to implement it;

(d) Receive criminal history record information that includes nonconviction information data for any purpose associated with initial certification or renewal of certification. The secretary shall require each applicant for initial certification to obtain a state or federal criminal history record information background check through the state patrol or the state patrol and the identification division of the federal bureau of investigation prior to the issuance of any certificate. The secretary shall specify those situations where a state background check is inadequate and an applicant must obtain an electronic fingerprint-based national background check through the state patrol and federal bureau of investigation. Situations where a background check is inadequate may include instances where an applicant has recently lived out-of-state or where the applicant has a criminal record in Washington;

(e) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.110 and 43.70.250; and

(f) Maintain the official department record of all applicants and certificate holders.

(2) A training or education program approved by the secretary must include the following topics:

(a) The medical conditions that constitute terminal or debilitating conditions, and the symptoms of those conditions;

(b) Short and long-term effects of cannabinoids;

(c) Products that may benefit qualifying patients based on the patient's terminal or debilitating medical condition;

(d) Risks and benefits of various routes of administration;

(e) Safe handling and storage of useable cannabis, cannabis-infused products, and cannabis concentrates, including strategies to reduce access by minors;

(f) Demonstrated knowledge of this chapter and the rules adopted to implement it; and

(g) Other subjects deemed necessary and appropriate by the secretary to ensure medical cannabis consultant certificate holders are able to provide evidence-based and medically accurate advice on the medical use of cannabis.

(3) Medical cannabis consultant certificates are subject to annual renewals and continuing education requirements established by the secretary.

(4) The secretary shall have the power to refuse, suspend, or revoke the certificate of any medical cannabis consultant upon proof that:

(a) The certificate was procured through fraud, misrepresentation, or deceit;

(b) The certificate holder has committed acts in violation of subsection (6) of this section; or

(c) The certificate holder has violated or has permitted any employee or volunteer to violate any of the laws of this state relating to drugs or controlled substances or has been convicted of a felony.

In any case of the refusal, suspension, or revocation of a certificate by the secretary under the provisions of this chapter, appeal may be taken in accordance with chapter 34.05 RCW, the administrative procedure act.

(5) A medical cannabis consultant may provide the following services when acting as an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical cannabis endorsement under RCW 69.50.375:

(a) Assisting a customer with the selection of products sold at the retail outlet that may benefit the qualifying patient's terminal or debilitating medical condition;

(b) Describing the risks and benefits of products sold at the retail outlet;

(c) Describing the risks and benefits of methods of administration of products sold at the retail outlet;

(d) Advising a customer about the safe handling and storage of useable cannabis, cannabis-infused products, and cannabis concentrates, including strategies to reduce access by minors; and

(e) Providing instruction and demonstrations to customers about proper use and application of useable cannabis, cannabis-infused products, and cannabis concentrates.

(6) Nothing in this section authorizes a medical cannabis consultant to:

(a) Offer or undertake to diagnose or cure any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of cannabis or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of cannabis.

(7) Nothing in this section requires an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical cannabis endorsement under RCW 69.50.375 to obtain a medical cannabis consultant certification.

(8) Nothing in this section applies to the practice of a health care profession by individuals who are licensed, certified, or registered in a profession listed in RCW 18.130.040(2) and who are performing services within their authorized scope of practice. [2022 c 16 s 132; 2015 c 70 s 37.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.300 Continuing education programs for health care providers. The board of naturopathy, the board of osteopathic medicine and surgery, the Washington medical commission, and the *nursing care quality assurance commission shall develop and approve continuing education programs related to the use of cannabis for medical purposes for the health care providers that they each regulate that are based upon practice guidelines that have been adopted by each entity. [2022 c 16 s 133; 2019 c 55 s 13; 2015 c 70 s 38.]

***Reviser's note:** The reference to "nursing care quality assurance commission" was changed to "board of nursing" by 2023 c 123.

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.51A.310 Immature plants and clones, cannabis seeds—Qualifying patients and designated providers may purchase. Qualifying patients and designated providers, who hold a recognition card and have been entered into the medical cannabis authorization database, may purchase immature plants or clones from a licensed cannabis producer as defined in RCW 69.50.101. Qualifying patients and designated providers may also purchase cannabis seeds from a licensed cannabis producer. [2022 c 16 s 134; 2017 c 317 s 11.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Findings—Application—2017 c 317: See notes following RCW 69.50.325.

69.51A.900 Short title—1999 c 2. This chapter may be known and cited as the Washington state medical use of cannabis act. [2011 c 181 s 1106; 1999 c 2 s 1 (Initiative Measure No. 692, approved November 3, 1998).]

Chapter 69.52 RCW
IMITATION CONTROLLED SUBSTANCES

Sections

Drug nuisances—Injunctions: Chapter 7.43 RCW.

69.52.010 Legislative findings. The legislature finds that imitation controlled substances are being manufactured to imitate the appearance of the dosage units of controlled substances for sale to school-age youths and others to facilitate the fraudulent sale of controlled substances. The legislature further finds that manufacturers are endeavoring to profit from the manufacture of these imitation controlled substances while avoiding liability by accurately labeling the containers or packaging which contain these imitation controlled substances. The close similarity of appearance between dosage units of imitation controlled substances and controlled substances is indicative of a deliberate and wilful attempt to profit by deception without regard to the tragic human consequences. The use of imitation controlled substances is responsible for a growing number of injuries and deaths, and the legislature hereby declares that this chapter is necessary for the protection and preservation of the public health and safety. [1982 c 171 s 2.]

69.52.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Controlled substance" means a substance as that term is defined in chapter 69.50 RCW.

(2) "Distribute" means the actual or constructive transfer (or attempted transfer) or delivery or dispensing to another of an imitation controlled substance.

(3) "Imitation controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(a) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(b) Statements made to the recipient that the substance may be resold for inordinate profit; or

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance. [1982 c 171 s 3.]

69.52.030 Violations—Exceptions. (1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW 69.50.301 or 69.50.303 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in RCW 69.50.101, in the course of professional practice or research.

(5) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact. [2020 c 18 s 25; 1983 1st ex.s. c 4 s 5; 1982 c 171 s 4.]

Explanatory statement—2020 c 18: See note following RCW 43.79A.040.

Additional notes found at www.leg.wa.gov

69.52.040 Seizure of contraband. Imitation controlled substances shall be subject to seizure, forfeiture, and disposition in the same manner as are controlled substances under RCW 69.50.505. [1982 c 171 s 5.]

69.52.045 Seizure at rental premises—Notification of landlord. Whenever an imitation controlled substance which is manufactured, distributed, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure. [1988 c 150 s 10.]

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.52.050 Injunctive action by attorney general authorized. The attorney general is authorized to apply for injunctive action against a manufacturer or distributor of imitation controlled substances in this state. [1982 c 171 s 6.]

69.52.060 Injunctive or other legal action by manufacturer of controlled substances authorized. Any manufacturer of controlled substances licensed or registered in a state requiring such licensure or registration, may bring injunctive or other action against a manufacturer or distributor of imitation controlled substances in this state. [1982 c 171 s 7.]

69.52.070 Violations—Juvenile driving privileges. (1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense in violation of this chapter and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, or 69.50 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered. [2016 c 136 s 12; 1989 c 271 s 121; 1988 c 148 s 6.]

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

Additional notes found at www.leg.wa.gov

69.52.901 Effective date—1982 c 171. This act shall take effect on July 1, 1982. [1982 c 171 s 10.]

Chapter 69.53 RCW
USE OF BUILDINGS FOR UNLAWFUL DRUGS

Sections

69.53.010 Unlawful use of building for drug purposes—Liability of owner or manager—Penalty. (1) It is unlawful for any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly rent, lease, or make available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section to, in good faith, notify a law enforcement agency of suspected

drug activity pursuant to subsection (1) of this section, or to process an unlawful detainer action for drug-related activity against the tenant or occupant.

(3) A violation of this section is a class C felony punishable under chapter 9A.20 RCW. [1988 c 150 s 13; 1987 c 458 s 7.]

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

Additional notes found at www.leg.wa.gov

69.53.020 Unlawful fortification of building for drug purposes—Penalty. (1) It is unlawful for any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly allow the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the unlawful manufacture, delivery, sale, storage, or gift of any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section to, in good faith, notify a law enforcement agency of suspected drug activity pursuant to subsection (1) of this section, or to process an unlawful detainer action for drug-related activity against the tenant or occupant.

(3) A violation of this section is a class C felony punishable under chapter 9A.20 RCW. [1988 c 150 s 14; 1987 c 458 s 8.]

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

Additional notes found at www.leg.wa.gov

69.53.030 Unlawful use of fortified building—Penalty. (1) It is unlawful for any person to use a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to unlawfully manufacture, deliver, sell, store, or give away any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) A violation of this section is a class C felony punishable under chapter 9A.20 RCW. [1987 c 458 s 9.]

Additional notes found at www.leg.wa.gov

Chapter 69.55 RCW
AMMONIA

Sections

69.55.010 Theft of ammonia. (1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains pressurized ammonia gas or pressurized ammonia gas solution, is guilty of theft of ammonia.

(2) Theft of ammonia is a class C felony. [2002 c 133 s 1; 2000 c 225 s 1.]

Additional notes found at www.leg.wa.gov

69.55.020 Unlawful storage of ammonia. A person is guilty of the crime of unlawful storage of ammonia if the person possesses, transports, or delivers pressurized ammonia gas or pressurized ammonia gas solution in a container that (1) is not approved by the United States department of transportation to hold ammonia, or (2) was not constructed to meet state and federal industrial health and safety standards for holding ammonia. Violation of this section is a class C felony.

This section does not apply to public employees or private contractors authorized to clean up and dispose of hazardous waste or toxic substances under chapter 70A.300 or 70A.305 RCW or to solid waste haulers and their employees who unknowingly possess, transport, or deliver pressurized ammonia gas or pressurized ammonia gas solution during the course of the performance of their duties. [2021 c 65 s 66; 2002 c 133 s 2; 2000 c 225 s 2.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Additional notes found at www.leg.wa.gov

69.55.030 Damages—Liability. Any damages arising out of the unlawful possession of, storage of, or tampering with pressurized ammonia gas or pressurized ammonia gas solution, or pressurized ammonia gas equipment or pressurized ammonia gas solution equipment, shall be the sole responsibility of the unlawful possessor, storer, or tamperer. In no case shall liability for damages arising out of the unlawful possession of, storage of, or tampering with pressurized ammonia gas or pressurized ammonia gas solution, or pressurized ammonia gas equipment or pressurized ammonia gas solution equipment, extend to the lawful owner, installer, maintainer, designer, manufacturer, possessor, or seller of the pressurized ammonia gas or pressurized ammonia gas solution, or pressurized ammonia gas equipment or pressurized ammonia gas solution equipment, unless such damages arise out of the owner, installer, maintainer, designer, manufacturer, possessor, or seller's acts or omissions that constitute negligent misconduct to abide by the laws regarding pressurized ammonia gas or pressurized ammonia gas solution possession and storage. [2002 c 133 s 3; 2000 c 225 s 3.]

Additional notes found at www.leg.wa.gov

Chapter 69.60 RCW
OVER-THE-COUNTER MEDICATIONS

Sections

69.60.010 Legislative findings. The legislature of the state of Washington finds that:

(1) Accidental and purposeful ingestions of solid medication forms continue to be the most frequent cause of poisoning in our state;

(2) Modern treatment is dependent upon knowing the ingredients of the ingestant;

(3) The imprinting of identifying characteristics on all tablets, capsules, and caplets of prescription medication forms, both trade name products and generic products, has been extremely beneficial in our state and was accomplished at trivial cost to the manufacturers and consumers;

(4) Although over-the-counter medications usually constitute a lower order of risk to ingestees, treatment after overdose is equally dependent upon knowing the ingredients involved, but there is no coding index uniformly used by this class of medication;

(5) Approximately seventy percent of over-the-counter medications in solid form already have some type of an identifier imprinted on their surfaces;

(6) While particular efforts are being instituted to prevent recurrent tampering with over-the-counter medications, the added benefit of rapid and prompt identification of all possible contaminated products, including over-the-counter medications, would make for a significant improvement in planning for appropriate tracking and monitoring programs;

(7) At the same time, health care professionals serving the elderly find it especially advantageous to be able to identify and confirm the ingredients of their multiple medications, including over-the-counter products, as are often consumed by such patients;

(8) The legislature supports and encourages efforts that are being made to establish a national, legally enforceable system governing the imprinting of solid dosage form over-the-counter medications, which system is consistent with the requirements of this chapter. [1989 c 247 s 1.]

69.60.020 Definitions. The terms defined in this section shall have the meanings indicated when used in this chapter.

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

(2) "Over-the-counter medication" means a drug that can be obtained without a prescription and is not restricted to use by prescribing practitioners. For purposes of this chapter, over-the-counter medication does not include vitamins.

(3) "Purveyor" means any corporation, person, or other entity that offers over-the-counter medications for wholesale, retail, or other type of sale.

(4) "Solid dosage form" means capsules or tablets or similar over-the-counter medication products intended for administration and which could be ingested orally. [2013 c 19 s 117; 1989 c 247 s 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.60.030 Identification required. (1) No over-the-counter medication in solid dosage form may be manufactured or commercially distributed within this state unless it has clearly marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or national drug code number identifying the medication and the manufacturer or distributor of the medication: PROVIDED, HOWEVER, That an over-the-counter medication which has clearly marked or imprinted on it a distinctive logo, symbol, product name, letters, or other identifying mark, or which by its color, shape, or size together with a distinctive logo, symbol, product name, letters, or other mark is identifiable, shall be deemed in compliance with the provisions of this chapter.

(2) No manufacturer may sell any over-the-counter medication in solid dosage form contained within a bottle, vial, carton, or other container, or in any way affixed or appended to or enclosed within a package of any kind designed or intended for delivery in such container or package to an ultimate consumer within this state unless such container or package has clearly and permanently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or national drug code number identifying the medication and the manufacturer, packer, or distributor of the medication. [1993 c 135 s 1; 1989 c 247 s 2.]

69.60.040 Imprint information—Publication—Availability. Each manufacturer shall publish and provide to the commission printed material which will identify each current imprint used by the manufacturer and the commission shall be notified of any change. This information shall be provided by the commission to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms. [2013 c 19 s 118; 1989 c 247 s 4.]

69.60.050 Noncompliance—Contraband—Fine. (1) Any over-the-counter medication prepared or manufactured or offered for sale in violation of this chapter or implementing rules shall be contraband and subject to seizure, in the same manner as contraband legend drugs under RCW 69.41.060.

(2) A purveyor who fails to comply with this chapter after one notice of noncompliance by the board is subject to a one thousand dollar civil fine for each instance of noncompliance. [1989 c 247 s 5.]

69.60.060 Rules. The commission shall have authority to promulgate rules for the enforcement and implementation of this chapter. [2013 c 19 s 119; 1989 c 247 s 6.]

69.60.070 Imprinting requirements—Retailers and wholesalers. All over-the-counter medications manufactured in, received by, distributed to, or shipped to any retailer or wholesaler in this state after January 1, 1994, shall meet the requirements of this chapter. No over-the-counter medication may be sold to a consumer in this state after January 1, 1995, unless such over-the-counter medication complies with the imprinting requirements of this chapter. [1993 c 135 s 2; 1989 c 247 s 7.]

69.60.080 Exemptions—Application by manufacturer. The commission, upon application of a manufacturer, may exempt an over-the-counter drug from the requirements of chapter 69.60 RCW on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics. [2013 c 19 s 120; 1989 c 247 s 8.]

69.60.090 Implementation of federal system—Termination of state system. Before January 1, 1994, the commission will consult with the state toxicologist to determine whether the federal government has established a legally enforceable system that is substantially equivalent to the

requirements of this chapter that govern the imprinting of solid dosage form over-the-counter medication. To be substantially equivalent, the effective dates for implementation of the federal system for imprinting solid dosage form over-the-counter medication must be the same or earlier than the dates of implementation set out in the state system for imprinting solid dosage form over-the-counter medication. If the commission determines that the federal system for imprinting solid dosage form over-the-counter medication is substantially equivalent to the state system for imprinting solid dosage form over-the-counter medication, this chapter will cease to exist on January 1, 1994. If the commission determines that the federal system is substantially equivalent, except that the federal dates for implementation are later than the Washington state dates, this chapter will cease to exist when the federal system is implemented. [2013 c 19 s 121; 1993 c 135 s 3; 1989 c 247 s 9.]

69.60.901 Effective date—1993 c 135. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 30, 1993]. [1993 c 135 s 5.]

Chapter 69.70 RCW
ACCESS TO PRESCRIPTION DRUGS

Sections

69.70.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Drug manufacturer" means a facility licensed by the pharmacy quality assurance commission under chapter 18.64 RCW that engages in the manufacture of drugs or devices.

(3) "Drug wholesaler" means a facility licensed by the pharmacy quality assurance commission under chapter 18.64 RCW that buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(4) "Medical facility" means a hospital, pharmacy, nursing home, boarding home, adult family home, or medical clinic where the prescription drugs are under the control of a practitioner.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(6) "Pharmacist" means a person licensed by the pharmacy quality assurance commission under chapter 18.64 RCW to practice pharmacy.

(7) "Pharmacy" means a facility licensed by the pharmacy quality assurance commission under chapter 18.64 RCW in which the practice of pharmacy is conducted.

(8) "Practitioner" has the same meaning as in RCW 69.41.010.

(9) "Prescribing practitioner" means a person authorized to issue orders or prescriptions for legend drugs as listed in RCW 69.41.030.

(10) "Prescription drugs" has the same meaning as "legend drugs" as defined in RCW 69.41.010. The term includes cancer drugs and antirejection drugs. The term does not include controlled substances.

(11) "Supplies" means the supplies necessary to administer prescription drugs that are donated under the prescription drug redistribution program.

(12) "Time temperature indicator" means a device or smart label that shows the accumulated time-temperature history of a product by providing a nonreversible, accurate record of temperature exposure through the entire supply chain.

(13) "Uninsured" means a person who:

(a) Does not have private or public health insurance; or

(b) Has health insurance, but the health insurance does not provide coverage for a particular drug that has been prescribed to the person. [2016 c 43 s 1; 2013 c 260 s 1.]

Effective date—2016 c 43: "This act takes effect January 1, 2017." [2016 c 43 s 8.]

Short title—2016 c 43: "This act may be known and cited as the cancer can't charitable pharmacy act." [2016 c 43 s 7.]

69.70.020 Donations of prescription drugs and supplies—Distribution. (1) Any practitioner, pharmacist, medical facility, drug manufacturer, or drug wholesaler may donate prescription drugs and supplies to a pharmacy for redistribution without compensation or the expectation of compensation to individuals who meet the prioritization criteria established in RCW 69.70.040. Donations of prescription drugs and supplies may be made on the premises of a pharmacy that elects to participate in the provisions of this chapter. A pharmacy that receives prescription drugs or supplies may distribute the prescription drugs or supplies to another pharmacy, pharmacist, or prescribing practitioner for use pursuant to the program.

(2) The person to whom a prescription drug was prescribed, or the person's representative, may donate prescription drugs under subsection (1) of this section if, as determined by the professional judgment of a pharmacist, prescription drugs:

(a) Equipped with a time temperature indicator at the point of manufacture were stored under required temperature conditions using the prescription drugs' time temperature indicator information and the person, or the person's representative, has completed and signed a donor form, adopted by the department, to release the prescription drug for distribution under this chapter and certifying that the donated prescription drug has never been opened, used, adulterated, or misbranded; or

(b) Not equipped with a time temperature indicator at the point of manufacture, were properly stored and the person, or the person's representative, has completed and signed a donor form, adopted by the department, to release the prescription drugs for distribution under this chapter and certified that the donated prescription drugs have never been opened, used, adulterated, or misbranded. The donor form must require that the person, or the person's representative, attest that the donated prescription drugs have been stored in a manner and location that adheres to the conditions established by the manufacturer. [2017 c 205 s 1; 2016 c 43 s 2; 2013 c 260 s 2.]

Effective date—2017 c 205: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 5, 2017]." [2017 c 205 s 2.]

Effective date—Short title—2016 c 43: See notes following RCW 69.70.010.

69.70.030 Immunity—Eligibility. To be eligible for the immunity in RCW 69.70.070, a person distributing donated prescription drugs under this chapter must:

(1) Meet all requirements in RCW 69.70.050 and any applicable rules related to the return or exchange of prescription drugs or supplies adopted by the *board of pharmacy;

(2) Maintain records of any prescription drugs and supplies donated to the pharmacy and subsequently dispensed by the pharmacy; and

(3) Identify itself to the public as participating in this chapter. [2013 c 260 s 3.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

69.70.040 Dispensing of donated prescription drugs and supplies—Priority given to individuals who are uninsured. Pharmacies, pharmacists, and prescribing practitioners that elect to dispense donated prescription drugs and supplies under this chapter shall give priority to individuals who are uninsured. If an uninsured individual has not been identified as in need of available prescription drugs and supplies, those prescription drugs and supplies may be dispensed to other individuals expressing need. [2016 c 43 s 3; 2013 c 260 s 4.]

Effective date—Short title—2016 c 43: See notes following RCW 69.70.010.

69.70.050 Acceptance and dispensing of prescription drugs or supplies—Requirements—Recalls—Reselling—Reimbursement, related dispensing fees—Manufacturer registration. (1) Prescription drugs or supplies may be accepted and dispensed under this chapter if all of the following conditions are met:

(a) The prescription drug is in:

(i) Its original sealed and tamper evident packaging; or

(ii) An opened package if it contains single unit doses that remain intact;

(b) The prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated;

(c) The prescription drug or supplies are inspected before the prescription drug or supplies are dispensed by a pharmacist employed by or under contract with the pharmacy, and the pharmacist determines that the prescription drug or supplies are not adulterated or misbranded;

(d) The prescription drug or supplies are prescribed by a practitioner for use by an eligible individual and are dispensed by a pharmacist; and

(e) Any other safety precautions established by the department have been satisfied.

(2)(a) If a person who donates prescription drugs or supplies to a pharmacy under this chapter receives a notice that the donated prescription drugs or supplies have been recalled, the person shall notify the pharmacy of the recall.

(b) If a pharmacy that receives and distributes donated prescription drugs to another pharmacy, pharmacist, or prescribing practitioner under this chapter receives notice that the donated prescription drugs or supplies have been recalled, the pharmacy shall notify the other pharmacy, pharmacist, or prescribing practitioner of the recall.

(c) If a person collecting or distributing donated prescription drugs or supplies under this chapter receives a recall notice from the drug manufacturer or the federal food and drug administration for donated prescription drugs or supplies, the person shall immediately remove all recalled medications from stock and comply with the instructions in the recall notice.

(3) Prescription drugs and supplies donated under this chapter may not be resold.

(4) Prescription drugs and supplies dispensed under this chapter shall not be eligible for reimbursement of the prescription drug or any related dispensing fees by any public or private health care payer.

(5) A prescription drug that can only be dispensed to a patient registered with the manufacturer of that drug, in accordance with the requirements established by the federal food and drug administration, may not be distributed under the program, unless the patient receiving the prescription drug is registered with the manufacturer at the time the drug is dispensed and the amount dispensed does not exceed the duration of the registration period. [2016 c 43 s 4; 2013 c 260 s 5.]

Effective date—Short title—2016 c 43: See notes following RCW 69.70.010.

69.70.060 Form—Department to develop. The department shall develop a form for persons to use when releasing prescription drugs for distribution and certifying the condition of the drugs, as provided in RCW 69.70.020(2). [2016 c 43 s 5; 2013 c 260 s 6.]

Effective date—Short title—2016 c 43: See notes following RCW 69.70.010.

69.70.070 Liability. (1) A drug manufacturer acting in good faith may not, in the absence of a finding of gross negligence, be subject to criminal prosecution or liability in tort or other civil action, for injury, death, or loss to person or property for matters relating to the donation, acceptance, or dispensing of any drug manufactured by the drug manufacturer that is donated by any person under the program including, but not limited to:

(a) Liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug; and

(b) Liability related to prescription drugs that can only be dispensed to a patient registered with the manufacturer of that drug, in accordance with the requirements established by the federal food and drug administration.

(2) Any person or entity, other than a drug manufacturer subject to subsection (1) of this section, acting in good faith in donating, accepting, or distributing prescription drugs under this chapter is immune from criminal prosecution, professional discipline, or civil liability of any kind for any injury, death, or loss to any person or property relating to such activities other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(3) The immunity provided under subsection (1) of this section does not absolve a drug manufacturer of a criminal or civil liability that would have existed but for the donation, nor does such donation increase the liability of the drug manufacturer in such an action. [2016 c 43 s 6; 2013 c 260 s 7.]

Effective date—Short title—2016 c 43: See notes following RCW 69.70.010.

69.70.080 Availability of access. Access to prescription drugs and supplies under this chapter is subject to availability. Nothing in this chapter establishes an entitlement to receive prescription drugs and supplies through the program. [2013 c 260 s 8.]

69.70.090 Samples. Nothing in this chapter restricts the use of samples by a practitioner during the course of the practitioner's duties at a medical facility or pharmacy. [2013 c 260 s 9.]

69.70.100 Resale of prescription drugs not authorized. Nothing in this chapter authorizes the resale of prescription drugs by any person. [2013 c 260 s 10.]

69.70.110 Prescription drug donation—Rules. The pharmacy quality assurance commission may adopt rules to allow the safe donation of prescription drugs under this chapter including, but not limited to, allowing pharmacy to pharmacy donation of unexpired prescription drug stock. [2020 c 264 s 2.]

69.70.900 Effective date. This act takes effect July 1, 2014. [2013 c 260 s 12.]

Chapter 69.75 RCW
DEXTROMETHORPHAN

Sections

69.75.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Common carrier" means any person who holds himself or herself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

(2) "Finished drug product" means a drug legally marketed under the federal food, drug, and cosmetic act, 21 U.S.C. 321 et seq., that is in finished dosage form.

(3) "Proof of age" means any document issued by a governmental agency that contains a description or photograph of the person and gives the person's date of birth, including a passport, military identification card, or driver's license.

(4) "Unfinished dextromethorphan" means dextromethorphan in any form, compound, mixture, or preparation that is not a drug in finished dosage form. [2014 c 64 s 1.]

69.75.020 Retail sales—Proof of age from purchaser—Unlawful acts, exceptions—Penalties. (1) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older.

(2) It is unlawful for any:

(a) Commercial entity to knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a person less than eighteen years of age; or

(b) Person who is less than eighteen years of age to purchase a finished drug product containing any quantity of dextromethorphan.

(3) Subsection (2)(a) and (b) of this section do [does] not apply if an individual under eighteen years of age:

(a) Supplies proof at the time of sale that such individual is actively enrolled in the military and presents a valid military identification card; or

(b) Supplies proof of emancipation.

(4)(a) Any manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with that manufacturer, distributor, or retailer sells or trades dextromethorphan in violation of subsection (2)(a) of this section must be given a written warning by a law enforcement agency for the first offense. For any subsequent offense, the manufacturer, distributor, or retailer is guilty of a class 1 civil infraction as provided in RCW 7.80.120, except for any manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with the requirements of this chapter.

(b) Any employee or representative of a manufacturer, distributor, or retailer who, during the course of the employee's or representative's employment or association with that manufacturer, distributor, or retailer sells or trades dextromethorphan in violation of subsection (2)(a) of this section must be given a written warning by a law enforcement agency for the first offense. For any subsequent offense, the employee or representative is guilty of a class 1 civil infraction as provided in RCW 7.80.120.

(c) Any person who purchases dextromethorphan in violation of subsection (2)(b) of this section must be given a written warning by a law enforcement agency for the first

offense. For any subsequent offense, the person is guilty of a class 1 civil infraction as provided in RCW 7.80.120. [2014 c 64 s 2.]

69.75.030 List of products containing dextromethorphan, trade association representing manufacturers to supply. The trade association representing manufacturers of dextromethorphan shall supply to the pharmacy quality assurance commission and requesting licensed retailers an initial list of products containing dextromethorphan that its members market. This list shall be updated on an annual basis. The trade association representing manufacturers of dextromethorphan shall make other reasonable efforts to communicate the requirements of chapter 64, Laws of 2014. [2014 c 64 s 3.]

69.75.040 Construction of chapter. (1) Nothing in this chapter is construed to impose any compliance requirement on a retail entity other than manually obtaining and verifying proof of age as a condition of sale, including placement of products in a specific place within a store, other restrictions on consumers' direct access to finished drug products, or the maintenance of transaction records.

(2) The provisions of this chapter do not apply to medication containing dextromethorphan that is sold pursuant to a valid prescription. [2014 c 64 s 4.]

69.75.050 Preemption. This chapter preempts any ordinance regulating the sale, distribution, receipt, or possession of dextromethorphan enacted by a county, city, town, or other political subdivision of this state, and dextromethorphan is not subject to further regulation by such subdivisions. [2014 c 64 s 5.]

69.75.900 Effective date—2014 c 64. This act takes effect July 1, 2015. [2014 c 64 s 7.]

Chapter 69.77 RCW
INVESTIGATIONAL DRUGS, BIOLOGICAL PRODUCTS, AND DEVICES

Sections

69.77.010 Findings—Intent. The legislature finds that the process for approval of investigational drugs, biological products, and devices in the United States protects future patients from premature, ineffective, and unsafe medications and treatments over time, but the process often takes many years. Patients who have a terminal illness do not have the luxury of waiting until an investigational drug, biological product, or device receives final approval from the United States food and drug administration. The legislature further finds that patients who have a terminal illness should be permitted to pursue the preservation of their own lives by accessing available investigational drugs, biological products, and devices. The use of available investigational drugs, biological products, and devices is a decision that should be made by the patient with a terminal illness in consultation with the patient's health care provider so that the decision to use an investigational drug, biological product, or device is made with full awareness of the potential risks, benefits, and consequences to the patient and the patient's family.

The legislature, therefore, intends to allow terminally ill patients to use potentially lifesaving investigational drugs, biological products, and devices. [2017 c 212 s 1.]

69.77.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Eligible patient" means an individual who meets the requirements of RCW 69.77.040.

(2) "Health care facility" means a clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(3) "Hospital" means a health care institution licensed under chapter 70.41, 71.12, or 72.23 RCW.

(4) "Investigational product" means a drug, biological product, or device that has successfully completed phase one and is currently in a subsequent phase of a clinical trial approved by the United States food and drug administration assessing the safety of the drug, biological product, or device under section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355.

(5) "Issuer" means any state purchased health care programs under chapter 41.05 or 74.09 RCW, a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(6) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs, biological products, or devices.

(7) "Physician" means a physician licensed under chapter 18.71 RCW or an osteopathic physician and surgeon licensed under chapter 18.57 RCW.

(8) "Serious or immediately life-threatening disease or condition" means a stage of disease in which there is reasonable likelihood that death will occur within six months or in which premature death is likely without early treatment. [2017 c 212 s 2.]

69.77.030 Eligible patient and treating physician may request investigational product—Manufacturer may make for treatment—Agreement. (1) An eligible patient and his or her treating physician may request that a manufacturer make an investigational product available for treatment of the patient. The request must include a copy of the written informed consent form described in RCW 69.77.050 and an explanation of why the treating physician believes the investigational product may help the patient.

(2) Upon receipt of the request and the written informed consent form, the manufacturer may, but is not required to,

make the investigational product available for treatment of the eligible patient. Prior to making the investigational product available, the manufacturer shall enter into an agreement with the treating physician and the eligible patient providing that the manufacturer will transfer the investigational product to the physician and the physician will use the investigational product to treat the eligible patient. [2017 c 212 s 3.]

69.77.040 Patient eligibility for access and treatment with investigational product. A patient is eligible to request access to and be treated with an investigational product if:

(1) The patient is eighteen years of age or older;

(2) The patient is a resident of this state;

(3) The patient's treating physician attests to the fact that the patient has a serious or immediately life-threatening disease or condition;

(4) The patient acknowledges having been informed by the treating physician of all other treatment options currently approved by the United States food and drug administration;

(5) The patient's treating physician recommends that the patient be treated with an investigational product;

(6) The patient is unable to participate in a clinical trial for the investigational product because the patient's physician has contacted one or more clinical trials or researchers in the physician's practice area and has determined, using the physician's professional judgment, that there are no clinical trials reasonably available for the patient to participate in, that the patient would not qualify for a clinical trial, or that delay in waiting to join a clinical trial would risk further harm to the patient; and

(7) In accordance with RCW 69.77.050, the patient has provided written informed consent for the use of the investigational product, or, if the patient lacks the capacity to consent, the patient's legally authorized representative has provided written informed consent on behalf of the patient. [2017 c 212 s 4.]

69.77.050 Informed consent. (1) Prior to treatment of the eligible patient with an investigational product, the treating physician shall obtain written informed consent, consistent with the requirements of RCW 7.70.060(1), and signed by the eligible patient or, if the patient lacks the capacity to consent, his or her legally authorized representative.

(2) Information provided in order to obtain the informed consent must, to the extent possible, include the following:

(a) That the patient has been diagnosed with a serious or immediately life-threatening disease or condition and explains the currently approved products and treatments for the disease or condition from which the eligible patient suffers;

(b) That all currently approved and conventionally recognized treatments are unlikely to prolong the eligible patient's life;

(c) Clear identification of the investigational product that the eligible patient seeks to use;

(d) The potentially best and worst outcomes of using the investigational product and a realistic description of the most likely outcome. This description must include the possibility that new, unanticipated, different, or worse symptoms may result and that death could be hastened by the proposed treatment. The description must be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the eligible patient's condition;

(e) That the eligible patient's health benefit plan is not obligated to pay for the investigational product or any harm caused to the eligible patient by the investigational product, unless otherwise specifically required to do so by law or contract, and that in order to receive the investigational product the patient may be required to pay the costs of administering the investigational product; and

(f) That the eligible patient is liable for all expenses consequent to the use of the investigational product, except as otherwise provided in the eligible patient's health benefit plan or a contract between the eligible patient and the manufacturer of the investigational product.

(3) The document must be signed and dated by the eligible patient's treating physician and witnessed in writing by at least one adult. [2017 c 212 s 5.]

69.77.060 Issuer may provide coverage for cost or administration of investigational product—Denial of coverage. (1) An issuer may, but is not required to, provide coverage for the cost or the administration of an investigational product provided to an eligible patient pursuant to this chapter.

(2)(a) An issuer may deny coverage to an eligible patient who is treated with an investigational product for harm to the eligible patient caused by the investigational product and is not required to cover the costs associated with receiving the investigational product or the costs demonstrated to be associated with an adverse effect that is a result of receiving the investigational product.

(b) Except as stated in (a) of this subsection, an issuer may not deny coverage to an eligible patient for: (i) The eligible patient's serious or immediately life-threatening disease or condition; (ii) benefits that accrued before the day on which the eligible patient was treated with an investigational product; or (iii) palliative or hospice care for an eligible patient who was previously treated with an investigational product but who is no longer being treated with an investigational product. [2017 c 212 s 6.]

69.77.070 Hospitals and health care facilities. A hospital or health care facility:

(1) May, but is not required to, allow a health care practitioner who is privileged to practice or who is employed at the hospital or health care facility to treat, administer, or provide an investigational product to an eligible patient under this chapter;

(2) May establish a policy regarding treating, administering, or providing investigational products under this chapter; and

(3) Is not obligated to pay for the investigational product or any harm caused to the eligible patient by the product, or any care that is necessary as a result of the use of the investigational product, including under chapter 70.170 RCW. [2017 c 212 s 7.]

69.77.080 Private right of action—Unprofessional conduct—Immunity from civil or criminal liability. (1) Chapter 212, Laws of 2017 does not create a private right of action.

(2) A health care practitioner does not commit unprofessional conduct under RCW 18.130.180 and does not violate the applicable standard of care by:

(a) Obtaining an investigational product pursuant to this chapter;

(b) Refusing to recommend, request, prescribe, or otherwise provide an investigational product pursuant to this chapter;

(c) Administering an investigational product to an eligible patient pursuant to this chapter; or

(d) Treating an eligible patient with an investigational product pursuant to this chapter.

(3) The following persons and entities are immune from civil or criminal liability and administrative actions arising out of treatment of an eligible patient with an investigational product, other than acts or omissions constituting gross negligence or willful or wanton misconduct:

(a) A health care practitioner who recommends or requests an investigational product for an eligible patient in compliance with this chapter;

(b) A health care practitioner who refuses to recommend or request an investigational product for a patient seeking access to an investigational product;

(c) A manufacturer that provides an investigational product to a health care practitioner in compliance with this chapter;

(d) A hospital or health care facility where an investigational product is either administered or provided to an eligible patient in compliance with this chapter; and

(e) A hospital or health care facility that does not allow a health care practitioner to provide treatment with an investigational product or enforces a policy it has adopted regarding treating, administering, or providing care with an investigational product. [2017 c 212 s 8.]

69.77.090 Pharmacy quality assurance commission may adopt rules. The pharmacy quality assurance commission may adopt rules necessary to implement this chapter. [2017 c 212 s 9.]

Chapter 69.78 RCW
DIVERSITY IN CLINICAL TRIALS

Sections

69.78.010 Finding—Policy. (1) The legislature finds that controlled clinical trials provide a critical base of evidence for evaluating whether a medical product is safe and effective before the product is approved for marketing. The United States food and drug administration has evaluated demographic profiles of people participating in clinical trials for approved drugs and found that some groups, especially ethnic and racial groups, are not always well represented in clinical trials. Diversity in clinical trials is necessary to effectively determine how race, gender, and age impact how a person metabolizes a drug. Communities of color have been working diligently to establish a foundation of trust with government and clinical research with the goal of engaging more trial participants who are members of underrepresented demographic groups. Joining clinical trials is a difficult and complex process and the lack of trust and awareness of clinical trials and research, in addition to burdens related to transportation, geography, and access, limit trial participants. The lack of diversity in clinical trials compounds access to treatment disparities and limits our understanding of the impacts of studied interventions and conditions across the population.

(2) Therefore, it is the policy of the state to:

(a) Improve the completeness and quality of data concerning diverse demographic groups that is collected, reported, and analyzed for the purposes of clinical trials of drugs and medical devices;

(b) Identify barriers to participation in clinical trials by persons who are members of demographic groups that are underrepresented in such trials and employ strategies recognized by the United States food and drug administration to encourage greater participation in clinical trials by such persons;

(c) Make data concerning demographic groups that is collected, reported, and analyzed for the purposes of clinical trials more available and transparent; and

(d) Require certain entities conducting clinical trials to offer trial participants information in a language other than English and provide culturally specific recruitment materials alongside general enrollment materials. [2023 c 426 s 1.]

69.78.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Washington state review board" or "review board" means the Washington state institutional review board, established pursuant to 45 C.F.R. Part 46, which is the designated institutional review board for the department of social and health services, the department of health, the department of labor and industries, and other state agencies.

(2) "Underrepresented community" or "underrepresented demographic group" means a community or demographic group that is more likely to be historically marginalized and less likely to be included in research and clinical trials represented by race, sex, sexual orientation, socioeconomic status, age, and geographic location. [2023 c 426 s 2.]

69.78.030 Diversity in clinical trials program. The Washington state review board shall establish a diversity in clinical trials program to encourage participation in clinical trials of drugs and medical devices by persons who are members of demographic groups that are underrepresented in clinical trials. In developing this program, the review board shall compile and share information and resources in an accessible fashion to assist entities in Washington state that conduct clinical trials of drugs and medical devices to increase participation by persons who are members of demographic groups that are underrepresented in clinical trials including, but not limited to:

(1) Information concerning methods for identifying and recruiting persons who are members of underrepresented demographic groups to participate in clinical trials;

(2) Links or copies of outside resources related to increasing participation by members of underrepresented demographic groups in clinical trials provided by community organizations or other interested agencies or parties;

(3) Contact information for community organizations or other appropriate entities which may be able to provide assistance with efforts to increase participation by underrepresented demographic groups in clinical trials; and

(4) Links to websites maintained by medical facilities, health authorities, and other local governmental entities, nonprofit organizations, and scientific investigators and institutions that are performing research relating to drugs or medical devices in this state. [2023 c 426 s 3.]

69.78.040 Requirements for state entities or hospitals conducting clinical trials. Any state entity or hospital that receives funding from the national institutes of health to conduct clinical trials of drugs or medical devices shall:

(1) Adopt a policy concerning the identification and recruitment of persons who are members of underrepresented demographic groups to participate in clinical trials. This policy must include requirements that investigators who are conducting clinical trials collaborate with community-based organizations and use methods recognized by the United States food and drug administration to identify and recruit such persons to participate in those clinical trials;

(2) Provide information to trial participants in languages other than English;

(3) Provide translation services or bilingual staff for trial screening;

(4) Provide culturally specific recruitment materials alongside general enrollment materials; and

(5) Provide electronic consent when not prohibited by the granting entity or federal regulations. [2023 c 426 s 4.]

Chapter 69.80 RCW
FOOD DONATION AND DISTRIBUTION—LIABILITY

Sections

69.80.010 Purpose. The purpose of this chapter is to promote the free distribution of food to needy persons, prevent waste of food products, and provide liability protection for persons and organizations donating or distributing such food products. [1983 c 241 s 1.]

69.80.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Distributing organization" means a charitable nonprofit organization under section 501(c) of the federal internal revenue code which distributes food free of charge and includes any nonprofit organization that distributes food free of charge to other nonprofit organizations or to the public.

(2) "Donor" means a person, corporation, association, or other organization which donates food to a distributing organization. "Donor" includes, but is not limited to, farmers, processors, distributors, wholesalers, and retailers of food. "Donor" also includes persons who harvest agricultural crops or perishable foods which have been donated by the owner to a distributing organization.

(3) "Food" means food products for human consumption as defined in RCW 69.04.008. [1983 c 241 s 2.]

69.80.031 Good samaritan food donation act—Definitions—Collecting, distributing, gleaning—Liability. (1) This section may be cited as the "good samaritan food donation act."

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Apparently fit grocery product" means a grocery product that meets safety and safety-related labeling standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, passage of a date on a date label other than a safety or safety-related labeling of a date, or other conditions.

(b) "Apparently wholesome food" means food that meets safety and safety-related labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, passage of a date on a date label other than a safety or safety-related labeling of a date, or other conditions.

(c) "Donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(d) "Food" means a raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(e) "Gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(f) "Grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(g) "Gross negligence" means voluntary and conscious conduct by a person with knowledge, at the time of the conduct, that the conduct is likely to be harmful to the health or well-being of another person.

(h) "Intentional misconduct" means conduct by a person with knowledge, at the time of the conduct, that the conduct is harmful to the health or well-being of another person.

(i) "Nonprofit organization" means an incorporated or unincorporated entity that:

(i) Is operating for religious, charitable, or educational purposes; and

(ii) Does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

(j) "Person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, councilmember, or other elected or appointed individual responsible for the governance of the entity.

(k) "Qualified direct donor" means any person required to obtain a food establishment permit under chapter 246-215 WAC, as it existed as of January 1, 2022, including a retail grocer, wholesaler, agricultural producer, restaurant, caterer, school food authority, or institution of higher education as defined in RCW 28B.10.016.

(l)(i) "Safety and safety-related labeling" means a marking intended to communicate information to a consumer related to a food product's safety. "Safety and safety-related labeling" includes any marking that federal or state law requires to be affixed to a food product including, but not limited to, markings placed on infant formula consistent with 21 C.F.R. Sec. 107.20, as that regulation existed as of January 1, 2021.

(ii) "Safety and safety-related labeling" does not include a pull date required to be placed on perishable packaged food under RCW 15.130.300 or a "best by," "best if used by," "use by," or "sell by" date or similarly phrased date intended to communicate information to a consumer regarding the freshness or quality of a food product.

(3)(a) A person or gleaner is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this subsection does not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(b) A qualified direct donor may donate food directly to end recipients for consumption. A qualified direct donor is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the qualified direct donor donates in good faith to a needy individual. The donation of nonperishable food that is fit for human consumption, but that has exceeded the labeled shelf-life date recommended by the manufacturer, is an activity covered by the exclusion from civil or criminal liability under this section.

(c) The donation of perishable food that is fit for human consumption, but that has exceeded the labeled shelf-life date recommended by the manufacturer, is an activity covered by the exclusion from civil or criminal liability under this section if the person that distributes the food to the end recipient makes a good faith evaluation that the food to be donated is wholesome.

(4) A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals is not subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this subsection does not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(5) If some or all of the donated food and grocery products do not meet safety and safety-related labeling standards imposed by federal, state, and local laws and regulations, the person or gleaner who donates the food and grocery products is not subject to civil or criminal liability in accordance with this section if the nonprofit organization or other end recipient that receives the donated food or grocery products:

(a) Is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(b) Agrees to recondition the donated food or grocery products to comply with all the safety and safety-related labeling standards prior to distribution; and

(c) Is knowledgeable of the standards to properly recondition the donated food or grocery product.

(6) This section may not be construed to create liability. [2022 c 180 s 301; 1994 c 299 s 36.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Intent—Finding—Severability—Conflict with federal requirements—1994 c 299: See notes following RCW 74.12.400.

69.80.040 Information and referral service for food donation program. The department of agriculture shall maintain an information and referral service for persons and organizations that have notified the department of their desire to participate in the food donation program under this chapter. The department must coordinate with the department of ecology to ensure that the information and referral service required under this section is implemented in a manner consistent with the activities of RCW 70A.207.020 and 70A.205.550. [2022 c 180 s 404; 1983 c 241 s 4.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

69.80.050 Inspection of donated food by state and local agencies—Variance. (1) Appropriate state and local agencies are authorized to inspect donated food items for wholesomeness and may establish procedures for the handling of food items.

(2) To facilitate the free distribution of food to needy persons, the local health officer, upon request from either a donor or distributing organization, may grant a variance to chapter 246-215 WAC covering physical facilities, equipment standards, and food source requirements when no known or expected health hazard would exist as a result of the action. [2002 c 217 s 3; 1983 c 241 s 6.]

Finding—Purpose—2002 c 217: "The legislature finds and declares that the distribution of food by donors to charitable organizations, such as shelters, churches, and fraternal organizations, serving communal meals to needy individuals can be done safely consistent with rules and recommended

health and safety guidelines. The establishment of recommended donor guidelines by the department of health can educate the public about the preparation and handling of food donated to charitable organizations for distribution to homeless and other needy people. The purpose of this act is to authorize and facilitate the donation of food to needy persons in accordance with health and safety guidelines and rules, to assure that the donated food will not place needy recipients at risk, and to encourage businesses and individuals to donate surplus food to charitable organizations serving our state's needy population." [2002 c 217 s 1.]

Additional notes found at www.leg.wa.gov

69.80.060 Safe receipt, preparation, and handling of donated food—Rules—Educational materials. (1) No later than December 31, 2004, the state board of health shall promulgate rules for the safe receipt, preparation, and handling by distributing organizations of food accepted from donors in order to facilitate the donation of food, free of charge, and to protect the health and safety of needy people.

(2) No later than December 31, 2004, the department of health, in consultation with the state board of health, shall develop educational materials for donors containing recommended health and safety guidelines for the preparation and handling of food donated to distributing organizations. [2002 c 217 s 2.]

Finding—Purpose—2002 c 217: See note following RCW 69.80.050.

69.80.900 Construction. Nothing in this chapter may be construed to create any liability of, or penalty against a donor or distributing organization except as provided in RCW 69.80.031. [1994 c 299 s 38; 1983 c 241 s 5.]

Intent—Finding—Severability—Conflict with federal requirements—1994 c 299: See notes following RCW 74.12.400.

Chapter 69.90 RCW
KOSHER FOOD PRODUCTS

Sections

Organic products: Chapter 15.86 RCW.

69.90.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Food product" includes any article other than drugs, whether in raw or prepared form, liquid or solid, or packaged or unpackaged, and which is used for human consumption.

(2) "Kosher" means a food product which has been prepared, processed, manufactured, maintained, and sold in accordance with the requisites of traditional Jewish dietary law.

(3) "Person" includes individuals, partnerships, corporations, and associations. [1985 c 127 s 2.]

69.90.020 Sale of "kosher" and "kosher style" food products prohibited if not kosher—Representations—Penalty. (1) No person may knowingly sell or offer for sale any food product represented as "kosher" or "kosher style" when that person knows that the food product is not kosher and when the representation is likely to cause a prospective purchaser to believe that it is kosher. Such a representation can be made orally or in writing, or by display of a sign, mark, insignia, or simulation.

(2) A person violating this section is guilty of a gross misdemeanor. [2003 c 53 s 349; 1985 c 127 s 3.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.90.030 Violation of chapter is violation of consumer protection act. A violation of this chapter shall constitute a violation of the consumer protection act, chapter 19.86 RCW. [1985 c 127 s 4.]

69.90.900 Short title. This chapter shall be known as the sale of kosher food products act of 1985. [1985 c 127 s 1.]

Chapter 69.91 RCW
HALAL FOOD PRODUCTS

Sections

69.91.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Food product" includes any article other than drugs, whether in raw or prepared form, liquid or solid, or packaged or unpackaged, and that is used for human consumption.

(2) "Halal" means a food product prepared, processed, and maintained in strict accordance with the requisites of Islamic principles and customs including, but not limited to, the slaughter of an animal and preparation thereof for human consumption.

(3) "Person" includes individuals, partnerships, corporations, and associations. [2024 c 245 s 1.]

69.91.020 Sale of "halal" food products prohibited if not halal—Representations. No person may knowingly sell or offer for sale any food product marked, stamped, tagged, branded, labeled, or represented as halal when that person knows that the food product is not halal and when the representation is likely to cause a prospective purchaser to believe that it is halal. Such a representation may be made in any language, orally or in writing, or by display of a sign, mark, insignia, or simulation. [2024 c 245 s 2.]

69.91.030 Penalty—Violation of chapter is violation of the consumer protection act. (1) A person who violates this chapter is guilty of a gross misdemeanor.

(2) A violation of this chapter constitutes a violation of the consumer protection act, chapter 19.86 RCW. [2024 c 245 s 3.]

69.91.900 Short title. This chapter may be known and cited as the halal food consumer protection act. [2024 c 245 s 4.]