

FIFTY SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia  
Monday, March 11, 2019

The Senate was called to order at 10:08 a.m. by the President Pro Tempore, Senator Keiser presiding. The Secretary called the roll and announced to the President Pro Tempore that all senators were present.

The Sergeant at Arms Color Guard consisting of Pages Miss Grace Fuller and Mr. Logan Matthews, presented the Colors. Page Miss Rowan Matner led the Senate in the Pledge of Allegiance.

The prayer was offered by Reverend Mr. George Bedlion Jr., Senior Pastor, Bethany Baptist Church, Puyallup. Pastor Bedlion was a guest of Senator Zeiger.

The President Pro Tempore called upon the Secretary to read the journal of the preceding day.

MOTION

On motion of Senator Liias, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Liias, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

**EDITOR'S NOTE:** Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION TO LIMIT DEBATE

Pursuant to Rule 29, on motion of Senator Liias and without objection, senators were limited to speaking but once and for no more than three minutes on each question under debate for the remainder of the day by voice vote.

MOTION

On motion of Senator Liias, the Senate advanced to the fourth order of business.

MESSAGES FROM THE HOUSE

March 9, 2019

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE HOUSE BILL NO. 1075,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114,
- SUBSTITUTE HOUSE BILL NO. 1196,
- SECOND SUBSTITUTE HOUSE BILL NO. 1304,
- HOUSE BILL NO. 1305,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1308,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332,
- SUBSTITUTE HOUSE BILL NO. 1476,
- HOUSE BILL NO. 1583,
- HOUSE BILL NO. 1634,

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1696,
- HOUSE BILL NO. 1838,
- HOUSE BILL NO. 1918,
- HOUSE BILL NO. 2051,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

March 8, 2019

MR. PRESIDENT:

The House has passed:

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1099,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1139,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1224,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1296,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1311,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1329,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1401,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1523,
- ENGROSSED HOUSE BILL NO. 1564,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1667,
- ENGROSSED HOUSE BILL NO. 1777,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1813,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1879,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

**HB 1026** by Representatives Appleton, Fitzgibbon and Stanford  
AN ACT Relating to breed-based dog regulations; adding a new section to chapter 16.08 RCW; creating a new section; and providing an effective date.

Referred to Committee on Local Government.

**HB 1070** by Representatives Mosbrucker, Fitzgibbon, Tharinger and Doglio  
AN ACT Relating to the tax treatment of renewable natural gas; amending RCW 82.16.310, 82.04.310, and 82.04.120; and creating a new section.

Referred to Committee on Environment, Energy & Technology.

**SHB 1168** by House Committee on Finance (originally sponsored by Leavitt, Barkis, Kilduff, Jinkins, MacEwen, Goodman, Macri, Pollet, Callan, Wylie, Chapman, Valdez, Fey, Doglio and Kloba)

AN ACT Relating to sales and use and excise tax exemptions for self-help housing development; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing expiration dates.

Referred to Committee on Housing Stability & Affordability.

SHB 1239 by House Committee on Health Care & Wellness (originally sponsored by Cody, Schmick, Macri, Harris, Appleton, Thai, Wylie and Chambers)

AN ACT Relating to protecting the confidentiality of health care quality and peer review discussions to support effective patient safety; amending RCW 42.30.110; and adding a new section to chapter 70.41 RCW.

Referred to Committee on Health & Long Term Care.

SHB 1251 by House Committee on State Government & Tribal Relations (originally sponsored by Tarleton, Hudgins and Wylie)

AN ACT Relating to security breaches of election systems or election data including by foreign entities; adding a new section to chapter 29A.12 RCW; and creating a new section.

Referred to Committee on State Government, Tribal Relations & Elections.

E3SHB 1324 by House Committee on Appropriations (originally sponsored by Chapman, Maycumber, Springer, Chandler, Blake, Stokesbary, Steele, Reeves, Pettigrew, Dolan, Volz, Barkis, Eslick, Lekanoff, Tharinger, Hoff, Jinkins, Kilduff and Leavitt)

AN ACT Relating to creating the Washington rural development and opportunity zone act; amending RCW 82.04.260 and 82.04.261; adding a new section to chapter 48.14 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 43 RCW; creating new sections; and providing expiration dates.

Referred to Committee on Financial Institutions, Economic Development & Trade.

SHB 1360 by House Committee on Transportation (originally sponsored by Irwin and Fey)

AN ACT Relating to abstracts of driving records; and amending RCW 46.52.130.

Referred to Committee on Transportation.

SHB 1377 by House Committee on Housing, Community Development & Veterans (originally sponsored by Walen, Barkis, Jenkin, Harris, Springer, Macri, Wylie, Ryu, Reeves, Robinson, Griffey, Appleton, Bergquist, Jinkins, Tharinger, Slatter, Kloba, Doglio, Goodman, Leavitt, Ormsby and Santos)

AN ACT Relating to affordable housing development on religious organization property; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70A RCW; and adding a new section to chapter 44.28 RCW.

Referred to Committee on Housing Stability & Affordability.

SHB 1415 by House Committee on Appropriations (originally sponsored by Schmick and Cody)

AN ACT Relating to funding the medical marijuana authorization database; amending RCW 43.70.320 and 69.51A.230; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 1432 by Representatives Cody, DeBolt, Robinson, Harris, Macri, Slatter, Jinkins, Doglio, Tharinger and Ormsby  
AN ACT Relating to hospital privileges for advanced registered nurse practitioners and physician assistants; and amending RCW 70.41.230.

Referred to Committee on Health & Long Term Care.

3SHB 1498 by House Committee on Appropriations (originally sponsored by Hudgins, Dye, Tharinger, Maycumber, DeBolt, Wylie, Orcutt, Chapman, Kloba, Tarleton, Frame, Appleton, Smith, Shewmake, Doglio, Paul, Reeves, Stanford, Valdez, Leavitt, Macri and Steele)

AN ACT Relating to expanding affordable, resilient broadband service to enable economic development, public safety, health care, and education in Washington's communities; amending RCW 54.16.330, 53.08.370, 80.36.630, 80.36.650, 80.36.660, 80.36.670, 80.36.680, 80.36.690, and 80.36.700; amending 2013 2nd sp.s. c 8 ss 212 and 303 (uncodified); reenacting and amending RCW 43.84.092; adding new sections to chapter 43.330 RCW; adding new sections to chapter 43.155 RCW; creating new sections; repealing RCW 43.330.415, 43.330.418, and 80.36.620; providing expiration dates; and declaring an emergency.

Referred to Committee on Environment, Energy & Technology.

HB 1548 by Representatives Davis, Cody, Harris, Caldier and Appleton

AN ACT Relating to changing the name of the medical quality assurance commission to the Washington medical commission; amending RCW 18.50.115, 18.71.002, 18.71.010, 18.71.015, 18.71A.010, 18.71A.020, 18.130.040, 18.360.030, 69.41.030, 69.50.402, 69.51A.300, 70.41.200, 70.41.230, 70.230.080, 70.230.130, 70.230.140, 74.09.290, and 74.42.230; and reenacting and amending RCW 69.45.010 and 69.50.101.

Referred to Committee on Health & Long Term Care.

ESHB 1578 by House Committee on Environment & Energy (originally sponsored by Lekanoff, Peterson, Doglio, Fitzgibbon, Shewmake, Robinson, Slatter, Valdez, Bergquist, Morris, Stanford, Tharinger, Cody, Jinkins, Kloba, Pollet, Frame, Davis and Macri)

AN ACT Relating to reducing threats to southern resident killer whales by improving the safety of oil transportation; amending RCW 88.16.190, 88.46.240, 90.56.565, and 88.46.165; adding a new section to chapter 88.16 RCW; adding new sections to chapter 88.46 RCW; creating a new section; and providing an effective date.

Referred to Committee on Environment, Energy & Technology.

FIFTY SEVENTH DAY, MARCH 11, 2019

2019 REGULAR SESSION

EHB 1584 by Representatives Riccelli, Ormsby, Fey, Fitzgibbon, Lovick, Ramos, Stanford and Leavitt  
AN ACT Relating to restricting the availability of state funds to regional transportation planning organizations that do not provide a reasonable opportunity for voting membership to certain federally recognized tribes; amending RCW 47.80.050; and providing an effective date.

Referred to Committee on Transportation.

SHB 1607 by House Committee on Civil Rights & Judiciary (originally sponsored by Caldier, Jinkins, Robinson, Macri and Cody)  
AN ACT Relating to notice of material changes to the operations or governance structure of participants in the health care marketplace; adding a new chapter to Title 19 RCW; and prescribing penalties.

Referred to Committee on Law & Justice.

HB 1676 by Representative MacEwen  
AN ACT Relating to business activities that may be considered as factors in the liquor licensing process; and adding a new section to chapter 66.24 RCW.

Referred to Committee on Labor & Commerce.

SHB 1686 by House Committee on Health Care & Wellness (originally sponsored by Macri, Cody, Robinson, Riccelli, Slatter, Jinkins and Pollet)  
AN ACT Relating to hospital access to care policies; and adding a new section to chapter 70.41 RCW.

Referred to Committee on Health & Long Term Care.

ESHB 1692 by House Committee on State Government & Tribal Relations (originally sponsored by Jinkins, Caldier, Fitzgibbon, Doglio, Cody, Macri, Gregerson, Riccelli, Kilduff, Bergquist, Dolan, Appleton, Davis, Ryu, Robinson, Morgan, Blake, Stanford, Frame, Ormsby, Tarleton, Tharinger, Fey, Kloba, Valdez, Orwall, Callan, Harris, Kirby, Ortiz-Self, Senn, Goodman, Peterson and Reeves)  
AN ACT Relating to protecting information concerning agency employees who have filed a claim of harassment or stalking; adding new sections to chapter 42.56 RCW; creating a new section; prescribing penalties; and declaring an emergency.

Referred to Committee on State Government, Tribal Relations & Elections.

ESHB 1732 by House Committee on Public Safety (originally sponsored by Valdez, Entenman, Ramos, Wylie, Gregerson, Dolan, Frame, Jinkins, Ortiz-Self, Orwall, Peterson, Ryu, Stanford, Kilduff, Santos, Thai, Senn, Macri and Pollet)  
AN ACT Relating to identifying and responding to bias-based criminal offenses; amending RCW 9A.36.078, 9A.36.080, 9A.36.083, 2.56.030, 9.94A.030, 9A.46.060, 36.28A.030, 43.43.830, and 48.18.553; reenacting and amending RCW 9.94A.515; and adding a new section to chapter 43.10 RCW.

Referred to Committee on Law & Justice.

HB 1753 by Representatives Riccelli, Macri and Harris  
AN ACT Relating to requiring a statement of inquiry for rules affecting fees related to health professions; and amending RCW 34.05.310.

Referred to Committee on Health & Long Term Care.

ESHB 1788 by House Committee on Civil Rights & Judiciary (originally sponsored by Stokesbary)  
AN ACT Relating to the Washington state bar association; amending RCW 2.48.180; adding new sections to chapter 2.44 RCW; recodifying RCW 2.48.180 and 2.48.200; and repealing RCW 2.48.010, 2.48.020, 2.48.021, 2.48.030, 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070, 2.48.080, 2.48.090, 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150, 2.48.160, 2.48.166, 2.48.170, 2.48.190, 2.48.210, 2.48.220, and 2.48.230.

Referred to Committee on Law & Justice.

ESHB 1794 by House Committee on Commerce & Gaming (originally sponsored by Stanford, MacEwen, Blake, Vick, Kirby, Young, Reeves and Appleton)  
AN ACT Relating to agreements between licensed marijuana businesses and other people and businesses, including royalty and licensing agreements relating to the use of intellectual property; and amending RCW 69.50.395.

Referred to Committee on Labor & Commerce.

SHB 1856 by House Committee on Health Care & Wellness (originally sponsored by Tharinger, Caldier, Cody, Kloba, Wylie, Corry, Sutherland, Ybarra, Steele, Peterson, Klippert, DeBolt, Stanford, Doglio, Mead, Ryu and Macri)  
AN ACT Relating to prohibiting scleral tattooing; amending RCW 18.300.100; adding a new section to chapter 70.54 RCW; and prescribing penalties.

Referred to Committee on Health & Long Term Care.

SHB 1865 by House Committee on Health Care & Wellness (originally sponsored by Cody, Harris, Pettigrew, Caldier, Tharinger and Thai)  
AN ACT Relating to acupuncture and Eastern medicine; amending RCW 18.06.010, 18.06.020, 18.06.045, 18.06.050, 18.06.060, 18.06.080, 18.06.130, 18.06.140, 18.06.190, 18.06.220, 18.06.230, 4.24.240, 4.24.290, 7.70.020, 18.120.020, 18.130.040, 18.250.010, 41.05.074, 43.70.110, and 48.43.016; reenacting and amending RCW 69.41.010; adding a new section to chapter 18.06 RCW; creating a new section; and repealing RCW 18.06.070, 18.06.180, and 18.06.005.

Referred to Committee on Health & Long Term Care.

2SHB 1907 by House Committee on Appropriations (originally sponsored by Davis, Appleton, Doglio, Ryu, Goodman and Jinkins)  
AN ACT Relating to the substance use disorder treatment system; amending RCW 71.05.050, 71.05.150, 71.05.150, 71.05.153, 71.05.153, 71.05.210, 71.05.210, 71.05.220, 71.05.360, 71.05.760, 71.05.190, 71.05.180, 71.05.160, 71.05.157, 71.05.148, 71.24.037, 71.34.020, 71.34.375,

71.05.435, 71.34.410, 71.34.600, 71.34.660, 71.34.700, 71.34.700, 71.34.710, 71.34.710, 71.34.720, 71.34.720, 71.34.740, 71.34.740, 71.34.750, 71.34.780, and 71.34.780; reenacting and amending RCW 71.05.020, 71.05.240, 71.05.240, 71.05.590, 71.05.590, 71.05.120, 71.34.730, and 71.34.750; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Health & Long Term Care.

ESHB 2018 by House Committee on State Government & Tribal Relations (originally sponsored by Morgan, Jinkins, Harris, Bergquist, Appleton, Cody, Tharinger, Pollet, Fey, Tarleton, Goodman, Pettigrew, Doglio, Senn, Lovick, Dolan, Kilduff, Ryu, Thai, Stanford, Lekanoff, Wylie, Slatter, Hansen, Shewmake, Robinson, Chapman, Santos, Walen, Chopp, Fitzgibbon, Hudgins, Leavitt, Macri, Valdez, Irwin, Reeves, Pellicciotti, Frame and Ormsby)

AN ACT Relating to harassment and discrimination by legislators and legislative branch employees; and adding a new section to chapter 42.52 RCW.

Referred to Committee on State Government, Tribal Relations & Elections.

HB 2038 by Representatives Ramos, Orcutt, Eslick and Fey  
AN ACT Relating to pavement condition reporting requirements; adding a new section to chapter 47.04 RCW; and repealing RCW 46.68.113.

Referred to Committee on Transportation.

SHB 2049 by House Committee on Rural Development, Agriculture, & Natural Resources (originally sponsored by Blake)

AN ACT Relating to commercial egg layer operations; amending RCW 69.25.010, 69.25.065, 69.25.070, 69.25.103, 69.25.107, and 69.25.110; reenacting and amending RCW 69.25.020; and creating new sections.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

EHB 2066 by Representatives Davis, Pellicciotti, Goodman, Appleton, Sutherland, Graham, Klippert, Leavitt and Pollet

AN ACT Relating to restrictions on driver's licenses associated with certain criminal offenses; and amending RCW 46.20.285.

Referred to Committee on Law & Justice.

MOTIONS

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

On motion of Senator Liias, the Senate advanced to the eighth order of business.

MOTION

Senator Padden moved adoption of the following resolution:

SENATE RESOLUTION  
8626

By Senators Padden, Billig, Holy, Schoesler, Short, Brown, and Wilson, L.

WHEREAS, Greater Spokane County Meals on Wheels was founded in the basement of the Spokane Valley United Methodist Church in 1972, to fight hunger and social isolation among vulnerable adults in the region; and

WHEREAS, The daily works performed by the organization's director, Marta Harrington; assistant director, Mark Laskowski; board of directors; staff; and volunteers prevent vulnerable adults in the community from going hungry; and

WHEREAS, Their team provides the only home delivery meal program that serves all of Spokane County, from Elk and Deer Park on the north to Rockford and Fairfield on the south, Liberty Lake on the east and Medical Lake on the west; and

WHEREAS, Staff and volunteers prepare more than 1,000 fresh-made meals a day, Monday through Friday, served at 12 locations where patrons can enjoy their meals with peers and friends, and delivered to homes between the hours of 11 a.m. and 1 p.m.; and

WHEREAS, Each meal served fulfills a third of the daily nutrition and calorie requirements, and allows vulnerable adults to remain living independently while supplementing their lives with social contact; and

WHEREAS, The organization's collective efforts span 45 delivery routes across all 1,281 square miles of Spokane County, serving over 250,000 meals annually and providing a lifeline that connects vulnerable adults to necessary resources and offers them peace of mind; and

WHEREAS, The organization's strength has been its volunteers and organizers, from cofounder Norma Trefry, who guided its growth from a small church-based organization, to Pam Almeida, who served as executive director for 19 years, under whose leadership the program further grew and prospered; and

WHEREAS, Not a single delivery was missed during the snowstorms of the last month; and

WHEREAS, The Greater Spokane County Meals on Wheels further advocates for vulnerable adults through their annual Champions Week event during the national March for Meals awareness month to advance the efforts and resources impacting their community;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Greater Spokane County Meals on Wheels director, Marta Harrington; assistant director, Mark Laskowski; board of directors; staff; and volunteers, for their extraordinary efforts and their devotion to the vulnerable adults of Spokane County; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Marta Harrington, Mark Laskowski, and the Greater Spokane County Meals on Wheels board of directors, staff, and volunteers.

Senator Padden spoke in favor of adoption of the resolution.

MOTION

On motion of Senator Wilson, C., Senators Carlyle, Hasegawa, Hobbs and Palumbo were excused.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8626.

The motion by Senator Padden carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Greater Spokane County Meals on Wheels organization representatives, Ms. Joey Yonago, Senior Nutrition Program Director and Ms. Jerri Horton, Food Service Director who were seated in the gallery.

## MOTION

On motion of Senator Liias, the Senate reverted to the seventh order of business.

## THIRD READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Saldaña moved that Teresita Batayola, Senate Gubernatorial Appointment No. 9006, be confirmed as a member of the Seattle College District Board of Trustees.

Senator Saldaña spoke in favor of the motion.

## APPOINTMENT OF TERESITA BATAYOLA

The President Pro Tempore declared the question before the Senate to be the confirmation of Teresita Batayola, Senate Gubernatorial Appointment No. 9006, as a member of the Seattle College District Board of Trustees.

The Secretary called the roll on the confirmation of Teresita Batayola, Senate Gubernatorial Appointment No. 9006, as a member of the Seattle College District Board of Trustees and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

Teresita Batayola, Senate Gubernatorial Appointment No. 9006, having received the constitutional majority was declared confirmed as a member of the Seattle College District Board of Trustees.

## THIRD READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Pedersen moved that Louise Chernin, Senate Gubernatorial Appointment No. 9007, be confirmed as a member of the Seattle College District Board of Trustees.

Senators Pedersen and Liias spoke in favor of passage of the motion.

## APPOINTMENT OF LOUISE CHERNIN

The President Pro Tempore declared the question before the Senate to be the confirmation of Louise Chernin, Senate Gubernatorial Appointment No. 9007, as a member of the Seattle

College District Board of Trustees.

The Secretary called the roll on the confirmation of Louise Chernin, Senate Gubernatorial Appointment No. 9007, as a member of the Seattle College District Board of Trustees and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

Louise Chernin, Senate Gubernatorial Appointment No. 9007, having received the constitutional majority was declared confirmed as a member of the Seattle College District Board of Trustees.

## MOTION

At 10:32 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

## AFTERNOON SESSION

The Senate was called to order at 1:24 p.m. by the acting President Pro Tempore, Senator Hasegawa presiding.

## MOTION

On motion of Senator Liias, the Senate reverted to the sixth order of business.

## SECOND READING

SENATE BILL NO. 5370, by Senators Keiser, Warnick, Saldaña, Hasegawa, Wilson, C. and Honeyford

Creating a state commercial aviation coordinating commission.

## MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5370 was substituted for Senate Bill No. 5370 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5370 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

## MOTION

On motion of Senator Wilson, C., Senator Hobbs was excused.

Senators Keiser, King and Warnick spoke in favor of passage of the bill.

## MOTIONS

On motion of Senator Wilson, C., Senator Dhingra was excused.

On motion of Senator Rivers, Senators Ericksen, O'Ban and Sheldon were excused.

The acting President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5370.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5370 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Liias

Excused: Senators Carlyle, Dhingra and Ericksen

SUBSTITUTE SENATE BILL NO. 5370, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The acting President Pro Tempore welcomed and introduced students and representatives of Liberty Bell Jr.-Sr. High School, Winthrop, who were seated in the gallery.

Senator Keiser, the President Pro Tempore, assumed the chair.

#### SECOND READING

SENATE BILL NO. 5885, by Senators Padden, Dhingra, O'Ban, Wilson, C. and Nguyen

Creating an exemption to hearsay for child sex trafficking victims.

#### MOTIONS

On motion of Senator Padden, Substitute Senate Bill No. 5885 was substituted for Senate Bill No. 5885 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Padden, the rules were suspended, Substitute Senate Bill No. 5885 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Padden and Pedersen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5885.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute

Senate Bill No. 5885 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5885, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5718, by Senators Saldaña, Hasegawa, Nguyen, O'Ban, Das, Keiser, Kuderer and Zeiger

Establishing the child welfare housing assistance program that provides housing assistance to parents reunifying with a child and parents at risk of having a child removed.

#### MOTIONS

On motion of Senator Liias, Second Substitute Senate Bill No. 5718 was substituted for Senate Bill No. 5718 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Saldaña, the rules were suspended, Second Substitute Senate Bill No. 5718 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña and Walsh spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5718.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5718 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SECOND SUBSTITUTE SENATE BILL NO. 5718, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

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## MESSAGE FROM THE HOUSE

March 8, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5581 with the following amendment(s): 5581-S AMH FIN H2062.1

Strike everything after the enacting clause and insert the following:

**"Part I  
Nexus**

**Sec. 101.** RCW 82.04.067 and 2017 3rd sp.s. c 28 s 302 are each amended to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if, in the current or immediately preceding calendar year, the person is:

- (a) An individual and is a resident or domiciliary of this state;
- (b) A business entity and is organized or commercially domiciled in this state; or
- (c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and the person had:
  - (i) More than fifty-three thousand dollars of property in this state;
  - (ii) More than fifty-three thousand dollars of payroll in this state;
  - (iii) More than two hundred sixty-seven thousand dollars of receipts from this state; or
  - (iv) At least twenty-five percent of the person's total property, total payroll, or total receipts in this state.

(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the current or immediately preceding calendar year.

(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.

(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property must be determined by averaging the values at the beginning and ending of the applicable calendar year; but the department may require the averaging of monthly values during the applicable calendar year if reasonably required to properly reflect the average value of the taxpayer's property.

(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:

(A) Loans secured by real property, personal property, or both real and personal property are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is

located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.

(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.

(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.

(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.

(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.

(e) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the current or immediately preceding calendar year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on June 1, 2010.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are:

(a) Those amounts included in the numerator of the receipts factor under RCW 82.04.462;

(b) For financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and

(c) For persons taxable under RCW 82.04.250(1), 82.04.257(1), or 82.04.270, the gross proceeds of sales taxable under those statutory provisions and sourced to this state in accordance with RCW 82.32.730.

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of June 1, 2010,

or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6)(a)(i) Except as provided in (a)(iii) of this subsection (6), subsections (1) through (5) of this section only apply with respect to the taxes on persons engaged in apportionable activities as defined in RCW 82.04.460 or making wholesale sales taxable under RCW 82.04.257(1) or 82.04.270.

(ii) Subject to the limitation in RCW 82.32.531, for purposes of the taxes imposed under this chapter on the business of making sales at retail or any other activity not included in the definition of apportionable activities in RCW 82.04.460, other than the business of making wholesale sales taxed under RCW 82.04.257(1) or 82.04.270, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state during the current or immediately preceding calendar year, which need only be demonstrably more than a slightest presence.

(iii) For purposes of the taxes imposed under this chapter on the business of making sales at retail taxable under RCW 82.04.250(1) or 82.04.257(1), a person is also deemed to have a substantial nexus with this state if the person's receipts from this state, pursuant to subsection (4)(c) of this section, meet either criterion in subsection (1)(c)(iii) or (iv) of this section, as adjusted under subsection (5) of this section.

(b) For purposes of this subsection, a person is physically present in this state if the person has property or employees in this state.

(c)((~~ii~~)) A person is also physically present in this state for the purposes of this subsection if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

~~((ii) A remote seller as defined in RCW 82.08.052 is presumed to be engaged in activities in this state that are significantly associated with the remote seller's ability to establish or maintain a market for its products in this state if the remote seller is presumed to have a substantial nexus with this state under RCW 82.08.052. The presumption in this subsection (6)(c)(ii) may be rebutted as provided in RCW 82.08.052. To the extent that the presumption in RCW 82.08.052 is no longer operative pursuant to RCW 82.32.762, the presumption in this subsection (6)(c)(ii) is no longer operative.)~~

**Sec. 102.** RCW 82.04.067 and 2019 c . . . s 101 (section 101 of this act) are each amended to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if, in the current or immediately preceding calendar year, the person is:

- (a) An individual and is a resident or domiciliary of this state;
- (b) A business entity and is organized or commercially domiciled in this state; or
- (c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and the

person had:

(i) ~~(More than fifty three thousand dollars of property in this state;~~

(ii) ~~More than fifty three thousand dollars of payroll in this state;~~

(iii)) More than ~~((two hundred sixty seven))~~ one hundred thousand dollars of cumulative gross receipts from this state; or  
~~((iv) At least twenty five percent of the person's total property, total payroll, or total receipts in this state.~~

~~(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the current or immediately preceding calendar year.~~

~~(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.~~

~~(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.~~

~~(c) The average value of property must be determined by averaging the values at the beginning and ending of the applicable calendar year; but the department may require the averaging of monthly values during the applicable calendar year if reasonably required to properly reflect the average value of the taxpayer's property.~~

~~(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:~~

~~(A) Loans secured by real property, personal property, or both real and personal property are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.~~

~~(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.~~

~~(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.~~

~~(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.~~

~~(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.~~

~~(c) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's~~



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ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the current or immediately preceding calendar year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on June 1, 2010.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are:

(a) Those amounts included in the numerator of the receipts factor under RCW 82.04.462;

(b) For financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and

(c) For persons taxable under RCW 82.04.250(1), 82.04.257(1), or 82.04.270, the gross proceeds of sales taxable under those statutory provisions and sourced to this state in accordance with RCW 82.32.730.

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6)(a)(i) Except as provided in (a)(iii) of this subsection (6), subsections (1) through (5) of this section only apply with respect to the taxes on persons engaged in apportionable activities as defined in RCW 82.04.460 or making wholesale sales taxable under RCW 82.04.257(1) or 82.04.270.

(ii) Subject to the limitation in RCW 82.32.531, for purposes of the taxes imposed under this chapter on the business of making sales at retail or any other activity not included in the definition of apportionable activities in RCW 82.04.460, other than the

business of making wholesale sales taxed under RCW 82.04.257(1) or 82.04.270, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state during the current or immediately preceding calendar year, which need only be demonstrably more than a slightest presence.

(iii) For purposes of the taxes imposed under this chapter on the business of making sales at retail taxable under RCW 82.04.250(1) or 82.04.257(1), a person is also deemed to have a substantial nexus with this state if the person's receipts from this state, pursuant to subsection (4)(c) of this section, meet either criterion in subsection (1)(c)(iii) or (iv) of this section, as adjusted under subsection (5) of this section.

(b)) (ii) Subject to the limitation in RCW 82.32.531, physical presence in this state, which need only be demonstrably more than a slightest presence.

(2)(a) Cumulative gross receipts counting toward the threshold in subsection (1)(c)(i) of this section include all of a person's gross income of the business attributed to this state. For purposes of this subsection, gross income of the business is attributed to this state as follows:

(i) For apportionable income, all amounts included in the numerator of the receipts factor under RCW 82.04.462 and, in the case of financial institutions, all amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and

(ii) For all other income, the gross income of the business allocated to this state in accordance with the sourcing provisions of RCW 82.32.730.

(b) For a marketplace facilitator, cumulative gross receipts counting toward the threshold in subsection (1)(c)(i) of this section include, in addition to the gross proceeds of its own sales, the cumulative gross proceeds from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that do not have a substantial nexus with this state under the provisions of this section.

(3)(a) For purposes of ((this)) subsection (1)(c)(ii) of this section, a person is physically present in this state if the person has property or employees in this state.

((e)) (b) A person is also physically present in this state for the purposes of ((this)) subsection (1)(c)(ii) of this section if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

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

(a) "Apportionable income" has the same meaning as provided in RCW 82.04.460.

(b) "Marketplace," "marketplace facilitator," and "marketplace seller" have the same meaning as provided in RCW 82.08.010.

(c) "Product" has the same meaning as provided in RCW 82.32.023.

**Sec. 103.** RCW 82.04.220 and 2017 3rd sp.s. c 28 s 303 are each amended to read as follows:

(1) There is levied and collected from every person that has a substantial nexus with this state, as provided in RCW 82.04.067, a tax for the act or privilege of engaging in business activities. The tax is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.

(2)((a)) A person who ((has)) establishes a substantial nexus with this state in the current calendar year under the provisions of RCW 82.04.067((-based solely on the person's property, payroll, or receipts in this state during the current calendar year.)) is

subject to the tax imposed under this chapter for the current calendar year only on business activity occurring on and after the date that the person established a substantial nexus with this state in the current calendar year. This subsection does not apply to a person who also had a substantial nexus with this state during the immediately preceding calendar year under RCW 82.04.067, and such person is taxable under this chapter for the current calendar year in its entirety.

~~((b) This subsection (2) does not apply to any person who also had a substantial nexus with this state during:~~

~~(i) The immediately preceding calendar year under RCW 82.04.067; or~~

~~(ii) The current calendar year under RCW 82.04.067 (1)(a) or (b) or (6)(a)(ii) or (c).))~~

**NEW SECTION. Sec. 104.** A new section is added to chapter 82.02 RCW to read as follows:

A person that has a substantial nexus under RCW 82.04.067 is obligated to pay all applicable taxes and fees imposed on that person's business activity, including any taxes and fees enacted after December 31, 2018. For purposes of this section, "taxes and fees" means any monetary exaction, regardless of its label, that is imposed directly on a person engaging in business and that the department is responsible for collecting.

**Sec. 105.** RCW 82.08.010 and 2014 c 140 s 11 are each amended to read as follows:

For the purposes of this chapter:

(1)(a)(i) "Selling price" includes "sales price." "Sales price" means the total amount of consideration, except separately stated trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a "retail sale" under RCW 82.04.050 are sold, leased, or rented, valued in money, whether received in money or otherwise. No deduction from the total amount of consideration is allowed for the following: (A) The seller's cost of the property sold; (B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (D) delivery charges; and (E) installation charges.

(ii) When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department may prescribe;

(b) "Selling price" or "sales price" does not include: Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale; interest, financing, and carrying charges from credit extended on the sale of tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a retail sale in RCW 82.04.050, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) "Selling price" or "sales price" includes consideration received by the seller from a third party if:

(i) The seller actually receives consideration from a party other

than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the criteria in this subsection (1)(c)(iv) is met:

(A) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount, however a "preferred customer" card that is available to any patron does not constitute membership in such a group; or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser;

(2)(a)(i) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal, except ~~("seller" does not mean)~~ as otherwise provided in this subsection (2).

(ii) "Seller" includes marketplace facilitators, whether making sales in their own right or facilitating sales on behalf of marketplace sellers.

(b)(i) "Seller" does not include:

~~((A))~~ (A) The state and its departments and institutions when making sales to the state and its departments and institutions; or

~~((B))~~ (B) A professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale at retail that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the seller and is responsible for collecting and remitting the tax imposed by this chapter.

~~((b))~~ (ii) For the purposes of ~~((a) or (f))~~ this subsection (2)(b), the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(3) "Buyer," "purchaser," and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing;

(5) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail"

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includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address;

(6) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state," "within this state," "marijuana," "useable marijuana," and "marijuana-infused products" applies equally to the provisions of this chapter;

(7) For the purposes of the taxes imposed under this chapter and under chapter 82.12 RCW, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The definitions in RCW 82.04.192 apply to this chapter;

(10) For the purposes of the taxes imposed under this chapter and chapter 82.12 RCW, whenever the terms "property" or "personal property" are used, those terms must be construed to include digital goods and digital codes unless:

(a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property;

(b) It is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or

(c) To construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences; and

(11) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(12) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products unless the applicable term is explicitly defined to include marijuana, useable marijuana, or marijuana-infused products.

(13)(a) "Affiliated person" means a person that, with respect to another person:

(i) Has an ownership interest of more than five percent, whether direct or indirect, in the other person; or

(ii) Is related to the other person because a third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than five percent, whether direct or indirect, in the related persons.

(b) For purposes of this subsection (13):

(i) "Ownership interest" means the possession of equity in the capital, the stock, or the profits of the other person; and

(ii) An indirect ownership interest in a person is an ownership interest in an entity that has an ownership interest in the person or in an entity that has an indirect ownership interest in the person.

(14) "Marketplace" means a physical or electronic place, including, but not limited to, a store, a booth, an internet web site, a catalog or a dedicated sales software application, where tangible personal property, digital codes and digital products, or services are offered for sale.

(15)(a) "Marketplace facilitator" means a person that:

(i) Contracts with sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products through a marketplace owned or operated by the person;

(ii) Engages directly or indirectly, through one or more

affiliated persons, in transmitting or otherwise communicating the offer or acceptance between the buyer and seller. For purposes of this subsection, mere advertising does not constitute transmitting or otherwise communicating the offer or acceptance between the buyer and seller; and

(iii) Engages directly or indirectly, through one or more affiliated persons, in any of the following activities with respect to the seller's products:

(A) Payment processing services;

(B) Fulfillment or storage services;

(C) Listing products for sale;

(D) Setting prices;

(E) Branding sales as those of the marketplace facilitator;

(F) Taking orders; or

(G) Providing customer service or accepting or assisting with returns or exchanges.

(b)(i) "Marketplace facilitator" does not include:

(A) A person who provides internet advertising services, including listing products for sale, so long as the person does not also engage in the activity described in (a)(ii) of this subsection (15) in addition to any of the activities described in (a)(iii) of this subsection (15); or

(B) A person with respect to the provision of travel agency services or the operation of a marketplace or that portion of a marketplace that enables consumers to purchase transient lodging accommodations in a hotel or other commercial transient lodging facility.

(ii) The exclusion in this subsection (15)(b) does not apply to a marketplace or that portion of a marketplace that facilitates the retail sale of transient lodging accommodations in homes, apartments, cabins, or other residential dwelling units.

(iii) For purposes of this subsection (15)(b), the following definitions apply:

(A) "Hotel" has the same meaning as in RCW 19.48.010.

(B) "Travel agency services" means arranging or booking, for a commission, fee or other consideration, vacation or travel packages, rental car or other travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations.

(16) "Marketplace seller" means a seller that makes retail sales through any marketplace operated by a marketplace facilitator, regardless of whether the seller is required to be registered with the department under RCW 82.32.030.

(17) "Remote seller" means any seller, including a marketplace facilitator, who does not have a physical presence in this state and makes retail sales to purchasers or facilitates retail sales on behalf of marketplace sellers.

**Sec. 106.** RCW 82.08.052 and 2015 3rd sp.s. c 5 s 202 are each amended to read as follows:

~~(1) (For purposes of this chapter, a remote seller is presumed to have a substantial nexus with this state and is obligated to collect retail sales tax if the remote seller enters into an agreement with a resident of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet web site or otherwise, to the remote seller, if the cumulative gross receipts from sales by the remote seller to customers in this state who are referred to the remote seller by all residents with this type of an agreement with the remote seller exceed ten thousand dollars during the preceding calendar year. This presumption may be rebutted by proof that the resident with whom the remote seller has an agreement did not engage in any solicitation in this state on behalf of the remote seller that would satisfy the nexus requirement of the United States Constitution during the calendar~~

year in question. Proof may be shown by (a) establishing, in a manner acceptable to the department, that (i) each in-state person with whom the remote seller has an agreement is prohibited from engaging in any solicitation activities in this state that refer potential customers to the remote seller, and (ii) such in-state person or persons have complied with that prohibition; or (b) any other means as may be approved by the department.

(2) "Remote seller" means a seller that makes retail sales in this state through one or more agreements described in subsection (1) of this section, and the seller's other physical presence in this state, if any, is not sufficient to establish a retail sales or use tax collection obligation under the commerce clause of the United States Constitution.

(3) Nothing in this section may be construed to affect in any way RCW 82.04.424, 82.08.050(1), or 82.12.040(5).

(4) (a) From October 1, 2018, through December 31, 2019, a seller is obligated to collect and remit to the department the taxes imposed under this chapter, except as otherwise provided in RCW 82.08.0531(2) and this subsection, if the seller, in the current or immediately preceding calendar year, had:

(i) More than one hundred thousand dollars of cumulative gross receipts from this state;

(ii) Subject to the limitation in (c)(ii) of this subsection (1), two hundred or more separate transactions for the delivery of products into this state; or

(iii) Subject to the limitation in RCW 82.32.531, physical presence in this state under RCW 82.04.067.

(b) Cumulative gross receipts counting toward the threshold in (a)(i) of this subsection include a person's gross income of the business from all retail sales made by the seller and sourced to this state under RCW 82.32.730.

(c)(i) Transactions counting toward the threshold in (a)(ii) of this subsection include all retail sales transactions made by the seller and sourced to this state under RCW 82.32.730.

(ii) From the effective date of this section, a seller is relieved of the obligation to collect the taxes imposed under this chapter and remit those taxes to the department if that obligation arose solely based on the threshold in (a)(ii) of this subsection.

(iii) For purposes of the threshold in (a)(ii) of this subsection "transaction" means an agreement to furnish a product or products for consideration, and includes a sale as defined in RCW 82.04.040.

(iv) The term "transaction" does not include an agreement if the agreement is canceled or rescinded before any of the products are delivered to the buyer or other recipient designated by the buyer, the seller retains no part of the consideration from the buyer, and the seller did not collect from the buyer any tax imposed or authorized under this title.

(v) With regard to agreements requiring multiple payments by the consumer, such as a lease, rental, or installment sale, such agreements count as a single transaction for purposes of this subsection, regardless of the number of payments required under the agreement. However, any modification of such an agreement that provides for additional payments is counted as an additional transaction.

(d)(i) Subject to (b) and (c) of this subsection (1), for a marketplace facilitator, receipts and transactions counting toward the thresholds in (a)(i) and (ii) of this subsection include, in addition to the cumulative gross receipts and separate transactions of its own sales, the cumulative gross receipts and separate transactions from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that are not obligated to collect the taxes under this chapter pursuant to the provisions of this section.

(ii) For a purchase made by one consumer through a marketplace facilitator, where the purchase involves sales by

multiple marketplace sellers, the purchase is deemed to be one transaction for the marketplace facilitator and one transaction apiece for each marketplace seller.

(2) Beginning January 1, 2020, a seller with a substantial nexus with this state under RCW 82.04.067 is obligated to collect and remit to the department the taxes imposed under this chapter.

(3)(a) For purposes of this section, the following definitions apply:

(i) "Apportionable income" has the same meaning as provided in RCW 82.04.460.

(ii) "Gross income of the business" has the same meaning as provided in RCW 82.04.080.

(iii) "Product" has the same meaning as provided in RCW 82.32.023.

(b) The definitions in RCW 82.13.010 apply to this section through June 30, 2019.

(4)(a) A seller whose obligation to collect the taxes imposed under this chapter arises after October 1, 2018, must begin collecting taxes imposed under this chapter as follows:

(i) For a remote seller, on the first day of the first calendar month that is at least thirty days from the date that the remote seller becomes required under subsection (1) or (2) of this section to collect the taxes imposed under this chapter.

(ii) For a seller that has a physical presence in this state, immediately upon establishing a tax collection obligation under subsection (1)(a)(iii) or (2) of this section.

(b) Nothing in this subsection (4) affects the ongoing tax collection obligation of any seller that was required, or elected, to collect the taxes imposed under this chapter on or before October 1, 2018.

(5) This section is subject to RCW 82.32.762.

**NEW SECTION. Sec. 107.** A new section is added to chapter 82.02 RCW to read as follows:

A seller that is obligated to collect the taxes imposed under chapter 82.08 RCW must also collect all other applicable taxes and fees in effect as of the effective date of this section, or enacted after December 31, 2018. For purposes of this section, "taxes and fees" means any monetary exaction, regardless of its label, imposed on a buyer and that the seller is required to collect and pay over to the department.

## **Part II Marketplace Facilitators**

**Sec. 201** RCW 82.08.0531 and 2017 3rd sp.s. c 28 s 203 are each amended to read as follows:

(1)((a)) For purposes of this chapter and chapters 82.04 and 82.12 RCW, a marketplace facilitator ((or referrer)) is deemed to be an agent of any marketplace seller making retail sales through the marketplace facilitator's ((physical or electronic)) marketplace ((or directly resulting from a referral of the purchaser by the referrer)).

((b)) (2) Beginning October 1, 2018, marketplace facilitators subject to a tax collection obligation under RCW 82.08.052 (1) or (2) must collect and remit to the department retail sales tax on all taxable retail sales made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller is subject to a tax collection obligation under RCW 82.08.052 (1) or (2). Beginning January 1, 2020, the collection obligation of a marketplace facilitator under this chapter also applies to any other taxes and fees, as defined under section 107 of this act, that are imposed on a retail sale made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller has a tax collection obligation under RCW 82.08.052 (1) or (2).

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(3) In addition to other applicable recordkeeping requirements, the department may require a marketplace facilitator (~~(or referrer)~~) to provide or make available to the department any information the department determines is reasonably necessary to enforce the provisions of this chapter and chapter 82.13 RCW. Such information may include documentation of sales made by marketplace sellers through the marketplace facilitator's (~~(physical or electronic)~~) marketplace (~~(or directly resulting from a referral by the referrer)~~). The department may prescribe by rule the form and manner for providing this information.

~~((2))~~ (4)(a) Beginning July 1, 2019, to ensure that marketplace sellers have the necessary information to timely and accurately file their excise tax returns with the department pursuant to RCW 82.32.045, a marketplace facilitator must, at a minimum, provide each of its marketplace sellers with access, through a written report or other means, to gross sales information for all Washington sales made as an agent of the marketplace seller under this section during the immediately preceding month. Marketplace facilitators must provide such access within fifteen calendar days following the end of each month.

(b) If a marketplace seller does not receive the gross sales information for all Washington sales through a marketplace facilitator, as required under (a) of this subsection (4), the marketplace seller may determine its business and occupation tax liability under chapter 82.04 RCW based on a reasonable method of estimating Washington sales as may be required or approved by the department.

(c) For purposes of this subsection, "Washington sales" means any sale sourced to this state under RCW 82.32.730, regardless of whether the sale is a retail sale.

(5) If a marketplace facilitator (~~(or referrer)~~) has fully complied with the requirements of subsection (4)(a) of this section, the marketplace facilitator is relieved of liability under this chapter and chapter 82.12 RCW for failure to collect the correct amount of tax to the extent that the marketplace facilitator (~~(or referrer)~~) can show to the department's satisfaction that the error was due to incorrect information given to the marketplace facilitator (~~(or referrer)~~) by the marketplace seller, unless the marketplace facilitator (~~(or referrer)~~) and marketplace seller are affiliated persons. Where the marketplace facilitator (~~(or referrer)~~) is relieved of liability under this subsection (~~((2))~~) (5), the marketplace seller is solely liable for the amount of uncollected tax due.

~~((3))~~ (6)(a) Subject to the limits in (b) and (c) of this subsection (~~((3))~~) (6), a marketplace facilitator (~~(or referrer)~~) that has fully complied with the requirements of subsection (4)(a) of this section is relieved of liability under this chapter and chapter 82.12 RCW for the failure to collect tax on taxable retail sales to the extent that the marketplace facilitator (~~(or referrer)~~) can show to the department's satisfaction that:

(i) The taxable retail sale was made through the marketplace facilitator's marketplace (~~(or directly resulting from a referral of the purchaser by the referrer)~~);

(ii) The taxable retail sale was made solely as the agent of a marketplace seller, and the marketplace facilitator (~~(or referrer)~~) and marketplace seller are not affiliated persons; and

(iii) The failure to collect sales tax was not due to an error in sourcing the sale under RCW 82.32.730.

(b) Liability relief for a marketplace facilitator under (a) of this subsection (~~((3))~~) (6) for a calendar year is limited as follows:

(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales facilitated by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(ii) For calendar year(s) 2019 (~~(, 2020, 2021, 2022, and 2023)~~), the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(iii) (Beginning in calendar year 2024, the liability relief may not exceed three percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(e) Liability relief for a referrer under (a) of this subsection (3) for a calendar year is limited as follows:

(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer and sourced to this state under RCW 82.32.730 during the same calendar year.

(ii) For calendar years 2019, 2020, 2021, 2022, and 2023, the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer and sourced to this state under RCW 82.32.730 during the same calendar year.

(iii) Beginning in calendar year 2024, the liability relief may not exceed three percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer and sourced to this state under RCW 82.32.730 during the same calendar year.) The provisions of this subsection (6) do not apply to retail sales made after December 31, 2019.

(c) For purposes of this subsection (6), a retail sale is deemed to be facilitated by a marketplace facilitator when the marketplace facilitator either:

(i) Accepts the order for the product;

(ii) Communicates to the marketplace seller the buyer's offer to purchase the product;

(iii) Accepts the buyer's payment for the product; or

(iv) Delivers or arranges for delivery of the product.

(d) Where the marketplace facilitator or referrer is relieved of liability under this subsection (~~((3))~~) (6), the marketplace seller is also relieved of liability for the amount of uncollected tax due, subject to the limitations in subsection (~~((4))~~) (7) of this section.

(e) The department may by rule determine the manner in which a taxpayer may claim the liability relief provided under this subsection.

~~((4))~~ (7) Except as otherwise provided in this section, a marketplace seller obligated (~~(or electing)~~) to collect the taxes imposed under this chapter and chapter 82.12 RCW is not required to collect such taxes on all taxable retail sales through a marketplace operated by a marketplace facilitator (~~(or directly resulting from a referral of the purchaser to the marketplace seller by the referrer)~~) if the marketplace seller has obtained documentation from the marketplace facilitator (~~(or referrer)~~) indicating that the marketplace facilitator (~~(or referrer)~~) is registered with the department and will collect all applicable taxes due under this chapter and chapter 82.12 RCW on all taxable retail sales made on behalf of the marketplace seller through the marketplace operated by the marketplace facilitator (~~(or taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer)~~). The documentation required by this subsection (~~((4))~~) (7) must be provided in a form and manner prescribed by or acceptable to the department. This subsection (~~((4))~~) (7) does not relieve a marketplace seller from

liability for uncollected taxes due under this chapter or chapter 82.12 RCW resulting from a marketplace facilitator's (~~(or referrer's)~~) failure to collect the proper amount of tax due when the error was due to incorrect information given to the marketplace facilitator (~~(or referrer)~~) by the marketplace seller.

~~((5) Except as otherwise provided in this section, a marketplace seller that is also a remote seller subject to RCW 82.08.053(1) is relieved of its obligation to collect sales or use taxes imposed under RCW 82.08.053 with respect to all taxable retail sales through a marketplace operated by a marketplace facilitator that provides the marketplace seller with written confirmation that the marketplace facilitator has elected to comply with the notice and reporting requirements of RCW 82.13.020 in lieu of collecting sales and use taxes.~~

~~(6) Notwithstanding subsections (4) and (5) of this section, a marketplace seller is not relieved of the obligation to collect taxes imposed under this chapter and chapter 82.12 RCW or comply with RCW 82.08.053 with respect to retail sales of digital products and digital codes, other than (a) specified digital products and digital games and (b) digital codes used to redeem specified digital products and digital games, until January 1, 2020.~~

~~(7)) (8) No class action may be brought against a marketplace facilitator (~~(or referrer)~~) in any court of this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator (~~(or referrer)~~), regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection affects a purchaser's right to seek a refund from the department as provided under chapter 82.32 RCW.~~

~~((8)) (9) Nothing in this section affects the obligation of any purchaser to remit sales or use tax and any other applicable taxes and fees, as to any applicable taxable transaction in which the seller or the seller's agent does not collect and remit sales tax.~~

~~((9) This section is subject to the provisions of RCW 82.32.733.~~

~~(10) The definitions in RCW 82.13.010 apply to this section.)~~

### Part III

#### Repealing and Modifying Conflicting and Unnecessary Laws

NEW SECTION. Sec. 301. The following acts or parts of acts are each repealed:

(1) RCW 82.08.053 (Remote sellers, referrers, and marketplace facilitators—Tax collection and remittance) and 2017 3rd sp.s. c 28 s 202;

(2) RCW 82.13.010 (Definitions) and 2017 3rd sp.s. c 28 s 204;

(3) RCW 82.13.020 (Notice and reporting requirements) and 2017 3rd sp.s. c 28 s 205;

(4) RCW 82.13.030 (Penalties) and 2017 3rd sp.s. c 28 s 206;

(5) RCW 82.13.040 (Administration of chapter) and 2017 3rd sp.s. c 28 s 207;

(6) RCW 82.13.050 (Liability, administration, and enforcement under chapters 82.08 and 82.12 RCW) and 2017 3rd sp.s. c 28 s 208;

(7) RCW 82.32.047 (Taxes—Payable by consumer directly to department—When due) and 2017 3rd sp.s. c 28 s 209;

(8) RCW 82.32.733 (Changes in federal law or the streamlined sales and use tax agreement after July 7, 2017—Conflicts) and 2017 3rd sp.s. c 28 s 214; and

(9) RCW 82.32.763 (Remote seller, referrer, and marketplace facilitator—Recovery procedures—Liability) and 2017 3rd sp.s. c 28 s 210.

**Sec. 1.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each amended to read as follows:

(1) Except as otherwise provided in this chapter and subsection

(5) of this section, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than:

(i) Twenty-eight thousand dollars per year; or

(ii) Forty-six thousand six hundred sixty-seven dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

(5)(a) Taxes imposed under chapter 82.08 or 82.12 RCW on taxable events that occur beginning January 1, 2019, through June 30, 2019, and payable by a consumer directly to the department are due, on returns prescribed by the department, by July 25, 2019.

(b) This subsection (5) does not apply to the reporting and payment of taxes imposed under chapters 82.08 and 82.12 RCW:

(i) On the retail sale or use of motor vehicles, vessels, or aircraft; or

(ii) By consumers who are engaged in business, unless the department has relieved the consumer of the requirement to file returns pursuant to subsection (4) of this section.

### Part IV

#### Ensuring Continuing Compliance with the Streamlined Sales & Use Tax Agreement and Addressing Potential Federal Preemption

**Sec. 401.** RCW 82.08.0293 and 2017 3rd sp.s. c 28 s 101 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume;

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco; and

(c) Marijuana, useable marijuana, or marijuana-infused products.

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(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Bottled water" means water that is placed in a safety sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(b) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

- (A) A vitamin;
- (B) A mineral;
- (C) An herb or other botanical;
- (D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(c)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) Food is "sold with eating utensils provided by the seller" if:

(A) The seller's customary practice for that item is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food ingredient is prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the North American industry classification system (NAICS);

(B) A plate, glass, cup, or bowl is necessary to receive the food or food ingredient, and the seller makes those utensils available to its customers; or

(C)(I) The seller makes utensils available to its customers, and the seller has more than seventy-five percent prepared food sales. For purposes of this subsection (2)(c)(ii)(C), a seller has more than seventy-five percent prepared food sales if the seller's gross

retail sales of prepared food under (c)(i)(A), (c)(i)(C), and (c)(ii)(B) of this subsection equal more than seventy-five percent of the seller's gross retail sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements.

(II) However, even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients must be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

(III) The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior calendar year or on the prior fiscal year. A seller may not change its elected method for determining its prepared food percentage without the written consent of the department. The seller must determine its annual prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's calendar or fiscal year. A seller may make a good faith estimate of its first annual prepared food sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

(iii) "Prepared food" does not include the following ((~~food or food ingredients, if the food or food ingredients are~~) items, if sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary (~~North American industry classification system—~~(~~)NAICS~~(~~)~~) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(d) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners

is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks, bottled water, and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 402.** RCW 82.32.020 and 2015 c 86 s 309 are each amended to read as follows:

For the purposes of this chapter:

(1) The meaning attributed in chapters 82.01 through 82.27 RCW to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "gross income," "taxpayer," "retail sale," "seller," "buyer," "purchaser," "extended warranty," and "value of products" apply equally to the provisions of this chapter.

(2) Unless the context clearly requires otherwise, the term "tax" includes any monetary exaction, regardless of its label, that the department is responsible for collecting, but not including interest, penalties, the surcharge imposed in RCW 40.14.027, or fees incurred by the department and recouped from taxpayers.

(3) Whenever "property" or "personal property" is used, those terms must be construed to include digital goods and digital codes unless: (a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property; (b) it is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or (c) to construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences.

(4) The definitions in this subsection apply throughout this chapter, unless the context clearly requires otherwise.

(a) "Agreement" means the streamlined sales and use tax agreement.

(b) "Associate member" means a petitioning state that is found to be in compliance with the agreement and changes to its laws, rules, or other authorities necessary to bring it into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008. The petitioning states, by majority vote, may also grant associate member status to a petitioning state that does not receive an affirmative vote of three-fourths of the petitioning states upon a finding that the state has achieved substantial compliance with the terms of the agreement as a whole, but not necessarily each required provision, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008.

(c) "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) "Certified service provider" means an agent certified under the agreement to perform all of the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(e)(i) "Member state" means a state that:

(A) Has petitioned for membership in the agreement and submitted a certificate of compliance; and

(B) Before the effective date of the agreement, has been found to be in compliance with the requirements of the agreement by an affirmative vote of three-fourths of the other petitioning states; or

(C) After the effective date of the agreement, has been found to be in compliance with the agreement by a three-fourths vote of the entire governing board of the agreement.

(ii) Membership by reason of (e)(i)(A) and (B) of this subsection is effective on the first day of a calendar quarter at least sixty days after at least ten states comprising at least twenty percent of the total population, as determined by the 2000 federal census, of all states imposing a state sales tax have petitioned for membership and have either been found in compliance with the agreement or have been found to be an associate member under section 704 of the agreement.

(iii) Membership by reason of (e)(i)(A) and (C) of this subsection is effective on the state's proposed date of entry or the first day of the calendar quarter after its petition is approved by the governing board, whichever is later, and is at least sixty days after its petition is approved.

(f) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions as outlined in the contract between the streamlined sales tax governing board and the certified service provider, other than the seller's obligation to remit tax on its own purchases.

(g) "Model 2 seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(h) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection (4)(h), a seller includes an affiliated group of sellers using the same proprietary system.

(i) "Source" means the location in which the sale or use of tangible personal property, a digital good or digital code, an extended warranty, or a digital automated service or other service, subject to tax under chapter 82.08, 82.12, 82.14, or 82.14B RCW, is deemed to occur.

**Sec. 403.** RCW 82.32.715 and 2007 c 6 s 301 are each amended to read as follows:

(1) The department (~~(shall)~~ must) adopt by rule monetary allowances for certified service providers (~~(, model 2 sellers, and model 3 sellers and all other sellers that are not model 1 or)~~ selected by model 1 sellers and also for model 2 sellers. The department may be guided by the provisions for monetary allowances adopted by the governing board of the agreement to determine the amount of the allowances and the conditions under which they are allowed. The monetary allowances must be reasonable and provide adequate incentive for certified service providers and sellers to collect and remit sales and use taxes under the agreement. Monetary allowances will be funded solely from



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state sales and use taxes. The department may modify its rules for monetary allowances in light of the holding of the United States supreme court in *South Dakota v. Wayfair, Inc.*, Docket No. 17-494, issued June 21, 2018.

(2) For certified service providers, the monetary allowance may include a base rate that applies to taxable transactions processed by the certified service provider. ~~((Additionally, for a period not to exceed twenty four months following a seller's registration under RCW 82.32.030(3), the monetary allowance may include a percentage of tax revenue generated by the seller.))~~

(3) For model 2 sellers, the monetary allowance may include a base rate and a percentage of revenue generated by a seller registering under RCW 82.32.030(3), but ~~((shall))~~ may not exceed a period of twenty-four months.

~~((4) For model 3 sellers and all other sellers that are not model 1 sellers or model 2 sellers, the monetary allowance may include a percentage of tax revenue generated by a seller registering under RCW 82.32.030(3), but shall not exceed a period of twenty four months.))~~

**Sec. 404.** RCW 82.32.762 and 2015 3rd sp.s. c 5 s 205 are each amended to read as follows:

(1) If the department determines that a change, taking effect after ~~((September 1, 2015))~~ the effective date of this section, in the streamlined sales and use tax agreement or federal law creates a conflict with any provision of ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act), such conflicting provision or provisions of ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act), including any related provisions that would not function as originally intended, have no further force and effect as of the date the change in the streamlined sales and use tax agreement or federal law becomes effective.

(2) For purposes of this section:

(a) A change in federal law conflicts with ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act) if the change ~~((clearly allows states to impose greater sales and use tax collection obligations on remote sellers than provided for, or))~~ clearly prevents states from imposing sales and use tax collection obligations on remote sellers to the extent provided for ~~((, under RCW 82.08.052))~~ under chapter . . . , Laws of 2019 (this act).

(b) A change in the streamlined sales and use tax agreement conflicts with ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act) if one or more provisions of ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act) causes this state to be found out of compliance with the streamlined sales and use tax agreement by its governing board.

(3)(a) If the department makes a determination under this section that a change in federal law or the streamlined sales and use tax agreement conflicts with one or more provisions of ~~((RCW 82.08.052, the department))~~ chapter . . . , Laws of 2019 (this act):

~~((a))~~ (i) For purposes of conflicts between the streamlined sales and use tax agreement and chapter . . . , Laws of 2019 (this act), the department may adopt rules in accordance with chapter 34.05 RCW, including emergency rules, that are consistent with the streamlined sales and use tax agreement ((and that impose sales and use tax collection obligations on remote sellers to the fullest extent allowed under state and federal law)); and

~~((b))~~ (ii) For purposes of conflicts between federal law and chapter . . . , Laws of 2019 (this act), the department must, by rule or rules adopted in accordance with chapter 34.05 RCW, including emergency rules:

(A) Impose sales and use tax collection obligations and business and occupation tax on remote sellers to the fullest extent allowed under state and federal law, which may include adopting provisions identical or substantially similar to those in sections

202 and 204(6)(c)(ii), chapter 5, Laws of 2015 3rd sp. sess.; and

(B) Implement election, notice, and reporting provisions substantially similar to those in sections 202 through 207, chapter 28, Laws of 2017 3rd sp. sess. The department must impose such election, notice, and reporting provisions only on remote sellers and marketplace facilitators against whom the department is unable to enforce a tax collection obligation as a result of a change in federal law. The department must not impose election, notice, and reporting provisions on referrers as defined in section 204, chapter 28, Laws of 2017 3rd sp. sess. The department must impose penalties for failure to comply with notice or reporting requirements consistent with those penalties imposed in section 206, chapter 28, Laws of 2017 3rd sp. sess.

(b) For purposes of (a)(i) and (ii) of this subsection (3), the department must include information on its web site informing taxpayers and the public (i) of the provision or provisions of ((RCW 82.08.052)) chapter . . . , Laws of 2019 (this act) that will have no further force and effect, (ii) when such change will become effective, and (iii) about how to participate in any rule making conducted by the department in accordance with (a)(i) and (ii) of this subsection (3).

(4) For purposes of this section, "remote seller" ((has the same meaning as in RCW 82.08.052)) and "marketplace facilitator" have the same meaning as in RCW 82.13.010 through June 30, 2019, and RCW 82.08.010 beginning July 1, 2019.

**Sec. 405.** RCW 34.05.328 and 2018 c 207 s 8 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency must:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Provide notification in the notice of proposed rule making under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice must include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis must be available when the rule is adopted under RCW 34.05.360;

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(e) Determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(g) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to

achieve the general goals and specific objectives stated under (a) of this subsection; and

(i) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (h) of this section, the agency must place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency must place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan must describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency must do all of the following:

(a) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(a), the agency must report to the legislature pursuant to (b) of this subsection;

(b) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, the state building code council, and to the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline

master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW 82.32.762(3);

(vi) Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045;

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents; or

(viii) Rules of the department of revenue that adopt a uniform expiration date for reseller permits as authorized in RCW 82.32.780 and 82.32.783.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency must state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of regulatory assistance, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, must report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report must document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

82.32.070 establishing their right to the exemption.

**Part V**  
**Eliminating Unfair Tax Advantages for Foreign**  
**Marketplace Sellers and Peer-to-Peer Car Rental**  
**Marketplace Facilitators**

**Sec. 501.** RCW 82.04.610 and 2007 c 477 s 2 are each amended to read as follows:

(1) This chapter does not apply to:

(a) The sale of tangible personal property in ~~((import or))~~ export commerce; and

(b) The wholesale sale of tangible personal property in import commerce, but only when the wholesale sale is:

(i) A sale of unroasted coffee beans; or

(ii) Between a parent company and its wholly owned subsidiary.

(2) Tangible personal property is in import commerce while the property is in the process of import transportation. Except as provided in (a) through (c) of this subsection, property is in the process of import transportation from the time the property begins its transportation at a point outside of the United States until the time that the property is delivered to the buyer in this state. Property is also in the process of import transportation if it is merely flowing through this state on its way to a destination in some other state or country. However, property is no longer in the process of import transportation when the property is:

(a) Put to actual use in any state, territory, or possession of the United States for any purpose;

(b) Resold by the importer or any other person after the property has arrived in this state or any other state, territory, or possession of the United States, regardless of whether the property is in its original unbroken package or container; or

(c) Processed, handled, or otherwise stopped in transit for a business purpose other than shipping needs, if the processing, handling or other stoppage of transit occurs within the United States, including any of its possessions or territories, or the territorial waters of this state or any other state, regardless of whether the processing, handling, or other stoppage of transit occurs within a foreign trade zone.

(3)(a) Tangible personal property is in export commerce when the seller delivers the property to:

(i) The buyer at a destination in a foreign country;

(ii) A carrier consigned to and for transportation to a destination in a foreign country;

(iii) The buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the property has begun; or

(iv) The buyer in this state if the property is capable of being transported to a foreign destination under its own power, the seller files a shipper's export declaration with respect to the property listing the seller as the exporter, and the buyer immediately transports the property directly to a destination in a foreign country. This subsection (3)(a)(iv) does not apply to sales of motor vehicles as defined in RCW 46.04.320.

(b) The exemption under this subsection (3) applies with respect to property delivered to the buyer in this state if, at the time of delivery, there is a certainty of export, and the process of export has begun. The process of exportation will not be deemed to have begun if the property is merely in storage awaiting shipment, even though there is reasonable certainty that the property will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate certainty of export. The process of exportation begins when the property starts its final and certain continuous movement to a destination in a foreign country.

(4) Persons claiming an exemption under this section must keep and maintain records for the period required by RCW

**Part VI**  
**Sourcing Mitigation for Local Governments**

**Sec. 601.** RCW 82.14.500 and 2017 3rd sp.s. c 28 s 402 are each amended to read as follows:

(1) In order to mitigate local sales tax revenue net losses as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title, the state treasurer, on July 1, 2011, and each July 1st thereafter through July 1, 2019, must transfer into the streamlined sales and use tax mitigation account from the general fund the sum required to mitigate actual net losses as determined under this section.

(2) Beginning July 1, 2008, and continuing until the department determines annual losses under subsection (3) of this section, the department must determine the amount of local sales tax net loss each local taxing jurisdiction experiences as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title each calendar quarter. The department must determine losses by analyzing and comparing data from tax return information and tax collections for each local taxing jurisdiction before and after July 1, 2008, on a calendar quarter basis. The department's analysis may be revised and supplemented in consultation with the oversight committee as provided in subsection (4) of this section. To determine net losses, the department must reduce losses by the amount of voluntary compliance revenue for the calendar quarter analyzed. Beginning December 31, 2008, distributions must be made quarterly from the streamlined sales and use tax mitigation account by the state treasurer, as directed by the department, to each local taxing jurisdiction, other than public facilities districts for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing its net losses for the previous calendar quarter. Distributions must be made on the last working day of each calendar quarter and must cease when distributions under subsection (3) of this section begin.

(3)(a) By December 31, 2009, or such later date the department in consultation with the oversight committee determines that sufficient data is available, the department must determine each local taxing jurisdiction's annual loss. The department must determine annual losses by comparing at least twelve months of data from tax return information and tax collections for each local taxing jurisdiction before and after July 1, 2008. The department is not required to determine annual losses on a recurring basis, but may make any adjustments to annual losses as it deems proper as a result of the annual reviews provided in (b) of this subsection. Beginning the calendar quarter in which the department determines annual losses, and each calendar quarter thereafter through September 30, 2019, distributions must be made from the streamlined sales and use tax mitigation account by the state treasurer on the last working day of the calendar quarter, as directed by the department, to each local taxing jurisdiction, other than public facilities districts for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing one-fourth of the jurisdiction's annual loss reduced by voluntary compliance revenue reported during the previous calendar quarter and marketplace facilitator/remote seller revenue reported during the previous calendar quarter.

(b) The department's analysis of annual losses must be reviewed by December 1st of each year and may be revised and supplemented in consultation with the oversight committee as provided in subsection (4) of this section.

(4) The department must convene an oversight committee to assist in the determination of losses. The committee includes one representative of one city whose revenues are increased, one

representative of one city whose revenues are reduced, one representative of one county whose revenues are increased, one representative of one county whose revenues are decreased, one representative of one transportation authority under RCW 82.14.045 whose revenues are increased, and one representative of one transportation authority under RCW 82.14.045 whose revenues are reduced, as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020. Beginning July 1, 2008, the oversight committee must meet quarterly with the department to review and provide additional input and direction on the department's analyses of losses. Local taxing jurisdictions may also present to the oversight committee additional information to improve the department's analyses of the jurisdiction's loss. Beginning January 1, 2010, the oversight committee must meet at least annually with the department by December 1st.

(5) The rule-making provisions of chapter 34.05 RCW do not apply to this section.

(6)(a) As a result of part II of chapter 28, Laws of 2017 3rd sp. sess., local sales and use tax revenue is anticipated to increase due to additional tax remittance by marketplace facilitators, remote sellers, and consumers. This additional revenue will further mitigate the losses that resulted from the sourcing provisions of the streamlined sales and use tax agreement under this title and should be reflected in mitigation payments to negatively impacted local jurisdictions.

(b) Beginning January 1, 2018, and continuing through September 30, 2019, the department must determine the increased sales and use tax revenue each local taxing jurisdiction experiences from marketplace facilitator/remote seller revenue as a result of ~~((RCW 82.08.053, 82.08.0531, 82.32.047, and 82.32.763, chapter 82.13 RCW, and))~~ sections 201~~((, 211, and))~~ through 213, chapter 28, Laws of 2017 3rd sp. sess. each calendar quarter. The department must convene the mitigation advisory committee before January 1, 2018, to receive input on the determination of marketplace facilitator/remote seller revenue. Beginning with distributions made after March 31, 2018, distributions from the streamlined sales and use tax mitigation account by the state treasurer, as directed by the department, to each local taxing jurisdiction, must be reduced by the amount of its marketplace facilitator/remote seller revenue reported during the previous calendar quarter. ~~((No later than December 1, 2019, the department will determine the total marketplace facilitator/remote seller revenue for each local taxing jurisdiction for reporting periods beginning January 1, 2018, through reporting periods ending June 30, 2019. If the total distribution made from the streamlined sales and use tax mitigation account to a local taxing jurisdiction was not fully reduced by its total amount of marketplace facilitator/remote seller revenue for reporting periods beginning January 1, 2018, through reporting periods ending June 30, 2019, the department must reduce the local taxing jurisdiction's distribution of local sales and use tax under RCW 82.14.060 by the excess amount received.))~~

## Part VII Conforming Amendments

**Sec. 701.** RCW 34.05.010 and 2014 c 97 s 101 are each amended to read as follows:

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

(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for

a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.

(10) "Mail" or "send," for purposes of any notice relating to rule making or policy or interpretive statements, means regular

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mail or electronic distribution, as provided in RCW 34.05.260. "Electronic distribution" or "electronically" means distribution by ~~((electronic mail or facsimile mail))~~ email or fax.

(11)(a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

(12) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(13) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

(14) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

(15) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

(16) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his or her designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes ~~((, or (v) the determination and publication of updated nexus thresholds by the department of revenue in accordance with RCW 82.04.067)).~~

(17) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 for the purpose of selectively reviewing existing and proposed rules of state agencies.

(18) "Rule making" means the process for formulation and adoption of a rule.

(19) "Service," except as otherwise provided in this chapter,

means posting in the United States mail, properly addressed, postage prepaid, or personal or electronic service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic transmission, or by commercial parcel delivery company.

**Sec. 702.** RCW 82.04.066 and 2017 3rd sp.s. c 28 s 301 are each amended to read as follows:

"Engaging within this state" and "engaging within the state," when used in connection with any apportionable activity as defined in RCW 82.04.460 or selling activity taxable under RCW 82.04.250(1), 82.04.257(1), ~~((or))~~ 82.04.270, or other provision of this chapter means that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state.

**Sec. 703.** RCW 82.04.43391 and 2017 c 323 s 503 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax interest and fees on loans secured by commercial aircraft primarily used to provide routine air service and owned by:

(a) An air carrier, as defined in RCW 82.42.010, which is primarily engaged in the business of providing passenger air service;

(b) An affiliate of such air carrier; or

(c) A parent entity for which such air carrier is an affiliate.

(2) The deduction authorized under this section is not available to any person who is physically present in this state as determined under RCW 82.04.067~~((6))~~.

(3) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person is "affiliated," as defined in RCW 82.04.645, with another person; and

(b) "Commercial aircraft" means a commercial airplane as defined in RCW 82.32.550.

**Sec. 704.** RCW 82.12.040 and 2017 3rd sp.s. c 28 s 213 are each amended to read as follows:

(1) Every person who is subject to a collection obligation under chapter 82.08 RCW ~~((, except a person making a valid election to comply with the notice and reporting provisions of RCW 82.13.020,))~~ must obtain from the department a certificate of registration ~~((, and)).~~ Such persons must, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. This section does not apply to any retail sale if, in respect to such sale, the seller is subject to a tax collection obligation under chapter 82.08 RCW.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed

to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, 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 such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (5) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(6) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(7) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter.

### Part VIII Miscellaneous

**NEW SECTION. Sec. 801.** The repeals and amendments in this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or amended, or under any rule or order adopted under those statutes, nor do they affect any proceeding instituted under them.

**NEW SECTION. Sec. 802.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 803.** This act applies prospectively only, except for sections 106 and 201 of this act, which apply both prospectively and retroactively to October 1, 2018.

**NEW SECTION. Sec. 804.** Sections 101, 104, 106, 201, 402, 403, 404, 405, and 501 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 immediately.

**NEW SECTION. Sec. 805.** Sections 105, 301, 302, 401, and 704 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, 2019.

**NEW SECTION. Sec. 806.** Sections 102, 103, 107, 701, 702, and 703 of this act take effect January 1, 2020.

**NEW SECTION. Sec. 807.** Section 601 of this act expires October 1, 2019."

Correct the title.  
and the same is herewith transmitted.

BERNARD DEAN, Chief Clerk

### MOTION

Senator Rolfes moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5581.

Senators Rolfes and Braun spoke in favor of the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Rolfes that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5581.

The motion by Senator Rolfes carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5581 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5581, as amended by the House.

### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5581, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Billig, Braun, Cleveland, Conway, Darneille, Das, Dhingra, Erickson, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman and Wilson, C.

Voting nay: Senators Becker, Brown, Fortunato, Hawkins, Holy, Honeyford, O'Ban, Padden, Short, Wilson, L. and Zeiger  
Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5581, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

### MOTION

On motion of Senator Liias, the Senate advanced to the sixth order of business.

### SECOND READING

SENATE BILL NO. 5025, by Senators Das, Warnick, Wilson, C., Zeiger, Fortunato, Palumbo, Saldaña, Kuderer and O'Ban

Creating sales and use and excise tax exemptions for self-help housing development.

### MOTION

On motion of Senator Liias, Substitute Senate Bill No. 5025 was substituted for Senate Bill No. 5025 and the substitute bill was placed on the second reading and read the second time.

### MOTION

Senator Becker moved that the following amendment no. 239

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by Senator Becker be adopted:

On page 8, after line 5, insert the following:

"(v) The sale of residential property by an owner who is at least sixty-five years of age."

Senator Becker spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 239 by Senator Becker on page 8, line 5 to Substitute Senate Bill No. 5025.

The motion by Senator Becker did not carry and amendment no. 239 was not adopted by voice vote.

#### MOTION

On motion of Senator Das, the rules were suspended, Substitute Senate Bill No. 5025 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Das, Zeiger, Becker and Fortunato spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5025.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5025 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., and Zeiger

Voting nay: Senators Frockt and Hasegawa

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5025, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5247, by Senators Frockt, Zeiger, Hobbs, Bailey, Rolfes, Hunt, Conway, Das, Honeyford, Keiser and Mullet

Addressing catastrophic incidents that are natural or human-caused emergencies by providing guidance that may be used by state public schools to plan for seismic catastrophic incidents. Revised for 1st Substitute: Addressing catastrophic incidents that are natural or human-caused emergencies.

#### MOTIONS

On motion of Senator Frockt, Substitute Senate Bill No. 5247 was substituted for Senate Bill No. 5247 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Frockt, the rules were suspended, Substitute Senate Bill No. 5247 was advanced to third reading,

the second reading considered the third and the bill was placed on final passage.

Senators Frockt, Zeiger and Hasegawa spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5247.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5247 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5247, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President Pro Tempore announced the signing of and thereupon did sign in open session:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5079.

#### SECOND READING

SENATE BILL NO. 5820, by Senators Nguyen, Randall, Hasegawa, Keiser, Hunt, Kuderer and Wilson C.

Increasing eligibility for child care and early learning programs for homeless and other vulnerable children.

#### MOTIONS

On motion of Senator Nguyen, Second Substitute Senate Bill No. 5820 was substituted for Senate Bill No. 5820 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Nguyen, the rules were suspended, Second Substitute Senate Bill No. 5820 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Nguyen and Hawkins spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5820.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5820 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Honeyford, Padden and Short  
Excused: Senator Carlyle

SECOND SUBSTITUTE SENATE BILL NO. 5820, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5652, by Senators Fortunato, Rivers, Becker, Hawkins, Brown, Hobbs, Warnick, Honeyford, Wilson, L., Short and Palumbo

Clarifying personal belonging disposal for impounded vehicles. Revised for 1st Substitute: Clarifying personal belongings disposal for impounded vehicles.

#### MOTIONS

On motion of Senator Fortunato, Substitute Senate Bill No. 5652 was substituted for Senate Bill No. 5652 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fortunato, the rules were suspended, Substitute Senate Bill No. 5652 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fortunato spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5652.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5652 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, King, Lias, McCoy, Mullet, O'Ban, Padden, Palumbo, Pedersen, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Das, Hasegawa, Keiser, Kuderer, Lovelett, Nguyen and Randall

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5652, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5695, by Senators Lias, King, Zeiger, Saldaña and Kuderer

Concerning high occupancy vehicle lane penalties.

#### MOTIONS

On motion of Senator Lias, Substitute Senate Bill No. 5695 was substituted for Senate Bill No. 5695 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Lias, the rules were suspended, Substitute Senate Bill No. 5695 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Lias and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5695.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5695 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Ericksen, Fortunato, Holy, Honeyford, Mullet, Padden, Schoesler and Short  
Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5695, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5024, by Senators Hasegawa and Fortunato

Concerning the transparency of local taxing districts.

#### MOTION

On motion of Senator Hasegawa, Substitute Senate Bill No. 5024 was substituted for Senate Bill No. 5024 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hasegawa moved that the following striking amendment no. 118 by Senators Hasegawa and Short be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 35.58 RCW to read as follows:

Any metropolitan municipal corporation must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Metropolitan municipal corporations must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in



written form;

(2) On the corporation's web site, if the corporation provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 2.** A new section is added to chapter 54.04 RCW to read as follows:

Any public utility district must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Public utility districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 3.** A new section is added to chapter 85.08 RCW to read as follows:

Any diking, drainage, and sewerage improvement district must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Diking, drainage, and sewerage improvement districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.58A RCW to read as follows:

Any solid waste collection district must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Solid waste collection districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 5.** A new section is added to chapter 36.58 RCW to read as follows:

Any solid waste disposal district must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Solid waste disposal districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 6.** A new section is added to chapter 57.02 RCW to read as follows:

Any water-sewer district must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Water-sewer districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 7.** A new section is added to chapter 35.92 RCW to read as follows:

Any city or town operating as a municipal utility must disclose the rates of each tax it collects on behalf of the state or another political subdivision, if any. Municipal utilities must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the municipal utility's web site, if it provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**Sec. 8.** RCW 19.29A.030 and 1998 c 300 s 4 are each amended to read as follows:

Except as otherwise provided in RCW 19.29A.040, an electric utility (~~shall~~) must:

(1) Provide notice to all of its retail electric customers that the disclosures required in RCW 19.29A.020 are available without charge upon request. Such notice (~~shall~~) must be provided at the time service is established and either included as a prominent part of each customer's bill or in a written notice mailed to each customer at least once a year thereafter. Required disclosures

((shall)) must be provided without charge, in writing using plain language that is understandable to an ordinary customer, and presented in a form that is clear and conspicuous(-);

(2) Provide written or electronic notice of public hearings where changes in electricity rates will be considered or approved by the commission or governing body, in a form and manner as may be required by the commission or governing body;

(3) Disclose on each billing statement the rate of tax imposed upon the electric utility under RCW 35.21.870, if any, and the amount of such tax to be paid directly by the retail electric customer through the billing statement;

(4) Disclose the following information in a prominent manner on all billing statements sent to retail electric customers, or by a separate written notice mailed to all retail electric customers at least quarterly and at the same time as a billing statement: "YOUR BILL INCLUDES CHARGES FOR ELECTRICITY, DELIVERY SERVICES, GENERAL ADMINISTRATION AND OVERHEAD, METERING, TAXES, CONSERVATION EXPENSES, AND OTHER ITEMS."

On page 1, line 1 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 19.29A.030; adding a new section to chapter 35.58 RCW; adding a new section to chapter 54.04 RCW; adding a new section to chapter 85.08 RCW; adding a new section to chapter 36.58A RCW; adding a new section to chapter 36.58 RCW; adding a new section to chapter 57.02 RCW; and adding a new section to chapter 35.92 RCW."

Senator Hasegawa spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 118 by Senators Hasegawa and Short to Substitute Senate Bill No. 5024.

The motion by Senator Hasegawa carried and striking amendment no. 118 was adopted by voice vote.

#### MOTION

On motion of Senator Hasegawa, the rules were suspended, Engrossed Substitute Senate Bill No. 5024 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hasegawa and Short spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5024.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5024 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Dhingra and Salomon

Excused: Senator Carlyle

ENGROSSED SUBSTITUTE SENATE BILL NO. 5024, having received the constitutional majority, was declared passed.

There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5212, by Senators Palumbo, Wilson, L., Rolfes, Mullet, Wilson, C., Hunt and Kuderer

Concerning the adoption of dogs and cats used for science or research purposes.

#### MOTIONS

On motion of Senator Palumbo, Substitute Senate Bill No. 5212 was substituted for Senate Bill No. 5212 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Palumbo, the rules were suspended, Substitute Senate Bill No. 5212 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Palumbo and Holy spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5212.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5212 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5212, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5746, by Senators Saldaña, Nguyen and Zeiger

Providing for adequate provisions for low-income homeownership opportunities.

#### MOTIONS

On motion of Senator Saldaña, Substitute Senate Bill No. 5746 was substituted for Senate Bill No. 5746 and the substitute bill was placed on the second reading and read the second time.

Senator Saldaña moved that the following amendment no. 188 by Senator Saldaña be adopted:

On page 2, beginning on line 26, after "children" strike all material through "2006" on line 29

On page 3, beginning on line 7, after "(ii)" strike all material through "used" on line 8 and insert "A target of thirteen percent"

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of the moneys used in any funding cycle is established"

Senators Saldaña and Zeiger spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 188 by Senator Saldaña on page 2, line 26 to Substitute Senate Bill No. 5746.

The motion by Senator Saldaña carried and amendment no. 188 was adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Saldaña and without objection, amendment no. 049 by Senator Saldaña on page 3, line 7 to Substitute Senate Bill No. 5746 was withdrawn.

MOTION

Senator Fortunato moved that the following amendment no. 346 by Senator Fortunato be adopted:

On page 9, after line 12, insert the following:

**NEW SECTION. Sec. 7.** A new section is added to chapter 36.70A RCW to read as follows:

(1) A city or county required or choosing to plan under RCW 36.70A.040 may designate American dream zones within a designated urban growth area in which to permit development of residential housing for low-income households. A city or county may only permit single-family residential housing within these American dream zones.

(2) A new American dream zone may be approved in a city or county planning under RCW 36.70A.040 if the following criteria are met:

(a) Any permits granted within the zone are limited to the development of owner occupied single-family residential detached dwellings serving low-income households;

(b) Each dwelling developed within the zone is exempt from impact fees under RCW 82.02.050;

(c) The city or county does not charge cumulative permitting fees for each dwelling within the zone that equal more than one thousand two hundred fifty dollars;

(d) Provisions are included to ensure that each dwelling developed within the zone remains reserved for low-income households; and

(e) In selecting potential zones, the city or county coordinates with the Washington state department of ecology and the department of commerce to identify possible sites for healthy housing remediation.

(3) "Low-income household," as used in this section, means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income adjusted for household size, for the city or county where the project is located.

**NEW SECTION. Sec. 8.** A new section is added to chapter 82.08 RCW to read as follows:

(1) A city or county may receive a distribution equal to the state portion of the tax levied by RCW 82.08.020 in respect to:

(a) Charges for labor and services rendered in respect to the constructing of dwellings in designated American dream zones, as provided in section 7 of this act;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such dwellings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to

installing, during the course of constructing such dwellings, fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2)(a) The department must at least once annually remit to the city or county an estimated amount, as determined by the department, of state taxes collected during the prior calendar year with respect to section 7 of this act.

(b) The department must determine eligibility under this section based on information provided by the city or county and through audit and other administrative records.

(c) The city or county must, on an annual basis, submit an application, in a form and manner as required by the department by rule, containing any information the department deems necessary in determining remittance amounts under this section.

**NEW SECTION. Sec. 9.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of:

(a) Tangible personal property that will be incorporated as an ingredient or component in constructing of dwellings in designated American dream zones, as provided in section 7 of this act; or

(b) Labor and services rendered in respect to installing, during the course of constructing such dwellings, fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2) The definitions and eligibility requirements and conditions in section 8 of this act apply to this section.

(3) This section is exempt from the provisions of RCW 82.32.805 and 82.32.808.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.04 RCW to read as follows:

(1) A person that sells a dwelling in an American dream zone is allowed an annual credit against the tax due under this chapter as provided in this section. The credit equals four percent of the gross selling price of an eligible single-family home.

(2) The credit may be used against any tax due under this chapter, and may be carried over until used, except as provided in subsection (4) of this section. No refund may be granted for credits under this section.

(3) Credits earned under this section may be claimed only on returns filed electronically with the department using the department's online tax filing service or other method of electronic reporting as the department may authorize. The taxpayer must keep records necessary for the department to determine eligibility under this section including records establishing the sale of an eligible single-family home.

(4) Credits allowed under this section can be earned for tax reporting periods through June 30, 2029. No credits can be claimed after June 30, 2030.

(5) This section is exempt from the provisions of RCW 82.32.808.

(6) This section expires July 1, 2030."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 1, line 4 of the title, after "RCW;" strike the remainder of the title and insert "adding a new section to chapter 36.70A RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and providing an expiration date."

Senators Fortunato and Padden spoke in favor of adoption of the amendment.

Senator Kuderer spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 346 by Senator Fortunato on page 9, after line 12 to Substitute Senate Bill No. 5746.

The motion by Senator Fortunato did not carry and amendment no. 346 was not adopted by voice vote.

#### MOTION

On motion of Senator Saldaña, the rules were suspended, Engrossed Substitute Senate Bill No. 5746 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Saldaña and Zeiger spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5746.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5746 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Hasegawa and Mullet

Excused: Senator Carlyle

ENGROSSED SUBSTITUTE SENATE BILL NO. 5746, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5496, by Senators Zeiger and Hunt

Concerning modification of precinct and district boundary lines.

The measure was read the second time.

#### MOTION

Senator Zeiger moved that the following amendment no. 350 by Senator Zeiger be adopted:

On page 1, line 13, after "section." insert "The county legislative authority must hold a public hearing on the auditor's proposed changes within forty-five days."

Senators Zeiger, Hunt and Short spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 350 by Senator Zeiger on page 1, line 13 to Senate Bill No. 5496.

The motion by Senator Zeiger carried and amendment no. 350 was adopted by voice vote.

#### MOTION

Senator Hunt moved that the following amendment no. 347 by Senator Hunt be adopted:

On page 2, line 5, after "precinct", strike all material through "is" on page 2, line 7, and insert "~~((within its jurisdiction. The number))~~ may be less than the number established by law, but in no case may the number exceed"

Senators Hunt, Zeiger and Padden spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 347 by Senator Hunt on page 2, line 5 to Senate Bill No. 5496.

The motion by Senator Hunt carried and amendment no. 347 was adopted by voice vote.

#### MOTION

On motion of Senator Zeiger, the rules were suspended, Engrossed Senate Bill No. 5496 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zeiger spoke in favor of passage of the bill.

Senator Short spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5496.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5496 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Ericksen, Honeyford, Padden and Short

Excused: Senator Carlyle

ENGROSSED SENATE BILL NO. 5496, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5748, by Senators Conway, O'Ban, Frockt, Rolfes, Randall and Zeiger

Creating an account to support necessary infrastructure nearby military installations.

#### MOTIONS

On motion of Senator Conway, Substitute Senate Bill No. 5748 was substituted for Senate Bill No. 5748 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Conway, the rules were suspended, Substitute Senate Bill No. 5748 was advanced to third reading,

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the second reading considered the third and the bill was placed on final passage.

Senators Conway, O'Ban, Frockt and Zeiger spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5748.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5748 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Van De Wege  
Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5748, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5287, by Senators Darneille and Hunt

Ensuring accurate redistricting.

MOTION

On motion of Senator Darneille, Second Substitute Senate Bill No. 5287 was substituted for Senate Bill No. 5287 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Zeiger moved that the following amendment no. 349 by Senator Zeiger be adopted:

On page 2, line 38, after "facility" insert ", other than an inmate serving a sentence of life without the possibility of parole,"

Senators Zeiger, Short, Padden and Honeyford spoke in favor of adoption of the amendment.

Senators Hunt and Darneille spoke against adoption of the amendment.

Senator Short demanded a roll call.

The President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Zeiger on page 2, line 38, to Second Substitute Senate Bill No. 5287.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Zeiger and the amendment was not adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Frockt, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Cleveland, Conway, Darneille, Das, Dhingra, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senator Carlyle.

MOTION

Senator Zeiger moved that the following amendment no. 339 by Senator Zeiger be adopted:

On page 3, line 8, after "at" strike all material through "precinct" on line 11 and insert "the facility at which the person is incarcerated or resides"

Senators Zeiger, Padden and Short spoke in favor of adoption of the amendment.

Senator Hunt spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 339 by Senator Zeiger on page 3, line 8 to Second Substitute Senate Bill No. 5287.

The motion by Senator Zeiger did not carry and amendment no. 339 was not adopted by a rising vote.

MOTION

On motion of Senator Darneille, the rules were suspended, Second Substitute Senate Bill No. 5287 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Darneille spoke in favor of passage of the bill.

Senators Schoesler, Wagoner and Zeiger spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5287.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5287 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Carlyle

SECOND SUBSTITUTE SENATE BILL NO. 5287, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the

title of the act.

## SECOND READING

SENATE BILL NO. 5779, by Senators Kuderer, Hunt, Takko, Dhingra and Nguyen

Concerning ballot drop box placement requirements.

The measure was read the second time.

## MOTION

Senator Kuderer moved that the following striking amendment no. 341 by Senator Kuderer be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.40.160 and 2018 c 112 s 4 are each amended to read as follows:

(1) Each county auditor shall open a voting center each primary, special election, and general election. The voting center shall be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of, the primary, special election, or general election.

(2) Each county auditor shall register voters in person at each of the following locations in the county:

(a) At the county auditor's office;

(b) At the division of elections, if located in a separate city from the county auditor's office; and

(c) For each presidential general election, at a voting center in each city in the county with a population of one hundred thousand or greater, which does not have a voting center as required in (a) or (b) of this subsection. A voting center opened pursuant to this subsection (2) is not required to be open on the Sunday before the presidential election.

(3) Voting centers shall be located in public buildings or buildings that are leased by a public entity including, but not limited to, libraries.

(4) Each voting center, and at least one of the other locations designated by the county auditor to allow voters to register in person pursuant to RCW 29A.08.140(1)(b), must provide voter registration materials, ballots, provisional ballots, disability access voting units, sample ballots, instructions on how to properly vote the ballot, a ballot drop box, and voters' pamphlets, if a voters' pamphlet has been published.

(5) Each voting center must be accessible to persons with disabilities. Each state agency and entity of local government shall permit the use of any of its accessible facilities as voting centers when requested by a county auditor.

(6) Each voting center must provide at least one voting unit certified by the secretary of state that provides access to individuals who are blind or visually impaired, enabling them to vote with privacy and independence.

(7) No person may interfere with a voter attempting to vote in a voting center. Interfering with a voter attempting to vote is a violation of RCW 29A.84.510.

(8) Before opening the voting center, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the county auditor shall verify that no votes have been registered for any issue or office, and that the device has been sealed with a unique numbered seal at the time of final preparation and logic and accuracy testing. A log must be made of all device numbers and seal numbers.

(9) The county auditor shall require any person desiring to vote at a voting center to either sign a ballot declaration or provide identification.

(a) The signature on the declaration must be compared to the signature on the voter registration record before the ballot may be counted. If the voter registered using a mark, or can no longer sign his or her name, the election officers shall require the voter to be identified by another registered voter.

(b) The identification must be valid photo identification, such as a driver's license, state identification card, student identification card, tribal identification card, or employer identification card. Any individual who desires to vote in person but cannot provide identification shall be issued a provisional ballot, which shall be accepted if the signature on the declaration matches the signature on the voter's registration record.

(10) Provisional ballots must be accompanied by a declaration and security envelope, as required by RCW 29A.40.091, and space for the voter's name, date of birth, current and former registered address, reason for the provisional ballot, and disposition of the provisional ballot. The voter shall vote and return the provisional ballot at the voting center. The voter must be provided information on how to ascertain whether the provisional ballot was counted and, if applicable, the reason why the vote was not counted.

(11) Any voter may take printed or written material into the voting device to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove it when he or she leaves the voting center.

(12) If any voter states that he or she is unable to cast his or her votes due to a disability, the voter may designate a person of his or her choice, or two election officers, to enter the voting booth and record the votes as he or she directs.

(13) No voter is entitled to vote more than once at a primary, special election, or general election. If a voter incorrectly marks a ballot, he or she may be issued a replacement ballot.

(14) A voter who has already returned a ballot but requests to vote at a voting center shall be issued a provisional ballot. The canvassing board shall not count the provisional ballot if it finds that the voter has also voted a regular ballot in that primary, special election, or general election.

(15) The county auditor must prevent overflow of each ballot drop box to allow a voter to deposit his or her ballot securely. Ballots must be removed from a ballot drop box by at least two people, with a record kept of the date and time ballots were removed, and the names of people removing them. Ballots from drop boxes must be returned to the counting center in secured transport containers. A copy of the record must be placed in the container, and one copy must be transported with the ballots to the counting center, where the seal number must be verified by the county auditor or a designated representative. All ballot drop boxes must be secured at 8:00 p.m. on the day of the primary, special election, or general election.

(16) Any voter who is inside or in line at the voting center at 8:00 p.m. on the day of the primary, special election, or general election must be allowed to vote.

(17) For each primary, special election, and general election, the county auditor may provide election services at locations in addition to the voting center. The county auditor has discretion to establish which services will be provided at the additional locations, and which days and hours the locations will be open, except that the county auditor must establish a minimum of one ballot drop box per ~~((fifteen))~~ twenty thousand registered voters in the county ~~((and a minimum of one ballot drop box in each city, town, and census designated place in the county with a post office)).~~

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**Sec. 2.** RCW 29A.40.--- and 2019 c ... (Engrossed Substitute Senate Bill No. 5079) s 5 are each amended to read as follows:

(1) The county auditor must prevent overflow of each ballot drop box to allow a voter to deposit his or her ballot securely. Ballots must be removed from a ballot drop box by at least two people, with a record kept of the date and time ballots were removed, and the names of people removing them. Ballots from drop boxes must be returned to the counting center in secured transport containers. A copy of the record must be placed in the container, and one copy must be transported with the ballots to the counting center, where the seal number must be verified by the county auditor or a designated representative. All ballot drop boxes must be secured at 8:00 p.m. on the day of the primary, special election, or general election.

(2) The county auditor must establish a minimum of one ballot drop box per ~~((fifteen))~~ twenty thousand registered voters in the county ~~((and a minimum of one ballot drop box in each city, town, and census designated place in the county with a post office)).~~

(3) At the request of a federally recognized Indian tribe with a reservation in the county, the county auditor must establish at least one ballot drop box on the Indian reservation on a site selected by the tribe ~~((that is accessible to the county auditor by a public road.~~

~~((4) A federally recognized Indian tribe may designate at least one building as a ballot pickup and collection location at no cost to the tribe. The designated building must be accessible to the county auditor by a public road. The county auditor of the county in which the building is located must collect ballots from that location in compliance with the procedures in subsection (1) of this section)).~~

**NEW SECTION. Sec. 3.** (1) Section 1 of this act takes effect only if Engrossed Substitute Senate Bill No. 5079 is not enacted by June 30, 2019.

(2) Section 2 of this act takes effect only if Engrossed Substitute Senate Bill No. 5079 is enacted by June 30, 2019."

On page 1, line 1 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 29A.40.160 and 29A.40.---; and providing a contingent effective date."

Senators Kuderer and Zeiger spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 341 by Senator Kuderer to Senate Bill No. 5779.

The motion by Senator Kuderer carried and striking amendment no. 341 was adopted by voice vote.

**MOTION**

On motion of Senator Kuderer, the rules were suspended, Engrossed Senate Bill No. 5779 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer and Zeiger spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5779.

**ROLL CALL**

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5779 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

ENGROSSED SENATE BILL NO. 5779, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**SECOND READING**

SENATE BILL NO. 5829, by Senators Mullet, Schoesler, Hunt, Walsh, Warnick, Takko and Van De Wege

Concerning pension benefits and contributions in the volunteer firefighters' and reserve officers' relief and pension system.

**MOTIONS**

On motion of Senator Mullet, Substitute Senate Bill No. 5829 was substituted for Senate Bill No. 5829 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Mullet, the rules were suspended, Substitute Senate Bill No. 5829 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Mullet, Schoesler, Honeyford and Short spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5829.

**ROLL CALL**

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5829 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5829, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**SECOND READING**

SENATE BILL NO. 5894, by Senator Braun

Clarifying that the firefighters' pension levy may continue to be levied to fund benefits under the law enforcement officers' and firefighters' retirement system.

## MOTIONS

On motion of Senator Braun, Substitute Senate Bill No. 5894 was substituted for Senate Bill No. 5894 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Braun, the rules were suspended, Substitute Senate Bill No. 5894 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Braun spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5894.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5894 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SUBSTITUTE SENATE BILL NO. 5894, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5812, by Senators Palumbo, Liias and Nguyen

Concerning local governments planning and zoning for accessory dwelling units.

## MOTION

On motion of Senator Palumbo, Substitute Senate Bill No. 5812 was substituted for Senate Bill No. 5812 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Palumbo moved that the following striking amendment no. 235 by Senators Palumbo, Nguyen and Liias be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. FINDINGS AND INTENT.** (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing options for renters.

(b) Accessory dwelling units typically rent below market rate, providing additional affordable housing options for renters.

(c) Accessory dwelling units also help to provide housing for very low-income households. More than ten percent of accessory

dwelling units in some areas are occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, and friends going through life transitions. Accessory dwelling units meet the needs of these people who might otherwise require subsidized housing space and resources needed by other households.

(d) Homeowners who add an accessory dwelling unit to her or his property may benefit from added income and an increased sense of security.

(e) Accessory dwelling units can also benefit neighborhoods by expanding rental options near public amenities such as schools, parks, and transit without changing the look and feel of existing neighborhoods.

(f) Accessory dwelling units may reduce economic displacement in existing communities by expanding the range of available housing options and prices.

(g) Accessory dwelling units are a housing choice that provides environmental benefits. They promote energy conservation compared with average size single-family homes. In addition, the siting of additional accessory dwelling units near transit hubs can help to reduce greenhouse gas emissions.

(h) Removing certain regulatory barriers to the construction of accessory dwelling units, such as inflexible design standards and siting restrictions, may substantially reduce construction costs, thereby enabling more homeowners to add accessory dwelling units to their properties. The increased availability of accessory dwelling units will provide benefits to homeowners, renters, the community, and the environment.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options. The legislature encourages local governments to increase the availability of affordable housing by subsidizing accessory dwelling units with local sales tax revenue, as authorized by House Bill No. 1406.

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

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit.

(3) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit.

(4) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(5) "Cities" means, except as provided in section 4(2) of this act, (a) all cities, code cities, and towns with a population of ten thousand or more, and (b) all cities, code cities, and towns with a population of at least two thousand five hundred but less than ten thousand in which any portion of the city, code city, or town lies within the boundaries of a regional transit authority or a transit agency as defined in RCW 81.104.015.

(6) "Counties" means all counties with a population of fifteen thousand or more.

(7) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

(8) "Single-family housing unit" means a single-family detached house, and excludes a duplex, triplex, townhome, or other housing unit.



**NEW SECTION. Sec. 3. ACCESSORY DWELLING UNIT REGULATIONS REQUIRED.** (1) Cities and counties must adopt or amend by ordinance and incorporate into their development regulations, zoning regulations, and other official controls, an authorization for the creation of accessory dwelling units that is consistent with this chapter.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this chapter may only apply in the portions of towns, cities, and counties that are within designated urban growth areas.

(3) Cities and counties must implement the requirements of this chapter by June 1, 2021. Any city or county that does not comply with this subsection must consider any permit application it receives under this chapter in accordance with this chapter unless it adopts its own ordinance, development regulation, or other official control in accordance with this subsection within sixty days after receipt of the application.

(4) Any action taken by a county or city to comply with the requirements of this chapter within its urban growth area boundary is not subject to legal challenge under chapter 36.70A or 43.21C RCW. This subsection is retroactive, as well as prospective, and applies to any legal challenge commenced on or after January 1, 2018.

**NEW SECTION. Sec. 4. GENERAL REGULATORY REQUIREMENTS.** (1) Ordinances, development regulations, and other official controls adopted or amended as required by this chapter:

(a) Must allow, on lots on which there is a single-family housing unit either one attached accessory dwelling unit or one detached accessory dwelling unit. To allow local flexibility, the requirement under this subsection (1)(a) is subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority except as provided in this section. Attached or detached accessory dwelling units may not be considered as contributing to the overall underlying density within the urban growth area boundary of a county for purposes of compliance with chapter 36.70A RCW;

(b) May not impose a minimum lot size requirement for the siting of accessory dwelling units;

(c) May not be inconsistent with water availability requirements, water system plans, small water system management plans, or established policies adopted by cities or counties. Any connection fees or capacity charges for attached or detached accessory dwelling units must be proportionate to the burden of the proposed accessory dwelling unit upon the water or sewer system;

(e) Must require an accessory dwelling unit to be accessible to fire department apparatus by way of a public street or approved fire apparatus access;

(f) May not count residents of accessory dwelling units against any limits on the number of unrelated residents on a single-family lot;

(g) May not establish a requirement for the provision of off-street parking for accessory dwelling units within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day. Except as provided in this subsection (1)(g), jurisdictions may require up to one additional off-street parking space per lot in which there is at least one accessory dwelling unit; and

(h) May not count the gross floor area of an accessory dwelling unit against any floor area ratio limitations that apply to single-family housing units.

(2) Any city with a population of one hundred thousand or more may not require the owner of a lot on which there is an accessory dwelling unit to reside in or occupy the accessory

dwelling unit or another housing unit on the same lot.

**NEW SECTION. Sec. 5. DEVELOPMENT STANDARDS.** (1) Ordinances, development regulations, and other official controls adopted or amended as required by this chapter are encouraged to minimize the impact of these ordinances and regulations on the construction cost of an accessory dwelling unit, and without adopted findings:

(a) Should not establish a roof height limitation on detached accessory dwelling units that is less than twenty-four feet;

(b) Should not establish a wall height limitation on detached accessory dwelling units that is less than seventeen feet;

(c) Should not establish a maximum gross floor area for accessory dwelling units that is less than one thousand square feet;

(d) Should not establish a minimum gross floor area for accessory dwelling units that is greater than one hundred forty square feet; and

(e) Should not establish setback regulations for accessory dwelling units that are more restrictive than regulations for single-family housing units.

(2) Such ordinances, regulations, and controls may exempt designated historical districts that are recognized as such under local ordinance.

(3) Cities are encouraged to allow detached accessory dwelling units to be sited at the lot line of the rear yard if the rear yard is adjacent to an alley.

**NEW SECTION. Sec. 6. IMPACT FEE REVIEW.** Cities and counties must review their impact fees to ensure that any impact fees imposed for accessory dwelling units, in accordance with RCW 82.02.060(9), are commensurate with the actual impact of the accessory dwelling unit and are less than impact fees for single-family housing units.

**NEW SECTION. Sec. 7.** A new section is added to chapter 19.27 RCW to read as follows:

By April 1, 2020, the building code council shall adopt rules pertaining to accessory dwelling units that are consistent with the definitions and standards in chapter 36.--- RCW (the new chapter created in section 14 of this act).

**Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and

other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May provide an exemption from impact fees for low-income housing. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or this subsection (3) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3);

(4) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; and

(8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

(9) May provide an exemption from impact fees for accessory dwelling units as defined in section 2 of this act, but may not establish an impact fee amount for accessory dwelling units within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day that is greater than fifty percent of the amount set for single-family residences.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

**Sec. 9.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**Sec. 11.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**Sec. 12.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**NEW SECTION. Sec. 13.** RCW 43.63A.215 (Accessory apartments—Development and placement—Local governments) and 1993 c 478 s 7 are each repealed.

**NEW SECTION. Sec. 14.** Sections 1 through 6 of this act constitute a new chapter in Title 36 RCW."

On page 1, line 2 of the title, after "units;" strike the remainder of the title and insert "amending RCW 82.02.060, 35.63.210, 35A.63.230, 36.70.677, and 36.70A.400; adding a new section to chapter 19.27 RCW; adding a new chapter to Title 36 RCW; and repealing RCW 43.63A.215."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Saldaña and without objection, amendment no. 336 by Senators Palumbo and Saldaña on page 3, line 8 to Substitute Senate Bill No. 5812 was withdrawn.

#### MOTION

Senator Saldaña moved that the following amendment no. 352 by Senator Saldaña be adopted:

On page 3, line 8, after "(1)" strike "Cities" and insert "Except as provided in subsection (5) of this section, cities"

On page 3, after line 28, insert the following:

"(5) A city that has adopted accessory dwelling unit regulations on or before the effective date of this section, is not subject to the requirements of this chapter but is encouraged to consider adopting the policies of this chapter no later than the date the city is required to complete its next comprehensive review as required in RCW 36.70A.130."

On page 3, beginning on line 32, after "(a)" strike all material through "section." on line 37, and insert "(i) On lots on which there is a single-family housing unit, except as provided in (a)(ii) of this subsection, must allow either one attached accessory dwelling unit or one detached accessory dwelling unit.

(ii) On lots of two thousand five hundred square feet or less on which there is a single-family housing unit: Must allow at least one attached accessory dwelling unit, and may allow at least one

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detached accessory dwelling unit.

(iii) To allow local flexibility, the requirements under this subsection (1)(a) are subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority except as provided in this section.

(iv)"

On page 5, after line 16, insert the following:

**"NEW SECTION. Sec. 6. SHORT-TERM RENTALS.** Nothing in this chapter preempts any local jurisdiction from enacting any regulations related to short-term rentals including, but not limited to, development standards, lot size provisions, off-street parking requirements, and tree retention requirements."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 8, line 26, after "through" strike "6" and insert "7"

Senators Saldaña and Zeiger spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 352 by Senator Saldaña on page 3, line 8 to striking amendment no. 235.

The motion by Senator Saldaña carried and amendment no. 352 was adopted by voice vote.

MOTION

Senator Das moved that the following amendment no. 315 by Senator Das be adopted:

On page 7, line 28, after "establish" strike "an" and insert "a transportation"

Senators Das and Zeiger spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 315 by Senator Das on page 7, line 28 to striking amendment no. 235.

The motion by Senator Das carried and amendment no. 315 was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 235 by Senators Palumbo, Nguyen and Lias, as amended, to Substitute Senate Bill No. 5812.

The motion by Senator Palumbo carried and striking amendment no. 235, as amended, was adopted by voice vote.

MOTION

On motion of Senator Palumbo, the rules were suspended, Engrossed Substitute Senate Bill No. 5812 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Palumbo, Schoesler, Short, Kuderer and Fortunato spoke in favor of passage of the bill.

Senators Zeiger and Conway spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5812.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5812 and the bill passed the Senate by

the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Brown, Cleveland, Darneille, Das, Dhingra, Fortunato, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C. and Wilson, L.

Voting nay: Senators Braun, Conway, Ericksen, Frockt, Hasegawa, Honeyford, King, Sheldon, Wagoner and Zeiger

Excused: Senator Carlyle

ENGROSSED SUBSTITUTE SENATE BILL NO. 5812, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5227, by Senators Kuderer, Hunt, Takko, Nguyen and Billig

Concerning deadlines for receipt of voter registrations by election officials.

The measure was read the second time.

MOTION

On motion of Senator Kuderer, the rules were suspended, Senate Bill No. 5227 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer and Zeiger spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5227.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5227 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Honeyford, Padden and Short

Excused: Senator Carlyle

SENATE BILL NO. 5227, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:19 p.m., on motion of Senator Lias, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 4:37 p.m. by President Pro

Tempore Keiser.

## SECOND READING

SENATE BILL NO. 5210, by Senators Palumbo, Bailey, Rolfes, Wilson, C., Randall, Hunt, Das and Keiser

Notifying purchasers of hearing instruments about uses and benefits of telecoil and bluetooth technology.

The measure was read the second time.

## MOTION

Senator O'Ban moved that the following amendment no. 342 by Senator O'Ban be adopted:

On page 3, after line 2, insert the following:

"(4) This section may not be construed to create a private right of action or claim against any person engaging in the fitting and dispensing of hearing instruments."

Senators O'Ban and Palumbo spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 342 by Senator O'Ban on page 3, after line 2 to Senate Bill No. 5210.

The motion by Senator O'Ban carried and amendment no. 342 was adopted by voice vote.

## MOTION

On motion of Senator Palumbo, the rules were suspended, Engrossed Senate Bill No. 5210 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Palumbo, O'Ban and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5210.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5210 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Braun, Fortunato, Padden and Wagoner

Excused: Senator Carlyle

ENGROSSED SENATE BILL NO. 5210, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5434, by Senators Wilson, C., Hunt, Keiser, Kuderer, Nguyen and Pedersen

Restricting possession of weapons in certain locations.

## MOTION

On motion of Senator Wilson, C., Substitute Senate Bill No. 5434 was substituted for Senate Bill No. 5434 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Wilson, L. moved that the following amendment no. 354 by Senator Wilson, L. be adopted:

On page 2, line 20, after "center;" strike "or"

On page 2, line 22, after "agency" insert "; or"

(d) Any person licensed under RCW 9.41.070 to carry a pistol or exempt from the licensing requirement under RCW 9.41.060"

Senator Wilson, L. spoke in favor of adoption of the amendment.

Senator Wilson, L. demanded a roll call.

The President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

Senator Pedersen spoke against adoption of the amendment.

Senators Short and Fortunato spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Wilson, L. on page 2, line 20, to Substitute Senate Bill No. 5434.

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Wilson, L. and the amendment was not adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Wellman and Wilson, C.

Excused: Senator Carlyle.

## MOTION

Senator Fortunato moved that the following amendment no. 356 by Senator Fortunato be adopted:

On page 2, line 29, after "(6)", insert "Child care centers must post signs that state "CHILDREN UNPROTECTED AT THIS LOCATION."

(7)"

Senator Fortunato spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 356 by Senator Fortunato on page 2, line 29 to Substitute Senate Bill No. 5434.

The motion by Senator Fortunato did not carry and amendment no. 356 was not adopted by voice vote.

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MOTION

Senator Pedersen moved that the following amendment no. 334 by Senators Pedersen and Wilson, C. be adopted:

Beginning on page 3, line 5, strike all of section 3  
 Renumber the remaining section consecutively.  
 On page 1, line 2 of the title, after "locations;" strike all material through "9.41.300;"

Senators Pedersen and Padden spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 334 by Senators Pedersen and Wilson, C. on page 3, line 5 to Substitute Senate Bill No. 5434.

The motion by Senator Pedersen carried and amendment no. 334 was adopted by voice vote.

MOTION

On motion of Senator Wilson, C., the rules were suspended, Engrossed Substitute Senate Bill No. 5434 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, C. and Pedersen spoke in favor of passage of the bill.

Senators Padden, Fortunato and Short spoke against passage of the bill.

POINT OF INQUIRY

Senator Becker: "Thank you Madam President. Would Senator Pedersen yield to a question?"

Senator Pedersen: "Sure."

Senator Becker: "Senator Pedersen, if we pass this bill and it is signed by the Governor and say, down the road, that someone goes in and shoots up a daycare center and they don't have the ability to protect themselves, what liability does that put on to the state of Washington?"

Senator Pedersen: "Senator Becker, I don't believe that there would be any basis for liability for the state of Washington."

Senator Takko spoke in favor of passage of the bill.

Senators Wagoner, Sheldon and Wilson, L. spoke against passage of the bill.

MOTION

On motion of Senator Short, Senator Ericksen was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5434.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5434 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 21; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer,

Lias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Carlyle and Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5434, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5137, by Senators Honeyford and Wagoner

Modifying the aircraft excise tax.

MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 5137 was substituted for Senate Bill No. 5137 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5137 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5137.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5137 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Billig, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Short, Takko, Wagoner, Walsh, Warnick, Wellman and Wilson, C.

Voting nay: Senators Bailey, Braun, Brown, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Van De Wege, Wilson, L. and Zeiger

Excused: Senators Carlyle and Ericksen

SUBSTITUTE SENATE BILL NO. 5137, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President Pro Tempore announced the signing of and thereupon did sign in open session:

SUBSTITUTE SENATE BILL NO. 5581.

SECOND READING

SENATE BILL NO. 5506, by Senators Hobbs, King and Sheldon

Concerning parking at rest areas.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 5506 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5506.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5506 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Dhingra, Fortunato, Frockt, Hobbs, Holy, Honeyford, Keiser, King, Lias, McCoy, Mullet, O'Ban, Padden, Pedersen, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Darneille, Das, Hasegawa, Hawkins, Hunt, Kuderer, Lovelett, Nguyen, Palumbo, Randall, Schoesler, Short, Wellman and Wilson, C.

Excused: Senators Carlyle and Ericksen

SENATE BILL NO. 5506, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5596, by Senators Holy and Billig

Extending the expiration date on the health sciences and services authority sales and use tax authorization.

The measure was read the second time.

#### MOTION

On motion of Senator Holy, the rules were suspended, Senate Bill No. 5596 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holy, Billig and King spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5596.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5596 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers,

Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Carlyle

SENATE BILL NO. 5596, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5605, by Senators Nguyen, Keiser, Hunt, Salomon, Hasegawa, Saldaña, Das, Randall, Darneille, Kuderer, Pedersen and Wilson C.

Concerning misdemeanor marijuana offense convictions.

The measure was read the second time.

#### MOTION

Senator Holy moved that the following amendment no. 248 by Senator Holy be adopted:

On page 1, line 17, after "(2)" insert "The court may not vacate an applicant's record of conviction under subsection (1) of this section if the applicant has two or more vacations of the applicant's record of conviction for a misdemeanor marijuana offense under RCW 69.50.4014.

(3)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Holy, Padden and Schoesler spoke in favor of adoption of the amendment.

Senators Nguyen and Kuderer spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 248 by Senator Holy on page 1, line 17 to Senate Bill No. 5605.

The motion by Senator Holy did not carry and amendment no. 248 was not adopted by voice vote.

#### MOTION

Senator Padden moved that the following amendment no. 249 by Senator Padden be adopted:

On page 1, line 17, after "(2)" insert "Any person who applies for a vacation of the applicant's record of conviction under subsection (1) of this section must submit the application, if the conviction occurred prior to the effective date of this section, within one year of the effective date of this section.

(3)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator Padden spoke in favor of adoption of the amendment.

Senator Nguyen spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 249 by Senator Padden on page 1, line 17 to Senate Bill No. 5605.

The motion by Senator Padden did not carry and amendment no. 249 was not adopted by voice vote.

#### MOTION

On motion of Senator Nguyen, the rules were suspended, Senate Bill No. 5605 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Nguyen spoke in favor of passage of the bill.  
 Senator Padden spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5605.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5605 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick and Wilson, L.

Excused: Senator Carlyle

SENATE BILL NO. 5605, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

The senate resumed consideration of Substitute Senate Bill No. 5298 which had been deferred on a previous day.

SUBSTITUTE SENATE BILL NO. 5298, by Senators Rivers, Palumbo and Wellman

Regarding labeling of marijuana products.

MOTION

Senator Rivers moved that the following striking amendment no. 116 by Senators Rivers and Keiser be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to allow additional information on the labels and labeling of marijuana 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 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 substantiated as truthful and not misleading.

**Sec. 2.** RCW 69.50.345 and 2018 c 43 s 2 are each amended to read as follows:

The state liquor and cannabis 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 marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for marijuana producers must request the applicant to state whether the applicant intends to produce marijuana for sale by marijuana retailers holding medical marijuana 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 marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients.

(b) The state liquor and cannabis 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 marijuana producers who intend to grow plants for marijuana retailers holding medical marijuana endorsements if the marijuana 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 marijuana concentrates, useable marijuana, or marijuana-infused products to be sold to qualifying patients. If current marijuana producers do not use all the increased production space, the state liquor and cannabis board may reopen the license period for new marijuana producer license applicants but only to those marijuana producers who agree to grow plants for marijuana retailers holding medical marijuana endorsements. Priority in licensing must be given to marijuana producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new marijuana 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 marijuana authorization database established in RCW 69.51A.230;

(2) 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:

(a) Population distribution;

(b) Security and safety issues;

(c) The provision of adequate access to licensed sources of marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis 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 information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises

of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana 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 state liquor and cannabis board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, marijuana concentrates, useable marijuana, and marijuana-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 marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and their labeling requirements ~~(, to include but not be limited to:~~

~~(a) The business or trade name and Washington state unified business identifier number of the licensees that produced and processed the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and~~

~~(e) Language required by RCW 69.04.480);~~

(8) In consultation with the department of agriculture and the department, establishing classes of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the state liquor and cannabis board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising; and

(d) Ensuring that retail outlets with medical marijuana 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 marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor and cannabis board, and prescribing methods of producing, processing, and packaging marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, marijuana concentrates, useable marijuana, and marijuana-

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 marijuana, marijuana concentrates, useable marijuana, and marijuana-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 state liquor and cannabis board.

**Sec. 3.** RCW 69.50.346 and 2018 c 43 s 1 are each amended to read as follows:

(1) The label on a marijuana product container, including marijuana concentrates, useable marijuana, or marijuana-infused products, sold at retail(=

(4)) must include;

(a) The business or trade name and Washington state unified business identifier number of the marijuana producer and processor ((that produced and processed the marijuana as required pursuant to RCW 69.50.345(7); and

(2) Is);

(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 marijuana use; and

(e) Language required by RCW 69.04.480.

(2)(a) For marijuana 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 marijuana 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 substantiated as truthful and not misleading.

(b) In the context of describing the product's intended role in maintaining the structure or any function of the body, including the documented mechanism by which a product acts to maintain bodily structure or function, the label and labeling may include such terms as, but not limited to, "wellness," "well-being," "health," "maintain," "support," "assist," "promote," and "relief," and derivatives of any such terms.

(c) A statement made under (a) and (b) 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 marijuana retailer selling the marijuana product.

(5) A marijuana product is not in violation of any Washington state law or rule of the Washington state liquor and cannabis board solely because its label or labeling contains directions or recommended conditions of use.

(6) This section does not create any civil liability on the part of the state, the liquor and cannabis board, any other state agency, officer, employee, or agent based on a marijuana licensee's description of a structure or function claim or the product's intended role under subsection (2) of this section.

**Sec. 4.** RCW 82.08.9998 and 2015 2nd sp.s. c 4 s 207 are each amended to read as follows:

(1) ((Beginning July 1, 2016,)) The tax levied by RCW



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82.08.020 does not apply to:

(a) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health ~~in rules adopted under RCW ((69.50.375 to be beneficial for medical use))~~ 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by marijuana retailers with medical marijuana endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been issued recognition cards by marijuana retailers with medical marijuana endorsements;

(c) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.280;

(e)(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an individual member of the cooperative in which the individual is a member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.08.020 on any purchase of property or services contributed to the cooperative.

~~(2) ((From July 1, 2015, until July 1, 2016, the tax levied by RCW 82.08.020 does not apply to sales of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by collective gardens under RCW 69.51A.085 to qualifying patients or designated providers, if such sales are in compliance with chapter 69.51A RCW.~~

~~(3))~~ Each seller making exempt sales under subsection (1) ~~((or~~ ~~(2)))~~ of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

~~((4))~~ (3) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

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

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.250.

(b) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer permitted under RCW 69.50.375 to sell marijuana for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," "marijuana," "marijuana concentrates," "useable marijuana," "marijuana retailer," and "marijuana-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010.

**Sec. 5.** RCW 82.12.9998 and 2015 2nd sp.s. c 4 s 208 are each amended to read as follows:

(1) ~~((From July 1, 2015, until July 1, 2016, the provisions of this chapter do not apply to the use of marijuana, marijuana~~

~~concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a collective garden under RCW 69.51A.085, and the qualifying patients or designated providers participating in the collective garden, if such use is in compliance with chapter 69.51A RCW.~~

~~(2) Beginning July 1, 2016,))~~ The provisions of this chapter do not apply to:

(a) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health ~~in rules adopted under RCW ((69.50.375 to be beneficial for medical use))~~ 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(b) The use of products containing THC with a THC concentration of 0.3 percent or less by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(c)(i) Marijuana retailers with a medical marijuana endorsement with respect to:

(A) Marijuana concentrates, useable marijuana, or marijuana-infused products; or

(B) Products containing THC with a THC concentration of 0.3 percent or less;

(ii) The exemption in this subsection ~~((2))~~ (1)(c) applies only if such products are provided at no charge to a qualifying patient or designated provider who has been issued a recognition card. Each such retailer providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(d) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, purchased from marijuana retailers with a medical marijuana endorsement.

(e) Health care professionals with respect to the use of products containing THC with a THC concentration of 0.3 percent or less provided at no charge by the health care professionals under RCW 69.51A.280. Each health care professional providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(f) The use of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by qualifying patients when purchased from or provided at no charge by a health care professional under RCW 69.51A.280.

(g) The use of:

(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a cooperative and its members, when produced by the cooperative; and

(ii) Any nonmonetary resources and labor by a cooperative when contributed by its members. However, nothing in this subsection ~~((2))~~ (1)(g) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.12.020 on the use of any property or services purchased by the member and contributed to the cooperative.

~~((3))~~ (2) The definitions in RCW 82.08.9998 apply to this section.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020."

On page 1, line 1 of the title, after "products;" strike the

remainder of the title and insert "amending RCW 69.50.345, 69.50.346, 82.08.9998, and 82.12.9998; creating a new section; and providing an effective date."

#### MOTION

Senator Rivers moved that the following amendment no. 132 by Senator Rivers and Palumbo be adopted:

On page 6, beginning on line 5, after "contains" strike all material through "use" on line 6 and insert":

- (a) Directions or recommended conditions of use;
- (b) A claim describing the psychoactive effects of the marijuana product, provided that the claim is substantiated as truthful and not misleading; or
- (c) An otherwise legal claim related to the nonmarijuana ingredients"

Senator Rivers spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 132 by Senator Rivers on page 6, line 5 to striking amendment no. 116.

The motion by Senator Rivers carried and amendment no. 132 was adopted by voice vote.

#### MOTION

Senator Walsh moved that the following amendment no. 135 by Senator Walsh be adopted:

On page 9, after line 21, insert the following:

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

(1) It is unlawful for any person to 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 except as otherwise authorized by this chapter.

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

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-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 marijuana, useable marijuana, marijuana concentrates, and marijuana-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 twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four 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 marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

- (i) One-half ounce of useable marijuana;
- (ii) Eight ounces of marijuana-infused product in solid form;
- (iii) Thirty-six ounces of marijuana-infused product in liquid

form; or

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

(b) The act of delivering marijuana or a marijuana 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 marijuana or marijuana product must be in the original packaging as purchased from the marijuana retailer.

(5) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana 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 marijuana concentrates, useable marijuana, marijuana-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)(a) It is not a violation of this section, this chapter, or any other provision of Washington state law for a person twenty-one years of age or older to produce or possess no more than six plants on the premises of the housing unit occupied by the person, provided the person complies with the requirements of this subsection.

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

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

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

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

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

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

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

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

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

(g) All containers containing more than one ounce of useable

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marijuana must be clearly marked with the name, date of birth, residential address of the person who grew the plants from which the useable marijuana is derived, the date on which the plants were planted, and the date on which the plants were harvested. Any containers containing one ounce or less of useable marijuana are not required to be labeled.

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

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

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

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

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

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

**Sec. 7.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read as follows:

(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 marijuana 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~~((24))~~ other than paraphernalia possessed, sold, or used solely to facilitate marijuana-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 acquisition, delivery, production, or possession of marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products, including in the manner and in the amount provided in RCW 69.50.4013(7), shall not result in the forfeiture of real property unless the marijuana 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 marijuana except as provided in RCW 69.50.4013, and a substantial nexus exists between the possession of marijuana 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 marijuana 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 marijuana, 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 marijuana 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 marijuana 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 ~~((board))~~ 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)~~). However, 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 ~~((board))~~ 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 ~~((board))~~ 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 ~~((board))~~ 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

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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 treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(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 paid to the state treasurer 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 ~~((board))~~ commission, the owners of which are unknown, are contraband and shall be summarily forfeited to the ~~((board))~~ 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 ~~((board))~~ commission.

(13) The failure, upon demand by a ~~((board))~~ 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.

**Sec. 8.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

(a) "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 practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

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

(b) "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) "CBD concentration" has the meaning provided in RCW 69.51A.010.

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

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

(f) "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 industrial hemp as defined in RCW 15.120.010.

(g)(1) "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) 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.

(h) "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.

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

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

(k) "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.

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

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

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

(o) "Drug" means (1) 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) controlled

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

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

(q) "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.

(r) "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.

(s) "Immediate precursor" means a substance:

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

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

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

(u) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-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.

(v) "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 marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(w) "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) 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) 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.

(x) "Marijuana" or "marihuana" 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; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation

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of the plant, its seeds or resin. The term does not include:

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

(2) Industrial hemp as defined in RCW 15.120.010.

(y) "Marijuana 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.

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

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

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

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

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

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

(ff) "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) 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) 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) Poppy straw and concentrate of poppy straw.

(4) 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) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

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

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

(gg) "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.

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

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

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

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

(ll) "Practitioner" means:

(1) 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 osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; 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) 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) 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 quality assurance 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.

(mm) "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.

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

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

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

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

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

(ss) "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.

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

(uu) "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.

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

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

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 9, line 25, after "82.08.9998," strike "and 82.12.9998" and insert "82.12.9998, 69.50.4013, and 69.50.505; reenacting and amending RCW 69.50.101"

Senator Walsh spoke in favor of adoption of the amendment to the striking amendment.

Senator Rivers spoke against adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of amendment no. 135 by Senator Walsh on page 9, after line 21 to striking amendment no. 116.

The motion by Senator Walsh did not carry and amendment no. 135 was not adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 116 by Senators Rivers and Keiser, as amended, to Substitute Senate Bill No. 5298.

The motion by Senator Rivers carried and striking amendment no. 116, as amended, was adopted by voice vote.

#### MOTION

On motion of Senator Rivers, the rules were suspended, Engrossed Substitute Senate Bill No. 5298 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rivers and Saldaña spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5298.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5298 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Bailey, Braun, Brown, Ericksen, Honeyford, Padden, Salomon and Short

Excused: Senator Carlyle

ENGROSSED SUBSTITUTE SENATE BILL NO. 5298, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5318, by Senators Rivers, Palumbo and Wagoner

Reforming the compliance and enforcement provisions for marijuana licensees.

#### MOTION

On motion of Senator Rivers, Substitute Senate Bill No. 5318 was substituted for Senate Bill No. 5318 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Rivers moved that the following striking amendment no. 182 by Senators Rivers and Palumbo be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** 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.

**NEW SECTION. Sec. 2.** A new section is added to chapter



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43.05 RCW to read as follows:

(1) If, during an inspection or visit to a marijuana business licensed under chapter 69.50 RCW that is not a technical assistance visit, the liquor and cannabis board becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the board and are not subject to civil penalties as provided for in section 3 of this act, the board may issue a notice of correction to the responsible party that includes:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the board requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the board or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the board.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the liquor and cannabis board issues a notice of correction, it may not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.05 RCW to read as follows:

(1) The liquor and cannabis board may issue a civil penalty without first issuing a notice of correction if:

(a) The person 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 liquor and cannabis 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 marijuana product to the illicit market or sales across state lines;

(ii) Furnishing of marijuana product to minors;

(iii) Diversion of revenue from the sale of marijuana product to criminal enterprises, gangs, or cartels;

(iv) Use of firearms in a facility licensed by the board that poses a direct and significant threat to public safety; or

(v) The commission of nonmarijuana-related crimes.

(2) The liquor and cannabis board may adopt rules to implement this section and section 2 of this act.

**Sec. 4.** RCW 69.50.342 and 2015 2nd sp.s. c 4 s 1601 are each amended to read as follows:

(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 state liquor and cannabis 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 state liquor and cannabis board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by

licensees, the reports to be made thereon to the state liquor and cannabis board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana 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 marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-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 state liquor and cannabis 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 state liquor and cannabis 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 marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-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.

(2) Rules adopted on retail outlets holding medical marijuana 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 marijuana businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed marijuana businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

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

(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 section 6 of this act 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. Information obtained by the board as a result of licensee-requested consultation and training services is confidential and not subject to public inspection under 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.

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

(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;

(b) May not include cancellation of a license for a single violation, unless the board can prove by clear, cogent, and convincing evidence that the administrative violation evidences intentional or grossly negligent action or inaction that results in a high probability of:

(i) Diversion of marijuana product to the illicit market or sales across state lines;

(ii) Furnishing of marijuana product to minors;

(iii) Diversion of revenue from the sale of marijuana product to criminal enterprises, gangs, or cartels;

(iv) Use of firearms in a facility licensed by the board that poses a direct and significant threat to public safety; or

(v) The commission of nonmarijuana-related crimes;

(c) May include cancellation of a license for cumulative violations only if a marijuana 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) May not issue a violation if there is employee misconduct that led to the violation if the licensee provides documentation that before the date of the violation 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 before April 30, 2017, as grounds for denial, suspension, revocation, cancellation, or nonrenewal, unless the board can prove by clear, cogent, and convincing evidence that the prior administrative violation evidences:

(a) Diversion of marijuana product to the illicit market or sales across state lines;

(b) Furnishing of marijuana product to minors;

(c) Diversion of revenue from the sale of marijuana product to criminal enterprises, gangs, or cartels;

(d) Use of firearms in a facility licensed by the board that poses a direct and significant threat to public safety; or

(e) The commission of nonmarijuana-related crimes.

**Sec. 7.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the ~~((state liquor and cannabis))~~ board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The ~~((state liquor and cannabis))~~ 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,

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cancellation, or renewal or denial thereof, of any license, the ~~((state liquor and cannabis))~~ board may consider any prior criminal ~~((conduct))~~ arrests or convictions of the applicant ~~((including an administrative violation history record with the state liquor and cannabis board))~~ and a criminal history record information check. The ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 twenty-one 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 ~~((state liquor and cannabis))~~ board may, in its discretion, subject to ~~((the provisions of))~~ sections 2, 3, and 6 of this act, RCW 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 marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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, ~~((and to))~~ 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 ~~((and regulations))~~ the ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ board or a subpoena issued by the ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ board. Where the license has been suspended only, the ~~((state liquor and cannabis))~~ board must return the license to the licensee at the expiration or termination of the period of suspension. The ~~((state liquor and cannabis))~~ 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 marijuana, marijuana concentrates, useable marijuana, or marijuana-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 ~~((state liquor and cannabis))~~ board to implement and enforce this chapter. All conditions and restrictions imposed by the ~~((state liquor and cannabis))~~ 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 twenty-one years.

(7)(a) Before the ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ board may extend the time period for submitting written objections upon request from the authority notified by the ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ board may in its discretion hold, a hearing subject to the applicable

provisions of Title 34 RCW. If the ((state liquor and cannabis)) 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, ((state liquor and cannabis)) board representatives must present and defend the ((state liquor and cannabis)) board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the ((state liquor and cannabis)) 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 (d) of this subsection, the ((state liquor and cannabis)) board may not issue a license for any premises within 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, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred 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 one thousand feet but not less than one hundred 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 ((state liquor and cannabis)) 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 one thousand feet but not less than one hundred 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 marijuana 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 marijuana research facility.

(e) The ((state liquor and cannabis)) 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 marijuana producer or marijuana 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 ((state liquor and cannabis)) 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.

**NEW SECTION. Sec. 8.** A new section is added to chapter 69.50 RCW to read as follows:

(1) This section applies to the board's issuance of administrative violations to licensed marijuana producers, processors, retailers, transporters, and researchers, when a settlement conference is held between a hearing examiner or designee of the board and the marijuana licensee that received a notice of an alleged administrative violation or violations.

(2) If a settlement agreement is entered between a marijuana licensee and a hearing examiner 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 and the board may only disapprove, modify, change, or add to the terms of the settlement agreement including terms addressing penalties and license restrictions if the board finds the agreements to be clearly erroneous.

(3) For the purposes of this section:

(a) "Settlement agreement" means the agreement or compromise between a licensed marijuana producer, processor, retailer, researcher, transporter, or researcher and the hearing examiner 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 examiner or designee of the board.

(b) "Settlement conference" means a meeting or discussion between a licensed marijuana producer, processor, retailer, researcher, transporter, researcher, or authorized representative of any of the preceding licensees, and a hearing examiner 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.

**Sec. 9.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

(a) "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 practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

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

(b) "Agent" means an authorized person who acts on behalf of

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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) "CBD concentration" has the meaning provided in RCW 69.51A.010.

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

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

(f) "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 industrial hemp as defined in RCW 15.120.010.

(g)(1) "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) 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.

(h) "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.

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

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

(k) "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.

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

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

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

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

accessories.

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

(q) "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.

(r) "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.

(s) "Immediate precursor" means a substance:

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

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

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

(u) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-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.

(v) "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 marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(w) "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) 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) 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.

(x) "Marijuana" or "marihuana" 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; 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. The term does not include:

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

of germination; or

(2) Industrial hemp as defined in RCW 15.120.010.

(y) "Marijuana 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.

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

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

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

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

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

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

(ff) "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) 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) 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) Poppy straw and concentrate of poppy straw.

(4) 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) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

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

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

(gg) "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.

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

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

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

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

(ll) "Practitioner" means:

(1) 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 osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; 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) 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) 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 quality assurance 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.

(mm) "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.

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

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

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

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

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

(ss) "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

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possession subject to the jurisdiction of the United States.

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

(uu) "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.

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

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

**NEW SECTION. Sec. 10.** (1)(a) A legislative work group on cannabis enforcement and training processes and procedures is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The president of the senate and the speaker of the house of representatives jointly shall appoint members representing one representative from each of the trade associations representing licensed cannabis businesses and one representative of a labor union representing employees who are enforcement officers for the liquor and cannabis board.

(iv) The governor shall appoint one member representing the governor.

(v) The chair of the liquor and cannabis board shall appoint one member representing the board.

(b) The work group shall choose its cochairs from among its legislative membership. A legislator shall convene the initial meeting of the work group.

(2) The work group shall review the following issues:

(a) The use of anonymous complaints to initiate enforcement actions;

(b) The uniform qualifications and experience that should be established for enforcement officers;

(c) The training and guidelines given to enforcement officers;

(d) Whether the board should create an ombuds position where license holders may register concerns about the board's procedures, actions, or employees, without threat of retaliation; and

(e) Other such issues as identified by the cochairs of the work group.

(3) Staff support for the work group must be provided by the senate committee services and the house of representatives office of program research.

(4) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(5) The expenses of the work group must be paid jointly by the senate and the house of representatives. Work group expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The work group shall report its findings and recommendations to the appropriate committees of the legislature by December 15, 2019.

(7) This section expires December 31, 2019."

On page 1, line 2 of the title, after "licensees;" strike the remainder of the title and insert "amending RCW 69.50.342 and 69.50.331; reenacting and amending RCW 69.50.101; adding new sections to chapter 43.05 RCW; adding new sections to chapter 69.50 RCW; creating new sections; and providing an expiration date."

#### MOTION

Senator Saldaña moved that the following amendment no. 362 by Senator Saldaña be adopted:

On page 3, line 8, after "therein," strike "the state liquor and cannabis" and insert "((the state liquor and cannabis)) and except as provided in subsection (4) of this section, the"

On page 4, after line 39, insert the following:

"(4)(a) No rule may:

(i) Limit the number of marijuana retailer licenses that an individual retail licensee and other persons or entities with a financial or other ownership interest in the business operating under the license may hold in the aggregate, in a manner contrary to RCW 69.50.325(3);

(ii) Limit the number of marijuana producer or marijuana processor licenses that an individual marijuana producer or marijuana processor licensee and other persons or entities with a financial or other ownership interest in the business operating under the license may hold in the aggregate, in a manner contrary to RCW 69.50.325 (1) and (2); or

(iii) Require a person or interest holder to be a resident of this state or require a business or nonprofit entity to be formed under the laws of this state for the person or entity to qualify for a marijuana producer, marijuana processor, or marijuana retailer license, if the person or entity has in effect a labor peace agreement covering each licensed establishment as provided in section 8 of this act.

(b) This subsection (4) does not limit the application of RCW 69.50.345(2)."

Beginning on page 8, line 36, after "(b)" strike all material through "section" on page 9, line 4 and insert "Except as provided in (c) of this subsection and in section 8 of this act, no license of any kind may be issued to:

(i) A person under the age of twenty-one 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)) business or nonprofit entity unless formed under the laws of this state((=)) and, except as provided in (d) of this subsection, unless all of the ((members thereof)) interest holders are qualified to obtain a license as provided in this section and have lawfully resided in the state for at least six months before applying to receive a license"

On page 9, after line 7, insert the following:

"(c) Pursuant to section 8 of this act, a person or business or nonprofit entity that does not meet the requirements of (b) of this subsection may be eligible for a marijuana license in certain circumstances.

(d)(i) For any marijuana license issued by the board, all natural persons holding an ownership interest of more than ten percent of the business or nonprofit entity licensed or proposed to be licensed must qualify for and be named on the license. If no natural person owns more than ten percent of the entity, the

natural person with the largest ownership interest must qualify for and be named on the license. Officers and directors must possess the same qualifications as the licensee. Except as otherwise provided in this subsection, any natural person holding an ownership interest of ten percent or less of the entity is not required to qualify for or be named on the license. For licensees with labor peace agreements in effect as provided in section 8 of this act, a natural person who is not required to qualify for or be named on the license is not required to be a resident of Washington state. For licensees without labor peace agreements in effect, all natural persons who own any interest in the entity must be residents of this state and natural persons who own interests of more than ten percent of the entity must meet all other requirements and qualifications in this section and chapter.

(ii) The identification of any natural person holding an ownership interest of ten percent or less but more than one percent of the entity, who is not otherwise required to qualify for and be named on the license as provided in (d)(i) of this subsection, must be disclosed to the board."

On page 10, after line 10, insert the following:

"(f) In accordance with section 8 of this act, the board shall suspend, cancel, or revoke the license of an establishment for which the board determines there is no longer a labor peace agreement in effect and for which a labor peace agreement is required under section 8 of this act."

On page 13, beginning on line 5, after "premises." strike all material through "arrest." on line 17 and insert the following:

"(11) Nothing in this chapter prevents an interest in a business license from transferring, upon the death or incapacity of the owner, to an heir or assign of the owner in accordance with the uniform transfers to minors act, chapter 11.114 RCW, or otherwise, even if the heir or assign is under age twenty-one.

(12) For the purposes of this section:

(a) "Chronic illegal activity" means ((a));

(i) 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))

(ii) 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.

(b) "Entity" has the meaning provided in RCW 23.95.105.

(c) "Interest" has the meaning provided in RCW 23.95.105.

(d) "Interest holder" has the meaning provided in RCW 23.95.105.

**NEW SECTION. Sec. 8.** A new section is added to chapter 69.50 RCW to read as follows:

(1) In accordance with RCW 69.50.331, 69.50.325, and 69.50.342, a licensed marijuana producer, processor, or retailer or an applicant for such a license, shall submit to the board an attestation signed by a bona fide labor organization stating the licensee or applicant has entered into a labor peace agreement with the bona fide labor organization, if the licensee or applicant:

(a) Is not formed under the laws of this state or if not all interest holders who must qualify for the license have lawfully resided in the state for longer than six months before applying for the license, so long as sixty percent of the interest holders meet the residency requirements;

(b) Is an applicant for a marijuana retailer license who, if the

license is issued, would hold more than a collective total of five marijuana retailer licenses but not more than a collective total of seven marijuana retailer licenses as provided in RCW 69.50.325(3); or

(c) Is an applicant for a marijuana producer or marijuana processor license who, if the license is issued, would collectively hold more marijuana producer or marijuana processor licenses than any limit established under board rules for marijuana producers or marijuana processors without labor peace agreements in effect, as provided in RCW 69.50.325 and 69.50.342(3).

(2) The board may issue a conditional license to an applicant who has not fully complied with this section, provided that compliance with this section is required for an applicant to receive final license approval, and an applicant must meet all other license requirements established in this chapter.

(3) For an applicant or licensee relying on the authorization in this section:

(a) The submission of the attestation and the maintenance of a labor peace agreement with a bona fide labor organization is an ongoing material condition of the establishment's license; and

(b) In accordance with RCW 69.50.331, the board shall suspend, cancel, or revoke the license of an establishment for which the board determines there is no longer a labor peace agreement in effect.

(4) The board may impose additional licensing fees to recover any additional costs incurred in investigating any nonresident required to be investigated under this section and RCW 69.50.331. If, after reasonable efforts, the board is unable to investigate any nonresident required to be investigated under this section and RCW 69.50.331, in accordance with the investigatory standards applicable to the investigation of a state resident, the board may deny a license or license renewal to an entity.

(5) Any business entity or nonprofit entity not formed under Washington state law must hold a certificate of registration under chapter 23.95 RCW to be eligible for a marijuana license under this section.

**Sec. 9.** RCW 69.50.325 and 2018 c 132 s 3 are each amended to read as follows:

(1)(a) There shall be a marijuana producer's license regulated by the ((state liquor and cannabis)) board and subject to annual renewal. The licensee is authorized to produce: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana 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 marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana 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 marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(b) In accordance with RCW 69.50.342(3) and section 8 of this act, if the board adopts rules limiting the collective number of marijuana producer or marijuana processor licenses that an



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individual marijuana producer or marijuana processor 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, then the board's rules must provide an exemption for individual marijuana producer or marijuana processor licensees that have in effect a labor peace agreement to allow these licensees to hold up to two more marijuana producer or processor licenses than would otherwise be allowed under rule.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the ~~((state liquor and cannabis))~~ board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana 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 marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana 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 marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana. Subsection (1)(b) of this section applies to marijuana processors.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the ~~((state liquor and cannabis))~~ board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana 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 marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b)(i) Except as provided in (b)(ii) of this subsection, 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 marijuana licenses.

(ii) Not more than a collective total of seven marijuana retailer licenses may be held by an individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license, if each marijuana retailer establishment is covered by a labor peace agreement as provided in section 8 of this act.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the ~~((state liquor and cannabis))~~ board pursuant to this section.

(ii) The ~~((state liquor and cannabis))~~ board shall adopt rules to establish a license forfeiture process for a licensed marijuana 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 ~~((state liquor and cannabis))~~ board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The ~~((state liquor and cannabis))~~ board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana 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 circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The ~~((state liquor and cannabis))~~ board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after July 23, 2017. However, no license of a marijuana 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 ~~((state liquor and cannabis))~~ board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail marijuana 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 marijuana 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 marijuana retailer from becoming operational."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 21, after line 16, insert the following:

"(xx) "Labor peace agreement" means an agreement between an employer and a bona fide labor organization in which the employer agrees to remain neutral or otherwise agrees to work with or provide information to the bona fide labor organization for the purpose of unionizing employees.

NEW SECTION. Sec. 10. The liquor and cannabis board must collect demographic information on applicants for marijuana licenses, marijuana licensees, and interest holders in marijuana businesses including gender, race, ethnicity, and related geographic distribution and report the aggregate data to the relevant committees of the legislature by January 1, 2020.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 22, beginning on line 30, after "69.50.342" strike "and 69.50.331" and insert ", 69.50.331, and 69.50.325"

Senator Saldaña spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Ericksen: “Thank you Madam President. I believe that amendment no. 362 to the floor striker amendment no. 182 impermissibly expands the scope and object of the floor striker no. 182 in violation of Senate Rule 66.

President Pro Tempore Keiser: “Would you speak to your objection Senator Ericksen?”

Senator Ericksen: “Yes, thank you Madam President. The floor striker 182 makes a number of changes to the compliance authority of the Liquor & Cannabis Board. Those changes include items like penalties, violations of licensees, addressing the evidentiary standard when reviewing alleged violations, and creates a legislative workgroup on cannabis enforcement and training processes and procedures. There is nothing in the floor striker that deals with labor peace agreements. Amendment 362 defines labor peace agreements and allows licensees having labor peace agreements in place, special treatment with regard to having additional licenses, allowing them to receive out of state investment in their businesses. Forcing unionization within a bill about the Liquor & Cannabis Board compliance is grossly misplaced within the floor striker or any version of the underlying bill. I would submit to you, Madam President, that amendment 362 is really about giving licensees having labor peace agreements different treatment than other licensees. It certainly doesn’t deal with compliance, penalties or violations of the underlying bill. This is simply not the proper vehicle for such a goal, and I ask that you rule this amendment outside the scope of the bill.”

President Pro Tempore Keiser: “Senator Liias.”

Senator Liias: “Thank you Madam President. If I can speak in opposition to Senator Ericksen’s motion.

President Pro Tempore Keiser: “Proceed.”

Senator Liias “Thank you Madam President. When we look to the scope and object of the bill, and you can see in the striking amendment for example, an intent section that describes what the purpose of the striking amendment is. It talks to a broad set of regulatory frameworks that are intended to create a safe and effective cannabis industry in Washington. I think that when you look at that broad scope of the bill which is intended to create a safe regulatory environment, clearly talking about the workers that work in these companies. And some of the other issues that are covered in the striking amendment or the amendment that is being offered clearly fall within that broad scope. It is clear that the author of the striking amendment, the authors of the underlying bill intended this bill to broadly speak to the issues facing regulated marijuana in Washington and the amendment appropriately falls within that scope and object of the underlying bill and the striking amendment.”

President Pro Tempore Keiser: “The President will take some time to consider the arguments before us.”

#### MOTION

On motion of Senator Liias, further consideration of Substitute Senate Bill No. 5318 was deferred and the bill held its place on the second reading calendar.

#### MOTION

At 6:12 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purposes of granting the President Pro Tempore time to consider her ruling, caucuses and dinner.

Senator McCoy announced a meeting of the Democratic Caucus immediately upon going at ease.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

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#### EVENING SESSION

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The Senate was called to order at 8:08 p.m. by President Pro Tempore Keiser.

The Senate resumed consideration of Substitute Senate Bill No. 5318 which had been deferred earlier in the day.

#### RULING BY THE PRESIDENT PRO TEMPORE

President Pro Tempore Keiser: “On the question raised by Senator Ericksen regarding the scope and object challenge to amendment no. 362 to Substitute Senate Bill No. 5318 the President finds and rules as follows: Substitute Senate Bill No. 5318 makes a series of changes in the compliance authority of the Liquor & Cannabis Board. These changes include penalties, violations of licensees, addressing the evidentiary standard when reviewing alleged violations and creates a legislative workgroup on cannabis enforcement, training processes and procedures. In addition to the provisions related to labor peace agreements raised by Senator Ericksen in his comments, amendment no. 362 adds a number of provisions changing the ability of businesses and entities to obtain a marijuana license, sets license limits, and authorizes the Liquor & Cannabis Board to impose additional licensing fees. None of these provisions address compliance, penalties or violations as in the substitute senate bill. For that reason, Senator Ericksen’s point of order is well taken.”

#### MOTION

Senator Padden moved that the following amendment no. 190 by Senator Padden be adopted:

Beginning on page 7, line 34, strike all of section 7 and insert the following:

**"Sec. 7.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the ~~((state liquor and cannabis))~~ board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The ~~((state liquor and cannabis))~~ 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

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~~((state liquor and cannabis))~~ board may consider any prior administrative violation history record with the board or prior criminal ((conduct)) arrests or convictions of the applicant ~~((including an administrative violation history record with the state liquor and cannabis board))~~ and a criminal history record information check. The ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 twenty-one 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 ~~((state liquor and cannabis))~~ board may, in its discretion, subject to ~~((the provisions of))~~ sections 2 and 3 of this act, RCW 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 marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ 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, ~~((and to))~~ 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 ((and regulations)) the ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ board or a subpoena issued by the ~~((state liquor and cannabis))~~ 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 ~~((state liquor and cannabis))~~ board. Where the license has been suspended only, the ~~((state liquor and cannabis))~~ board must return the license to the licensee at the expiration or termination of the period of suspension. The ~~((state liquor and cannabis))~~ 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 marijuana, marijuana concentrates, useable marijuana, or marijuana-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 ~~((state liquor and cannabis))~~ board to implement and enforce this chapter. All conditions and restrictions imposed by the ~~((state liquor and cannabis))~~ 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 twenty-one years.

(7)(a) Before the ~~((state liquor and cannabis))~~ board issues a new or renewed license to an applicant or authorizes a licensee's application for a change of location, 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 ~~((state liquor and cannabis))~~ board within twenty days after the date of transmittal of the notice for original license applications, or at least thirty days prior to the expiration date for renewals, or forty-five days from the notice of an application for a change of location, written objections against the applicant or against the premises for which the new or renewed license, or application for a change of location, is asked. The ~~((state liquor and cannabis))~~ board may extend the time period for submitting written objections upon request from the authority notified by the ~~((state liquor and cannabis))~~ board.

(c)(i) 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 ~~((state liquor and cannabis))~~ board ~~((may in its discretion))~~ must hold, a hearing subject to the applicable provisions of Title 34 RCW.

(ii) If the ~~((state liquor and cannabis))~~ board makes an initial decision to deny a license ~~((or))~~, renewal, or change of location based on the written objections of an incorporated city or town or county legislative authority, the applicant or licensee may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant or licensee, ~~((state liquor and cannabis))~~ the objecting local government may appear and present their objections, and the board representatives must present and defend the ~~((state liquor and cannabis))~~ board's initial decision to deny a license ~~((or))~~, renewal, or application for a change of location.

(d) Upon the granting of a license under this title the ~~((state liquor and cannabis))~~ 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 (d) of this subsection, the ~~((state liquor and cannabis))~~ board may not issue a license for any premises within 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, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred 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 one thousand feet but not less than one hundred 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 ~~((state liquor and cannabis))~~ 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 one thousand feet but not less than one hundred 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 marijuana 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 marijuana research facility.

(e) The ~~((state liquor and cannabis))~~ 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 marijuana producer or marijuana 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, or deny an application for a change in location, the ~~((state liquor and cannabis))~~ board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon:

(a) The number of existing license retail outlets within five miles of the proposed location;

(b) 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; and

(c) Concerns expressed by law enforcement about the potential sale of products that could be transported out-of-state.

(11) For the purposes of subsection (10) of this section, "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, diversion of marijuana or marijuana products out of the state, 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 any law enforcement agency of another state; or (b) an unreasonably high number of citations for violations of RCW 46.61.502, 46.61.504, or 46.61.5249 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.

**Sec. 8.** RCW 69.50.580 and 2015 2nd sp.s. c 4 s 801 are each amended to read as follows:

(1) Applicants for a marijuana producer's, marijuana processor's, marijuana researcher's or marijuana retailer's license and licensees who apply for a change of location under this chapter must display a sign provided by the state liquor and cannabis 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 state liquor and cannabis 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 state liquor and cannabis board.

(2) The state liquor and cannabis 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 marijuana producer's, marijuana processor's, marijuana researcher's, or marijuana 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, licensed business, 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 ordinance may also require notice be given to any residents who reside within one thousand feet of the proposed establishment. The notice must provide the contact information for the liquor and cannabis board where any of the objecting residents or owners or operators of these entities may submit comments or concerns about the proposed business location.

(b)(i) The board must consider the objections from the residents or owners or operators of the entities listed in (a) of this subsection based upon the factors specified in RCW 69.50.331(10), 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.

(ii) The written objections must include a statement of all facts upon which the objections are based. If written objections are filed, the objecting residents or owners or operators of the entities may request, and the board must hold, a hearing subject to the applicable provisions of Title 34 RCW.

(iii) If the board makes an initial decision to deny a license, renewal, or change of location based on the written objections of an objecting resident or entity, the applicant or licensee may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, the objecting residents or owners or operators may appear and present their objections, and the board representatives must present and defend the board's initial decision to deny a license or renewal or an application for a change of location.

(c) 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."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 14, after line 15, insert the following:

"**NEW SECTION. Sec. 9.** A new section is added to chapter 69.50 RCW to read as follows:

Within existing resources, the board must assist any in-state or out-of-state law enforcement agency with concerns over the in-state purchase of licensed marijuana products for use or resale outside of this state."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 2, beginning on line 30, after "69.50.342" strike "and 69.50.331" and insert ", 69.50.331, and 69.50.580"

Senator Padden spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Liias: "Thank you Madam President. In light of the ruling you made on the previous amendment, I wanted to ask whether this is within the scope and object of the bill? It appears that it adds additional statutory requirements for folks to transfer their licenses which sort of, listening to the logic on the previous one, strikes me as being outside the scope and object of the bill, as you outlined it."

President Pro Tempore Keiser: "On the point of order raised by Senator Liias regarding scope and object challenging amendment no. 190 to Substitute Senate Bill No. 5318 the President finds and rules as follows...Senator Padden?"

PARLIAMENTARY INQUIRY

Senator Padden: "Isn't it the usual procedure to let each side speak and try to convince you? Is there still a chance you could be convinced?" [Laughter]

President Pro Tempore Keiser: "Senator Padden I think that is less of a chance but you have... "

Senator Padden: "You are a fair and open-minded person so ..."

President Pro Tempore Keiser: "Senator Padden is no longer speaking on the amendment. I am going to rule on the scope and object objection. Senator Liias did not speak. If you insist on you speaking further, then Senator Liias shall speak too."

PARLIAMENTARY INQUIRY

Senator Padden: "I don't mean to be argumentative but I thought Senator Liias did speak and give an argument as to why it was outside of scope and object and I was just trying to briefly reply but I will accept your ruling. Thank you."

RULING BY THE PRESIDENT PRO TEMPORE

President Pro Tempore Keiser: "On the motion by Senator Liias the President rules and finds that the amendment before us has additional statutory requirements for licensees who apply to move the locations of their business. These provisions are not addressed in Substitute Senate Bill No. 5318 which applies to compliance, penalties and violations. For that reason, Senator Liias' point of order is well taken."

MOTION

Senator Walsh moved that the following amendment no. 212 by Senator Walsh be adopted:

On page 14, after line 15, insert the following:

"**Sec. 9.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to read as follows:

(1) It is unlawful for any person to 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 except as otherwise authorized by this chapter.

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

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-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 marijuana, useable marijuana, marijuana concentrates, and marijuana-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 twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four 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

marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

- (i) One-half ounce of useable marijuana;
- (ii) Eight ounces of marijuana-infused product in solid form;
- (iii) Thirty-six ounces of marijuana-infused product in liquid form; or
- (iv) Three and one-half grams of marijuana concentrates.

(b) The act of delivering marijuana or a marijuana 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 marijuana or marijuana product must be in the original packaging as purchased from the marijuana retailer.

(5) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana 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 marijuana concentrates, useable marijuana, marijuana-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)(a) It is not a violation of this section, this chapter, or any other provision of Washington state law for a person twenty-one years of age or older to produce or possess no more than six plants on the premises of the housing unit occupied by the person, provided the person complies with the requirements of this subsection.

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

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

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

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

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

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

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

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

(f) All marijuana capable of being processed into useable marijuana, marijuana-infused products, or marijuana concentrate

must be clearly marked with the name, date of birth, and residential address of the person who grew the plants from which the marijuana is derived, the date on which the plants were planted, and the date on which the plants were harvested.

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

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

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

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

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

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

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

**Sec. 10.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read as follows:

(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 marijuana 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~~((2+))~~ other than paraphernalia possessed, sold, or used solely to facilitate marijuana-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 acquisition, delivery, production, or possession of marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products, including in the manner and in the amount provided in RCW 69.50.4013(7), shall not result in the forfeiture of real property unless the marijuana 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 marijuana except as provided in RCW 69.50.4013, and a

substantial nexus exists between the possession of marijuana 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 marijuana 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 marijuana, 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 marijuana 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 marijuana 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 ~~((board))~~ 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))~~. However, 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 ~~((board))~~ 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 ~~((board))~~ 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 ((board)) 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 treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(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 paid to the state treasurer 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 ((board)) commission, the owners of which are unknown, are contraband and shall be summarily forfeited to the ((board)) 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 ((board)) commission.



(13) The failure, upon demand by a ~~((board))~~ 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.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 21, after line 16, insert the following:

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

On page 22, line 30, after "69.50.342" strike "and 69.50.331" and insert ", 69.50.331, 69.50.4013, and 69.50.505"

Senators Walsh and Becker spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Liias: "Thank you Madam President. Again, in line with your previous two rulings on amendments, I am asking if this is within the scope and object of the underlying bill? Although I am very sympathetic, I think it is an interesting policy. One that has merit. It does appear to add statutory requirements and authorization outside of what the original bill envisioned."

RULING BY THE PRESIDENT PRO TEMPORE

President Pro Tempore Keiser: "On the point of order raised by Senator Liias regarding scope and object challenge to amendment no. 212 to Substitute Senate Bill No. 5318, the President finds and rules that the amendment is not within the scope or object of the underlying bill because it has to do with authorizing private individuals to cultivate, grow and provide marijuana products for themselves and others. None of these provisions address the underlying compliance penalties or violations of Substitute Senate Bill No. 5318 and for that reason Senator Liias point of order is well taken."

MOTION

Senator Palumbo moved that the following amendment no. 363 by Senators Palumbo and Rivers be adopted:

On page 14, after line 15, insert the following:

"**Sec. 9.** RCW 69.50.369 and 2017 c 317 s 14 are each amended to read as follows:

(1) No licensed marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, any sign or other advertisement for a marijuana business or marijuana product, including useable marijuana, marijuana concentrates, or marijuana-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 marijuana retailers may not display any signage outside of the licensed premises, other than reader boards, plus 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 marijuana signs authorized under this subsection are subject to all other requirements and restrictions established in this section for indoor signs, outdoor signs, and other marijuana-related advertising methods.

(3) A marijuana 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 marijuana 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 marijuana businesses or marijuana products must contain text stating that marijuana products may be purchased or possessed only by persons twenty-one years of age or older.

(6) A marijuana licensee may not:

(a) Take any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of marijuana and marijuana products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of marijuana or marijuana 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 marijuana products; or

(c) Use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana 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 marijuana products or the presence of a marijuana business. Commercial mascots include, but are not limited to, inflatable tube displays, persons in costume, or wearing, holding, or spinning a sign with a marijuana-related commercial message or image, where the intent is to draw attention to a marijuana business or its products.

(7) A marijuana 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~~) with the exception of outdoor advertising authorized by a local government under subsection (12) of this section, 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 marijuana plants, marijuana products, or images that might be appealing to children. The state liquor and cannabis 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 marijuana 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) On 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~~) an 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 marijuana 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 marijuana 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 marijuana 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 state liquor and cannabis 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 state liquor and cannabis 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 marijuana license for subsequent violations.

(b) Fines collected under this subsection must be deposited into the dedicated marijuana account created under RCW 69.50.530.

(11) A city, town, or county may adopt rules of outdoor advertising by licensed marijuana 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.

(12) A city, town, or county may adopt rules of outdoor advertising by licensed marijuana retailers that are less restrictive than the advertising restrictions imposed under this chapter, so long as the rules are consistent with the signage provisions allowed for other businesses. The local government may regulate the signage for licensed marijuana retailers in terms of number, size, and content, except for the restrictions concerning advertising that is appealing to children and the restriction on location of signs specified in subsection (1) of this section.

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 22, beginning on line 30, after "69.50.342" strike "and 69.50.331" and insert ", 69.50.331, and 69.50.369"

Senator Palumbo spoke in favor of adoption of the amendment to the striking amendment.

Senator Rivers spoke against adoption of the amendment to the striking amendment.

#### POINT OF ORDER

Senator Saldaña: "I do believe that amendment no. 363 impermissibly expands the scope and object of Substitute Senate Bill No. 5318 in violation of Senate Rule No. 66. It makes a couple, a number of changes to the compliance authority, the LCB, those changes include items like penalties, violations and licenses addressing the evidentiary standard when reviewing alleged violations and creates a legislative workgroup on cannabis enforcement and training processes and procedures. There is

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nothing in the floor striker that deals with the content or allowance of billboards. The subject of amendment no. 363 is outdoor advertising and the purpose is to prohibit outdoor advertising on billboards while allowing local governments to adopt rules around outdoor advertising. Madam President, I believe that amendment no. 363 does not address compliance penalties or violations and ask that you rule this amendment outside the scope and object of the bill.”

#### RULING BY THE PRESIDENT PRO TEMPORE

President Pro Tempore Keiser: “On the point of order raised by Senator Saldaña regarding the scope and object challenge to amendment no.363 to Substitute Senate Bill No. 5318 the President finds and rules as follows: The President has ruled on the permissible scope and object of Substitute Senate Bill No. 5318 in the previous point of order raised by Senator Ericksen. Amendment no. 363 addresses the allowance and content of billboard advertising marijuana retailers. For the same reasons I ruled amendment no. 362 to be out of scope and object of the underlying Substitute Senate Bill No. 5318, I rule that amendment no. 363 is also out of order and Senator Saldaña’s objection is well taken.”

The President Pro Tempore declared the question before the Senate to be the adoption of striking amendment no. 182 by Senators Rivers and Palumbo to Substitute Senate Bill No. 5318.

The motion by Senator Rivers carried and striking amendment no. 182 was adopted by voice vote.

#### MOTION

On motion of Senator Rivers, the rules were suspended, Engrossed Substitute Senate Bill No. 5318 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rivers and Saldaña spoke in favor of passage of the bill.

#### MOTIONS

On motion of Senator Rivers, Senator Sheldon was excused.

On motion of Senator Braun, Senator Ericksen was excused.

On motion of Senator Wilson, C., Senator Conway was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5318.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5318 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Billig, Braun, Cleveland, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O’Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Bailey, Brown, Ericksen, Honeyford and Padden

Excused: Senators Carlyle, Conway and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5318, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 8:36 p.m., on motion of Senator Lias, the Senate adjourned until 10:00 o’clock a.m. Tuesday, March 12, 2019.

KAREN KEISER, President Pro Tempore of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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