

# Cannabinoid Regulatory Authority

## Summary of provisions

### Section one: Intent

The cannabis industry is evolving rapidly and identifying new components of the plant and new processes for extracting, synthesizing, isolating and chemically manipulating compounds found in or derived from cannabis, a number of which may be impairing. The legislature finds there is a need to provide consumers with access to safe products that have been subject to testing and meet the same quality standards already applied to delta-9 tetrahydrocannabinol. The legislature finds a further need to provide consumer product information disclosure regarding any cannabinoid which may be impairing. The Legislature further finds there is a need to distinguish cannabinoids derived from natural plants from the more unpredictable artificial cannabinoids created solely by chemical reactions. The primary purpose of this act is to authorize the WSLCB to regulate all cannabinoids which may be impairing, with the exception of those authorized as a drug by the federal food and drug administration.

### Section two: Definitions

Definitions in the Controlled Substances Act are revised and definitions of new terms are added. The **terms newly defined** include:

“artificial cannabinoid” – defined as a solely chemically created substance that does not originate from the plant cannabis but is structurally the same or substantially similar to the molecular structure of any chemical substance derived from the plant cannabis;

“cannabinoid” – defined as any of the chemical compounds that are the active constituents of the plant cannabis, including several listed examples;

“catalyst” – a substance that increases the rate of a chemical reaction without itself undergoing any permanent chemical change;

“distillate” – an extract from the plant cannabis where a segment of one or more cannabinoids from an initial extraction are selectively concentrated;

“extract” – a solid, viscid, or liquid substance extracted from a plant, or the like, containing its essence in concentrated or isolated form;

“extraction” – the process to separate or obtain a solid, viscid, or liquid substance from a plant or parts of a plant by pressure, distillation, treatment with solvents, or the like;

“isolate” – extract from the plant cannabis of 95 percent or more of a single cannabinoid compound;

“plant cannabis” – all plants of the genera cannabis, including marijuana and hemp;

“synthetically derived cannabinoid” – any cannabinoid altered by a chemical reaction that changes the molecular structure of any natural cannabinoid derived from the plant cannabis to another cannabinoid found naturally in the plant cannabis;

“Tetrahydrocannabinol” or “THC” – includes all tetrahydrocannabinols that are artificially, synthetically, or naturally derived, including but not limited to delta-8 tetrahydrocannabinol, delta-9 tetrahydrocannabinol, delta-10 tetrahydrocannabinol among others listed, and optical isomers of THC cannabinoids;

“Total THC” – the sum of the percentage, by weight or volume measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus, the percentage by weight or volume measurement of tetrahydrocannabinol.

**Definitions of terms in the CSA revised by this bill include:**

“CBD product” – defined as cannabidiol that does not exceed 0.3% THC on a dry weight basis or that does not contain more than 0.5 milligrams per serving or 2 mg total of a cannabinoid that may be impairing in the packaged product;

“marijuana” – added language that includes any concentrated resins, cannabinoids and the products thereof within the definition, and provides that the term does not include hemp unless the tetrahydrocannabinol concentration is greater than 0.3 percent;

“THC concentration” – is revised so as to no longer be based on the concentration solely of delta-9 THC;

“marijuana processor” – expanded to include processing marijuana into legal marijuana products directly or indirectly or by extraction from the plant cannabis;

“marijuana products” – definition expanded to include any product with 0.5 milligrams or greater per serving of a cannabinoid that may be impairing or is marketed as such.

“marijuana-infused products” – expanded to include isolates and distillates.

**Section three – New section**

Products developed for any type of consumption in the human body that contain or consist of cannabinoids which may be impairing and exceed 0.3% THC on a dry weight basis or exceed 0.5 milligrams per serving may only be sold by a marijuana business licensed by the board, with the exception of products authorized as a drug by the federal food and drug administration.

All products containing cannabinoids described above or marketed as having impairing effects are within the regulatory scope of the board under chapter 69.50 RCW, with the exception of products authorized as a drug by the federal food and drug administration.

Sale of products described above is prohibited unless conducted by a business holding a valid marijuana producer, processor or retailer license issued by the board.

All products containing cannabinoids which may be impairing and contain at least 0.3% THC on a dry weight basis or 0.5 milligrams per serving of a cannabinoid which may be impairing may only be sold

after approval by the board according to procedures adopted in rule by the board, following board consultations with the state departments of health and agriculture. Such products may not be sold to persons under 21 years of age except as allowed under 69.51A RCW.

This section does not apply to cannabis health and beauty aids (CHABA products).

Manufacturing and sales of artificial cannabinoids is prohibited.

#### **Section four – Amendment to 69.50.325, license privileges**

Producer license privileges are expanded to include ‘prepare and propagate’ marijuana, marijuana plants and clones and immature plants, clones and seeds.

The privileges granted under a marijuana processor license are expanded to include **compounding, converting and preparing** marijuana products approved under rules adopted by the LCB (adding here that marijuana products are those with 0.3% THC on dry weight basis or 0.5 milligrams THC per serving of a cannabinoid which may be impairing) from a licensed producer and preparing (either directly or indirectly, or by extraction from the plant cannabis, of natural origin, grown by a licensed producer, unless sourced and used as an additive in accordance with RCW 69.50.326) marijuana products.

#### **Section five – Amendment to 69.50.326, additives**

Current statute authorizing CBD to be added to marijuana products is expanded to allow additives that are other non-impairing cannabinoids or non-impairing plant cannabis isolate.

CBD and other non-impairing cannabinoids obtained from a source other than a marijuana producer or processor licensed by the LCB may be added to a marijuana product only if they:

- have a THC level of 0.3 percent or less on a dry weight basis and do not exceed 0.5 milligrams per serving of any cannabinoid which may be impairing;
- have passed pesticide and heavy metals testing (in addition to existing testing requirements) by a lab accredited under this chapter;
- are accompanied by a disclosure statement describing production methods, including use of solvents and other specified processes; and
- are only added to but not further processed or converted into a substance which may be impairing.

Producers and processors may not use any artificial cannabinoids as an additive to any product. Any synthetically derived cannabinoid used must be in compliance with rules adopted by the board.

Rulemaking by the board regarding synthetically derived cannabinoids must include consultation with the departments of health and agriculture.

Marijuana producers and processors must disclose on packaging and labeling all synthetically derived cannabinoids contained in products and may not make any statements or claims on packaging, labeling or advertising indicating these cannabinoids are a natural substance.

The board is directed to revise rules to conform to the terminology described in this act.

**Section six – Amendment to 69.50.342 Rules**

The WSLCB is authorized to adopt rules regarding the production, processing, transportation, delivery, sale and purchase of naturally or synthetically derived cannabinoids, with the exceptions of hemp and products authorized as drugs by the federal food and drug administration.

**Section seven – Amendment to 69.50.363, Safe harbor**

Current law protections against arrest (safe harbor) for activities authorized under 69.50 are extended to cover the activities added to marijuana processor license privileges in 69.50.325 as amended by this act (compounding and converting marijuana products, as approved by the LCB in rule, from marijuana grown by a licensed producer).

This section does not authorize compounding or converting hemp into cannabinoids which may be impairing for creation of marijuana products from hemp, except as authorized as a non-impairing additive under 69.50.326.

**Section eight – Effective date**

Provides that the act takes effect July 1, 2022