

**FILED**

JUL 15 2015

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

NO. 33245-4-III

---

**COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON**

---

RHONDA L. DUNCAN, d/b/a THE COMPASSIONATE KITCHEN,

Respondent,

v.

STATE OF WASHINGTON, DEPARTMENT OF REVENUE,

Appellant.

---

**BRIEF OF APPELLANT**

---

ROBERT W. FERGUSON  
Attorney General

DAVID M. HANKINS, WSBA No. 19194  
Senior Counsel  
Revenue Division, OID No. 91027  
P.O. Box 40123  
Olympia, WA 98504-0123  
(360) 753-5528

## TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	ASSIGNMENT OF ERROR.....	1
III.	ISSUE.....	1
IV.	STATEMENT OF THE CASE .....	2
	A. Medical Marijuana In Washington. ....	2
	B. Duncan’s Dispensary & Tax Refund Claim. ....	4
V.	ARGUMENT .....	7
	A. Scope Of Review. ....	7
	B. Duncan’s Sales Of Medical Marijuana Were Subject To Retail Sales Tax. ....	8
	1. The plain meaning of RCW 82.08.0281 demonstrates that sales of medical marijuana are not tax exempt. ....	10
	2. Both federal and state laws prohibit issuing prescriptions for marijuana.....	12
	3. Washington’s Medical Cannabis statute does not authorize a prescription. ....	14
	C. For The First Time In 2015, The Legislature Exempted Sales Of Medical Marijuana From The Sales Tax, Demonstrating That Such Sales Were Previously Taxable.....	16
	D. Duncan’s Interpretation of RCW 82.08.0281 Fails To Give Effect to All The Statutory Language. ....	21

E. Even If RCW 82.08.0281 Could Be Considered  
Ambiguous, Legislative History Supports The Board's  
Construction Of The Statute. ....27

VI. CONCLUSION .....28

## TABLE OF AUTHORITIES

### Cases

<i>AARO Medical Supplies, Inc. v. Dep't of Revenue</i> , 132 Wn. App. 709, 132 P.3d 1143 (2006), <i>review denied</i> , 159 Wn.2d 1013, 154 P.3d 919 (2007).....	9
<i>Agrilink Foods, Inc. v. Dep't of Revenue</i> , 153 Wn.2d 392, 103 P.3d 1226 (2005).....	21
<i>Budget Rent-A-Car v. Dep't of Revenue</i> , 81 Wn.2d 171, 500 P.2d 764 (1972).....	8, 21
<i>Cannabis Action Coalition v. City of Kent</i> , No. 90204–6, 2015 WL 2418553 (Wash. May 15, 2015) .....	2
<i>Coats v. Dish Network, LLC</i> , No.13SC394, 2015 WL 3744265 (Colo. June 15, 2015).....	14
<i>Department of Ecology v. Campbell &amp; Gwinn, LLC</i> , 146 Wn. 2d 1, 43 P.3d 4 (2002).....	10
<i>Department of Revenue v. Nord Northwest Corp.</i> , 164 Wn. App. 215, 264 P.3d 259 (2011).....	8, 11
<i>ETCO, Inc. v. Dep't of Labor &amp; Indus.</i> , 66 Wn. App. 302, 831 P.2d 1133 (1992).....	27
<i>Glaubach v. Regence BlueShield</i> , 149 Wn.2d 827, 74 P.3d 115 (2003).....	11, 23
<i>G-P Gypsum Corp. v. Dep't of Revenue</i> , 169 Wn.2d 304, 237 P.3d 256 (2010).....	11, 23
<i>Group Health Co-op. of Puget Sound, Inc. v. Washington State Tax Comm'n</i> , 72 Wn.2d 422, 433 P.2d 201 (1967).....	11
<i>Hallauer v. Spectrum Props., Inc.</i> , 143 Wn.2d 126, 18 P.3d 540 (2001).....	22

<i>John H. Sellen Constr. Co. v. Dep't of Revenue</i> , 87 Wn.2d 878, 558 P.2d 1342 (1976).....	19
<i>Lake v. Woodcreek Homeowners Ass'n</i> , 169 Wn.2d 516, 243 P.3d 1283 (2010).....	10
<i>Sacred Heart Medical Ctr. v. Dep't of Revenue</i> , 88 Wn. App. 632, 946 P.2d 409 (1997).....	11
<i>Seeley v. State</i> , 132 Wn.2d 776, 940 P.2d 604 (1997).....	13, 16, 24, 26
<i>State v. Hanson</i> , 138 Wn. App. 322, 157 P.3d 438 (2007).....	16
<i>State v. Reis</i> , No. 90281-0, 2015 WL 2145986 (Wash. May 7, 2015).....	14
<i>State v. Soper</i> , 135 Wn. App. 89, 143 P.3d 335 (2006).....	25, 26
<i>State v. Tracy</i> , 128 Wn. App. 388, 115 P.3d 381 (2005), <i>affirmed</i> , 158 Wn.2d 683 (2006).....	25, 26, 27
<i>TracFone Wireless, Inc. v. Dep't of Revenue</i> , 170 Wn.2d 273, 242 P.3d 810 (2010).....	10, 20

**Statutes**

21 U.S.C. § 301.....	13
21 U.S.C. § 812(b).....	13
21 U.S.C. § 812(c)(10).....	13
21 U.S.C. § 822(a).....	13, 22, 24
21 U.S.C. § 829.....	13
Laws of 1999, ch. 2.....	2

Laws of 2003, ch. 168, § 403.....	28
Laws of 2004, ch. 153, § 108.....	28
Laws of 2010, ch. 284, § 2.....	23
Laws of 2011, ch. 181, § 901.....	3
Laws of 2014, ch. 140, § 11.....	19
Laws of 2014, ch. 140, § 19.....	20
Laws of 2015, 2d Spec. Sess., ch. 4.....	17
Laws of 2015, 2d Spec. Sess., ch. 4, § 101(b).....	4
Laws of 2015, 2d Spec. Sess., ch. 4, § 1605.....	18
Laws of 2015, 2d Spec. Sess., ch. 4, § 205(1)(a).....	18
Laws of 2015, 2d Spec. Sess., ch.4, § 207.....	18
Laws of 2015, ch. 70.....	4, 17, 18
Laws of 2015, ch. 70, § 10.....	17
Laws of 2015, ch. 70, § 18.....	17
Laws of 2015, ch. 70, § 19.....	17
Laws of 2015, ch. 70, §17.....	17
RCW 18.57.....	26
RCW 18.71.....	26
RCW 34.05.370(1)(a).....	8
RCW 34.05.570(3)(a)-(i).....	8
RCW 34.05.570(3)(d).....	7, 8

RCW 60.50.445 .....	2
RCW 61.50.010(7)(c) .....	17
RCW 69.50 .....	2
RCW 69.50.203(a)(2) .....	13, 22, 24
RCW 69.50.204 .....	23
RCW 69.50.204(c)(22) .....	13
RCW 69.50.308 .....	13, 22, 24
RCW 69.50.401 .....	2
RCW 69.51A.....	passim
RCW 69.51A.005.....	14
RCW 69.51A.010 (7).....	4
RCW 69.51A.010(4)(a)-(e) (2010).....	2
RCW 69.51A.010(5).....	23
RCW 69.51A.010(5)(a) (2010).....	12
RCW 69.51A.010(7).....	3, 17, 23
RCW 69.51A.030(2)(a) .....	22
RCW 69.51A.040.....	14
RCW 69.51A.040(2)-(3) (2010) .....	2
RCW 69.51A.040(3)(b) .....	3
RCW 69.51A.043 .....	25
RCW 82.04.050 .....	8

RCW 82.08 .....	18
RCW 82.08.0281 .....	passim
RCW 82.08.0281 (2009).....	9
RCW 82.08.0281(1).....	1, 7, 12, 21
RCW 82.08.0281(4)(a) .....	12
RCW 82.08.0281(4)(b).....	19
RCW 82.08.050(4).....	9

**Constitutional Provisions**

Const. art. I, § 12.....	13
Const. art. I, § 32.....	13

**Other Authorities**

Senate Bill 6515, 58th Leg. (2004).....	28
---	----

**Appendices**

1. Final Decision: Order Granting Summary Judgment
2. Order Reversing Board of Tax Appeals Decision
3. RCW 82.08.0281 (2008)
4. Laws of 2015, 2d Spec. Sess., ch. 4



## **I. INTRODUCTION**

Medical marijuana is not a prescription drug. Rhonda Duncan, d/b/a The Compassionate Kitchen (“Duncan”), nonetheless argues that sales of medical marijuana are exempt from retail sales tax based upon a claimed exemption from sales tax for prescription drugs. Both the Department of Revenue and the Board of Tax Appeals rejected Duncan’s arguments that sales of marijuana for medical use are exempt from sales tax under RCW 82.08.0281 as a prescription drug and denied her request for a refund of sales tax. The Superior Court erred in concluding that medical marijuana is dispensed pursuant to a prescription. This Court should reverse that decision and affirm the Board of Tax Appeals.

## **II. ASSIGNMENT OF ERROR**

The Superior Court erred in reversing the Board of Tax Appeal’s decision that sales of medical marijuana, made pursuant to RCW 69.51A, do not qualify for the exemption from retail sales tax under RCW 82.08.0281(1) as “sales of drugs” pursuant to a prescription.

## **III. ISSUE**

Are sales of medical marijuana, which cannot legally be prescribed under state or federal law, exempt from sales tax under the sales tax exemption for prescription drugs provided by RCW 82.08.0281?

#### IV. STATEMENT OF THE CASE

##### A. Medical Marijuana In Washington.

In 1998, Washington voters adopted Initiative 692, Laws of 1999, ch. 2, to provide an affirmative defense against what would otherwise be criminal offenses for medical marijuana production, possession, and use.<sup>1</sup> Washington's medical marijuana system is codified as Washington state medical use of cannabis act (MUCA), ch. 69.51A RCW. Initially, the statute provided qualifying medical marijuana users an affirmative defense to criminal prosecutions. Former RCW 69.51A.040(2)-(3) (2010).

To qualify for the affirmative defense, a person had to meet the definition of a being a “qualifying patient.” Former RCW 69.51A.010(4)(a)-(e) (2010). The patient had to be a Washington resident and diagnosed with a terminal or debilitating medical condition by a Washington licensed health care professional. *Id.* The health care professional would have advised the patient of the benefits and risks of the medical use of marijuana. *Id.* The licensed health care professional would provide authorization to possess marijuana by providing the patient a

---

<sup>1</sup> Washington’s criminal laws concerning marijuana date from 1971, when the Washington Legislature enacted the Uniform Controlled Substances Act, ch. 69.50 RCW. That statute made it a crime to manufacture, deliver, or possess marijuana. RCW 69.50.401-.445. As recounted in text, those laws as they relate to medical marijuana have evolved in recent years. The Washington Supreme Court recently reviewed the history of medical marijuana in *Cannabis Action Coalition v. City of Kent*, No. 90204–6, 2015 WL 2418553, (Wash. May 15, 2015).

signed statement known under the statute as “valid documentation,” which indicated that “in the opinion of the health care professional, the patient could benefit from the medical use of marijuana.” Former RCW 69.51A.010(7). The patient could not have more than a sixty-day supply. Former RCW 69.51A.040(3)(b). If all of these conditions were satisfied, the qualifying patient could assert an affirmative defense against a criminal prosecution for possession of marijuana.

Although this case is governed by the law at it existed in 2009, when Duncan’s tax liability accrued, the law has continued to evolve in ways that illuminate the issue before the Court. The Legislature amended the MUCA in 2011 to create a comprehensive regulatory scheme under which all patients, physicians, processors, producers, and dispensers could be securely and confidentially registered in a database maintained by the Washington Department of Health. Laws of 2011, ch. 181, § 901 (later vetoed). But Governor Gregoire vetoed 36 of the bill’s 58 sections, including those creating a system of state registration. *See id.* at 1374-76 (governor's veto message). In addition to the registration system, the bill authorized collective gardens and clarified that local jurisdictions retain their zoning power over medical marijuana activities.

In 2015, the Legislature accomplished what the Governor’s veto excised from the 2011 act, creating a comprehensive regulatory scheme

for the medical use of marijuana. Laws of 2015, ch. 70. It created a medical marijuana authorization database and recognition card. *See id.*, §§ 17, 19. Retail stores offering sales of medical marijuana will now be licensed and regulated. *See id.*, § 10. For the first time, the authorization from the health care professional will include the “amount of marijuana recommended for the qualifying patient.” *See id.*, § 18.

Notably for this case, the Legislature made clear in 2015 that authorizations for the use of medical marijuana are not prescriptions. *See id.*, § 17 (amending RCW 69.51A.010 (7)); *see also* Laws of 2015, 2d Spec. Sess., ch. 4, § 101(b) (intent section of related legislation emphasizing that it is “imperative to distinguish that the authorization for medical use of marijuana is different from a valid prescription provided by a doctor to a patient”). This new regulatory scheme goes into effect on July 1, 2016. *Id.*

**B. Duncan’s Dispensary & Tax Refund Claim.**

In 2008, Rhonda Duncan began a business to sell marijuana for medical use. Administrative Record (AR) at 71, 77. When Duncan failed to pay state taxes, the Department began proceedings to collect delinquent taxes. AR at 71. She closed the business. *Id.* In 2009, she began selling marijuana under a different tax reporting account and operating with the business name “The Compassionate Kitchen.” AR at 77, 78, 88. She did

not collect sales tax from customers on sales of medical marijuana in 2009. AR at 80, 86. Instead, she paid the sales tax herself “on all 2009 transactions involving medical marijuana.” AR at 42.

In September 2010, Duncan requested guidance from the Department on how she should collect and report taxes on the sales of medical marijuana. AR at 88. The Department issued a letter ruling stating that “sales of medical marijuana are considered retail sales. As such, the gross income earned is subject to the retailing business and occupation (B&O) tax. The gross amount charged to the customer is also subject to the retail sales tax.” AR at 90. The Department further ruled that “sales of medical marijuana are not eligible for the prescription drug sales tax exemption.” *Id.* Duncan was well aware of the Department’s interpretation and position.

In 2010, the Department also sent a letter to approximately 90 medical marijuana businesses and interested organizations and associations to inform them that sales tax was due on all sales of medical marijuana and that such sales did not qualify for the exemption as a prescription under RCW 82.08.0281. AR at 95-96. Further, the Department posted the information on its website and issued a Special Notice entitled, “Sales of Medical Cannabis Remain Subject To Sales

Tax,” informing the public that sales of medical marijuana were subject to tax. AR at 93, 98.

In 2011, federal authorities raided Duncan’s business, which she then closed. AR at 78. Ms. Duncan subsequently submitted an amended return for the January-December 2009 tax period and requested a refund of sales taxes she had remitted for that period. AR at 100-02. The Department denied the refund request, and Ms. Duncan appealed that decision to the Department’s appeal division, which issued a determination upholding the denial of the refund. AR at 104-09. Ms. Duncan timely appealed to the Board of Tax Appeals. AR at 202.

At the Board, the sole issue Duncan presented for the Board to decide was whether, “pursuant to RCW 82.08.0281, the retail sale or distribution of medicinal marijuana is tax exempt.” AR at 164. Duncan moved for summary judgment. AR at 131-55. The Department responded and asked the Board to grant summary judgment in the Department’s favor affirming the denial of the tax refund. AR at 54-130.

On October 13, 2014, the Board entered its Final Decision granting summary judgment to the Department. AR at 31-39; *see* Appendix 1. The Board rejected Duncan’s claim that sales of medicinal marijuana qualified for the sales tax exemption under RCW 82.08.0281. The Board concluded:

Because the exemption in RCW 82.08.0281(1) applies to “sales of drugs . . . dispensed . . . pursuant to a prescription,” the Board determines as a matter of law that the exemption cannot apply to the Taxpayer’s sales of medical marijuana and that her refund request must therefore be denied.

AR at 37.

Duncan sought judicial review of the Board’s Final Decision before the Spokane County Superior Court. CP at 1-30. On March 2, 2015, the court entered an order reversing the Board of Tax Appeals. CP at 91-92; *see* Appendix 2. The court held that under the APA, RCW 34.05.570(3)(d), the Board erroneously interpreted or applied the law. *Id.* The court interpreted RCW 82.08.0281(1) to exempt sales of medical marijuana made pursuant to RCW 69.51A from retail sales tax. *Id.* The Department timely filed a notice of appeal to this Court. CP at 93.

## V. ARGUMENT

### A. Scope Of Review.

In reviewing the trial court’s decision on review of a Board of Tax Appeals decision, this Court applies the standards of the Administrative Procedure Act (APA) directly to the record before the Board, sitting in the same position as the trial court. *Department of Revenue v. Bi-Mor, Inc.*, 171 Wn. App. 197, 201-02, 286 P.3d 417 (2012), *review denied*, 177 Wn.2d 1002 (2013). The Court does not give deference to the Superior

Court's ruling. *Department of Revenue v. Nord Northwest Corp.*, 164 Wn. App. 215, 223, 264 P.3d 259 (2011). The APA outlines the standard of review in RCW 34.05.570(3)(a)-(i). The only standard at issue in this case is whether the "agency has erroneously interpreted or applied the law." RCW 34.05.570(3)(d). Further, under the APA, the burden of demonstrating the invalidity of the Board's action is on the party asserting that the agency erred. RCW 34.05.370(1)(a).

Because the Board resolved this matter on summary judgment, the reviewing court "overlays the APA 'error of law' standard of review with the summary judgment standard, and reviews an agency's interpretation or application of the law de novo while viewing the facts in the light most favorable to the nonmoving party." *Bi-Mor, Inc.*, 171 Wn. App. at 202.

**B. Duncan's Sales Of Medical Marijuana Were Subject To Retail Sales Tax.**

Sales of tangible personal property to consumers in Washington are subject to the retail sales tax unless a specific statute exempts the transaction from tax. RCW 82.04.050. Taxation is the general rule, and exemptions are the exception. *Budget Rent-A-Car v. Dep't of Revenue*, 81 Wn.2d 171, 174, 500 P.2d 764 (1972) ("Exemptions to a tax law must be narrowly construed"). Retail sellers are obligated to collect the tax from their customers and remit the tax to the Department. RCW 82.08.050(2).



A retail seller who fails to collect the retail sales tax from its customers, or who collects the tax and fails to remit it to the Department, is liable to the Department for the amount of those taxes. RCW 82.08.050(4); *AARO Medical Supplies, Inc. v. Dep't of Revenue*, 132 Wn. App. 709, 718, 721, 132 P.3d 1143 (2006), *review denied*, 159 Wn.2d 1013, 154 P.3d 919 (2007). In this case, Duncan failed to collect the tax from her customers, but paid it herself. She now claims she is entitled to a refund under what is commonly known as the prescription drug exemption.

Under RCW 82.08.0281, sales of prescription drugs are exempt from the retail sales tax. The version of RCW 82.08.0281 in effect in 2009 stated:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription.

...

(4) The definitions in this subsection apply throughout this section.

(a) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

*See* Appendix 3.

Duncan argues that a sale of marijuana for medical use qualifies under the statute, because it meets the three conditions: 1) the health care authorization is an "order, formula, or recipe", 2) "given by a duly

licensed practitioner,” 3) “who is authorized under the laws of the state to prescribe.” AR at 139; CP at 38. Under the plain meaning of the statute, the Board properly rejected Duncan’s arguments. As a matter of law, the health care authorization is not a prescription, medical marijuana is not prescribed, and the sale of medical marijuana is not exempt from retail sales tax as a sale of a prescription drug under RCW 82.08.0281.

**1. The plain meaning of RCW 82.08.0281 demonstrates that sales of medical marijuana are not tax exempt.**

The goal of statutory interpretation is to discern and apply the Legislature’s intent based upon the statute’s plain meaning. *See Department of Ecology v. Campbell & Gwinn, LLC*, 146 Wn. 2d 1, 9-10, 43 P.3d 4 (2002) (“A court’s goal in construing a statute is to determine and give effect to the Legislature’s intent”); *Lake v. Woodcreek Homeowners Ass’n*, 169 Wn.2d 516, 526, 243 P.3d 1283 (2010) (“Statutory construction begins with the statute’s plain meaning.”). “If the statute’s meaning is plain on its face, we give effect to that plain meaning as the expression of what was intended.” *TracFone Wireless, Inc. v. Dep’t of Revenue*, 170 Wn.2d 273, 281, 242 P.3d 810 (2010). The Court should avoid interpreting a statute in a manner that results in unlikely, absurd, or strained consequences. *G-P Gypsum Corp. v. Dep’t of Revenue*, 169

Wn.2d 304, 313, 237 P.3d 256 (2010); *Glaubach v. Regence BlueShield*, 149 Wn.2d 827, 833, 74 P.3d 115 (2003).

As a tax exemption, RCW 82.08.0281 must “be construed strictly, though fairly and in keeping with the ordinary meaning of [its] language, against the taxpayer.” *Sacred Heart Medical Ctr. v. Dep’t of Revenue*, 88 Wn. App. 632, 637, 946 P.2d 409 (1997) (quoting *Group Health Co-op. of Puget Sound, Inc. v. Washington State Tax Comm’n*, 72 Wn.2d 422, 429, 433 P.2d 201 (1967)). Because it is the agency that administers RCW 82.08.0281, the Department’s interpretation that sales of medical marijuana are subject to tax should be accorded substantial weight. *See Department of Revenue v. Nord Northwest Corp.*, 164 Wn. App. 215, 223, 264 P.3d 259 (2011).

The Board examined RCW 82.08.0281 and concluded that, as a matter of law, “the exemption cannot apply to the Taxpayer’s sales of medical marijuana.” CP at 63. The Board began its analysis by looking at the plain language of the statute, exempting taxes on sales “of drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription.” The Board properly concluded that this plain language requires drugs to be dispensed by a prescription. The Board explained that “under federal and Washington law, marijuana is classified as a Schedule I controlled substance, and no physician, or “health care professional” is

authorized under federal or Washington law to prescribe marijuana.” CP at 63. Because duly licensed practitioners may not prescribe marijuana, marijuana is not dispensed to patients “pursuant to a prescription” as required in RCW 82.08.0281, and thus the sale of medical marijuana does not qualify for the retail sales tax exemption. CP at 63.

In Duncan’s view, the statutory definition of “prescription” encompasses the signed document that medical marijuana patients must provide from a physician—that is, “a statement signed by a . . . physician,” confirming that “the patient may benefit from the medical use of marijuana.” Former RCW 69.51A.010(5)(a) (2010). *See* CP at 39-40. Duncan is wrong to suggest that the statement is equivalent to a “prescription” under RCW 82.08.0281(4)(a). As discussed below, healthcare professionals, including physicians, cannot prescribe marijuana.

**2. Both federal and state laws prohibit issuing prescriptions for marijuana.**

Under the sales tax exemption for prescription drugs, a patient must have a prescription. RCW 82.08.0281(1). But patients are not provided a prescription for medical marijuana. This is because under both federal and state law, marijuana is categorized as a schedule 1 controlled substance, for which prescriptions may not be written.

The federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.*, categorizes drugs based upon their potential for abuse in five schedules called “controlled substances.” Schedule II through Schedule V all require a prescription. 21 U.S.C. § 829. Schedule I drugs are characterized as drugs with a high potential for abuse, have no currently accepted medical use in treatment, and lack safety for use of the drug. 21 U.S.C. § 812(b). Marijuana is a Schedule I controlled substance. 21 U.S.C. § 812(c)(10).

Washington’s Uniform Controlled Substances Act also classifies marijuana as a Schedule I controlled substance. RCW 69.50.204(c)(22). Furthermore, a health care practitioner must obtain a special registration from the federal government in order to be authorized to prescribe a controlled substance. 21 U.S.C. § 822(a). Without a specific registration for Schedule I controlled substances, no health care practitioner may issue a prescription for a Schedule I controlled substance, including marijuana. *Id.*; RCW 69.50.203(a)(2), (3); RCW 69.50.308. The Washington Supreme Court recognized this in *Seeley v. State*, 132 Wn.2d 776, 940 P.2d 604 (1997). In *Seeley*, an individual challenged the state’s listing of marijuana as a Schedule I controlled substance as unconstitutional under Article I, sections 12 and § 32 of the Washington Constitution. The Court upheld the Legislature’s classification and held: “Marijuana cannot be

legally prescribed, nor can a prescription for marijuana be filled by a pharmacist in Washington . . . .” *Id.* at 783. The sales tax exemption in RCW 82.08.0281 does not apply because there is no lawful prescription for marijuana.

**3. Washington’s Medical Cannabis statute does not authorize a prescription.**

The medicinal use of marijuana was established through an initiative of the people codified under RCW 69.51A. People who were diagnosed with terminal or debilitating medical conditions could be authorized to use marijuana. RCW 69.51A.005. The primary purpose was to avoid criminal and civil liability for the possession and use of marijuana. RCW 69.51A.040. Under this statute, the health care professional must document that the patient meets the conditions for use of marijuana for medicinal purposes. The health care authorization provided an affirmative defense to the crime of possession of marijuana, because the statute did not make it lawful to possess marijuana. *See State v. Reis*, No. 90281-0, 2015 WL 2145986 at \*2, 6 (Wash. May 7, 2015) (examining the 2011 amendments to RCW 69.51A and stating that, “medical use of marijuana is not lawful . . .”); *see also Coats v. Dish Network, LLC*, No.13SC394, 2015 WL 3744265 at \*1 (Colo. June 15, 2015) (employer’s termination of employee for medical use of marijuana

did not result in a wrongful termination or discriminatory act, because it was not a “lawful” activity).

The Washington State Medical Association and the Washington American Civil Liberties Union provide a form for both patients and health care providers to effectuate the health care authorization for possession of marijuana for medical use. AR at 111, 113. Both the Washington State Medical Association and the Washington State Medical Quality Assurance Commission explicitly state that physicians are not issuing prescriptions with respect to medical marijuana. The Medical Association advises its members:

**Does this mean that physicians or the other licensed health care professionals may prescribe marijuana?**

*No, physicians or the other authorized licensed health care professionals must not prescribe marijuana.* It is prohibited under *federal* law to knowingly or intentionally distribute, dispense or possess marijuana. The terms "distribute" and "dispense" have been broadly interpreted, and physicians and the other authorized licensed health care professionals may be found in violation of federal law for writing a prescription for a substance, such as marijuana, for which federal law has no recognized medical use. Violation of federal laws can bring significant penalties, including imprisonment and fines. In addition, violating federal law (or aid and abet in its violation) may result in other federal sanctions, such as a revocation of a health care provider's DEA registration.

AR at 115-16 (emphasis in original).

Likewise, the Medical Commission advises physicians:

**Is my recommendation considered a prescription if it is written on tamper-resistant paper?**

Health care providers cannot write prescriptions for medical marijuana. They may only write recommendations that a patient has a medical condition that may benefit from the medical use of marijuana.

AR at 121.

Because the Act does not authorize Washington physicians to prescribe medical marijuana under state law, *Seeley* correctly states the law. *See also State v. Hanson*, 138 Wn. App. 322, 328-32, 157 P.3d 438 (2007) (rejecting argument that the Act implicitly repealed marijuana's classification as a Schedule I controlled substance that cannot be legally prescribed by physicians). Therefore, the Board correctly concluded that sales of medical marijuana do not qualify for the sales tax exemption under RCW 82.08.0281, as they are not drugs dispensed pursuant to a prescription.

**C. For The First Time In 2015, The Legislature Exempted Sales Of Medical Marijuana From The Sales Tax, Demonstrating That Such Sales Were Previously Taxable.**

Since the adoption of medical marijuana laws, the Legislature never exempted medical marijuana from sales tax until the 2015 legislative session. This subsequent legislation further supports the conclusion that before the change in the law, sales of medical marijuana were subject to sales tax.



The 2015, the Legislature created a comprehensive regulatory scheme for the medical use of marijuana, merging it with the licensing and regulatory structure for recreational marijuana. Laws of 2015, ch. 70; Laws of 2015, 2d Spec. Sess., ch. 4. In doing so, the Legislature created a medical marijuana authorization database and recognition card. Laws of 2015, ch. 70, §§ 17, § 19. Retail stores offering sales of medical marijuana will now be licensed and regulated. *Id.*, § 10. For the first time, the authorization from the health care professional will include the “amount of marijuana recommended for the qualifying patient.” *Id.*, § 18. Until this amendment, the authorization and information describing the responsibilities of practitioners in completing the authorization merely indicated that the patient qualified for marijuana as a medical use. *See AR* at 111, 113, 115-16, 118-23, 125-26. However, the Legislature made clear in the new legislation that these authorizations are not prescriptions, “An authorization is not a prescription as defined in RCW 69.50.101.” Laws of 2015, ch. 70, § 17 (amending RCW 69.51A.010(7), and adding subsection (c)). This new regulatory scheme becomes effective July 1, 2016. *Id.*

In conjunction with overhauling the medical marijuana scheme, the Legislature for the first time created an entirely new section exempting

qualifying sales of medical marijuana from the retail sales tax.<sup>2</sup> Laws of 2015, 2d Spec. Sess., ch.4, § 207 (adding a new section to RCW 82.08); *see* Appendix 4. The Department of Health will identify marijuana and marijuana products that have a low THC, high CBD ratio to be available for retail sale. Effective July 1, 2016, these marijuana and marijuana products beneficial for medical use can be sold at retail exempt from retail sales tax.<sup>3</sup> *Id.* Just as in the bill creating the regulatory scheme for medical marijuana, the Legislature made a point of distinguishing the medical marijuana authorization from a prescription for standard medications: “[I]t is also imperative to distinguish that the authorization for medical use of marijuana is different from a valid prescription provided by a doctor to a patient.” *Id.*, § 101(b) (intent section). Consistent with this statement that authorizations are not prescriptions, the Legislature created a new section in ch. 82.08 RCW for the medical marijuana exemption, rather than addressing it in the prescription drug exemption, RCW 82.08.0281. *Id.*, § 207 (“[a] new section is added to chapter 82.08 RCW . . .”).

---

<sup>2</sup> Beginning July 1, 2015, and until July 1, 2016, sales of marijuana and marijuana products sold by collective gardens in compliance with RCW 69.51A are exempt from sales tax.

<sup>3</sup> Although the Legislature is allowing medical marijuana to be sold exempt from the retail sales tax starting in July 2016, the Legislature allowed no exemption for retail sales of medical marijuana from the marijuana excise tax. Effective July 1, 2015, that tax is 37% of the selling price. Laws of 2015, 2d Spec. Sess., ch. 4, §§ 205(1)(a), §1605. The marijuana excise tax was not in effect during the 2009 tax year at issue here.

The Legislature's recent enactments to explicitly exempt medical use of marijuana from retail sales tax starting in July 2016 further support the Board's interpretation that until then, sales of medical marijuana are not exempt from the imposition and collection of sales tax. If, as Duncan argues, such sales were already exempt from tax, the Legislature would have had no need to create a new law explicitly exempting those sales. *See John H. Sellen Constr. Co. v. Dep't of Revenue*, 87 Wn.2d 878, 883, 558 P.2d 1342 (1976) (“[T]he legislature does not engage in unnecessary or meaningless acts, and we presume some significant purpose or objective in every legislative enactment.”) Therefore, until July 2016, the effective date of the new law, sales of medical marijuana were not and are not exempt from the retail sales tax. The Board correctly interpreted and applied the law to Duncan's 2009 sales of medical marijuana.

A year before the 2015 Legislature overhauled the regulation of medical marijuana, it did address marijuana in the context of the prescription drug exemption in RCW 82.08.0281. In 2014, the Legislature passed Senate Bill 6505, effective June 12, 2014, to clarify that “marijuana, useable marijuana, and marijuana-infused products are not agricultural products.” Laws of 2014, ch. 140, § 11; CP at 73. These amendments included clarifying the definition of “drug” in RCW 82.08.0281(4)(b) to expressly exclude marijuana:

(b) “Drug” means a compound, substance, or preparation, and any component of a compound, substance, or preparation, *other than* food and food ingredients, dietary supplements, or alcoholic beverages, marijuana, useable marijuana, or marijuana-infused products . . . .

Laws of 2014, ch. 140, § 19; CP at 73 (underlining in original; italics added). In other words, the statute specifically identifies and excludes marijuana from being eligible as a drug that can be exempt from the sales tax. Further evidence that this amendment merely clarified what the Legislature understood was existing law is that both the Senate and House committees that considered the bill described it as a “clarification of current law.” CP at 76-77; 79-81. Therefore, even the recent clarifying amendments to the definition of “drug” support the conclusion that sales of medical marijuana are not exempt from sales tax and do not qualify for the exemption under RCW 82.08.0281.

The Legislature’s actions in 2014 and 2015 demonstrate two things very clearly. First, when the Legislature chose to create a tax exemption for marijuana, medical marijuana in this instance, the Legislature was very explicit, as it has been with other statutory exemptions in the past. This is in keeping with the overall scheme of the tax code, under which taxation is the rule, and exemption is the exception. As the Supreme Court has noted, courts recognize no implied exemptions. *TracFone Wireless*, 170 Wn.2d at 296-97. Second, the recent marijuana-related legislation confirms that

the Legislature never intended that prescription drug exemption in RCW 82.08.0281 have any applicability to sales of marijuana, medical or otherwise.

**D. Duncan’s Interpretation of RCW 82.08.0281 Fails To Give Effect to All The Statutory Language.**

Although Duncan appears to agree that RCW 82.08.0281 is unambiguous and plain on its face,<sup>4</sup> Duncan argued before the Board that the sales tax exemption should be construed under the last antecedent rule of construction. *See* AR at 138; CP at 37. Only ambiguous statutes require judicial construction; otherwise the court gives effect to the plain meaning. *Agrilink Foods, Inc. v. Dep’t of Revenue*, 153 Wn.2d 392, 396, 103 P.3d 1226 (2005). Duncan misconstrues the tax exemption and advocates for a broad reading of the statute. Because it creates an exemption from the sales tax, the prescription drug exemption “must be narrowly construed.” *See, e.g., Budget Rent-A-Car*, 81 Wn.2d at 174.

To qualify for the exemption, sales of drugs must be dispensed to a patient pursuant to a prescription. RCW 82.08.0281(1). Prescription means “an order, formula, or recipe issued in any form . . . by a duly licensed practitioner authorized by the laws of this state to prescribe.”

Duncan advocates that this last phrase be interpreted in a vacuum, and she

---

<sup>4</sup> CP at 36 (“Text is unambiguous”), 40, ([B]ut the language of the controlling statute does not permit the Department to re-write an unambiguous text . . . and the text is sufficiently plain to be understood. . .”).

employs a simplistic reading of this language. But it cannot be construed in a vacuum, because statutes governing the same subject matter must be construed together. *Hallauer v. Spectrum Props., Inc.*, 143 Wn.2d 126, 146, 18 P.3d 540 (2001).

RCW 82.08.0281 extends only to sales made pursuant to prescription, but both federal and state law prohibit prescribing Schedule I controlled substances such as marijuana. 21 U.S.C. § 822(a); RCW 69.50.203(a)(2),(3); RCW 69.50.308. For this reason, Washington's medical marijuana statutes speak of "valid documentation authorizing the medical use of cannabis," rather than a "prescription." RCW 69.51A.030(2)(a). According to Duncan, if the law authorizes a practitioner to issue prescriptions, and the practitioner is duly authorized to issue a prescription, the sales tax exemption applies. CP at 38. But this misses the statutory distinction between a "prescription" and mere "authorization."

The authorization provided by a Washington licensed health care professional does not qualify under the statutory definition of "prescription." It is not an "order, formula, or recipe." The authorization merely indicates that "in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana."

Former RCW 69.51A.010(5).<sup>5</sup> The authorization does not indicate the type of product, the quantity, or dosage, all elements of a prescription. *See* AR at 111, 113. Based upon this statutory language alone, sales of medical marijuana do not qualify as a prescription.

Further, Duncan does not ascribe any legal meaning to the phrase “to prescribe” in the statute. Under Duncan’s construction, the words “to prescribe” simply refer “not to the substance being prescribed but to the genus of the person doing the prescribing.” *Id.* Therefore, under Duncan’s view, a duly licensed practitioner, authorized under the laws of this state to prescribe, could issue an order, formula, or recipe for heroin or any other prohibited drug listed in the state’s Schedule I list of controlled substances, RCW 69.50.204, and the sale would be exempt from sales tax. Duncan argues, “There is no limitation upon what constitutes an authorized substance . . . .” CP at 39. Duncan’s interpretation would lead to the absurd result of having prescriptions for illegal drugs qualify for sales tax exemption. The Court should avoid interpreting RCW 82.08.0281 in this unlikely manner, where evidence that the Legislature intended such a result is entirely lacking. *See G-P Gypsum Corp.*, 169 Wn.2d at 313; *Glaubach*, 149 Wn.2d at 833.

---

<sup>5</sup> The Legislature amended the statute to add that the authorization was to be made on tamper resistant paper and re-numbered it as RCW 69.51A.010(7). *See* Laws of 2010, ch. 284, § 2.

The Board rejected Duncan’s broad reading of the statute. The Board explained, “[T]he Taxpayer is ignoring the ordinary meaning of the verb “to prescribe”: ‘to direct, designate, or order the use of as a remedy <the doctor *prescribed* quinine>’; Practitioners do not prescribe a prescription; they prescribe something.” CP at 62-3.

The Board is correct. Those health care providers authorized by law to issue prescriptions can only do so if the drug is legal to prescribe. Neither federal nor state laws authorize a health care practitioner to prescribe marijuana. Because cannabis is a Schedule I drug under both federal and state controlled substances acts, it is illegal to manufacture, distribute, dispense, or possess. A health care practitioner may not issue a prescription under either federal or state law for marijuana. 21 U.S.C. § 822(a); RCW 69.50.203(a)(2),(3); RCW 69.50.308; *see also, Seeley*, 132 Wn.2d at 783. Even the American Civil Liberties Union recognizes that under Washington’s Medical Use of Cannabis Act, federal law prohibits even the medical use of marijuana:

Washington’s law does not, however, change federal cannabis laws, and these prohibit even medical use of cannabis. Therefore, anyone who manufactures, distributes, dispenses, or possesses cannabis for **any** purpose still may be prosecuted under federal law. [See Title 21, ch. 13, §§ 841 and 844 of the United States Code.]

AR at 125 (emphasis in original).



Despite the plain meaning of the statute, Duncan also argues that the courts have “drawn the clear parallel to medical marijuana and medical prescriptions” and quotes *State v. Soper*, 135 Wn. App. 89, 97, 143 P.3d 335 (2006) (“Accordingly, we hold that only those physicians validly licensed in Washington may prescribe medical marijuana to persons in this state.”) CP at 39. The court in *Soper* was quoting *State v. Tracy*, 128 Wn. App. 388, 397, 115 P.3d 381 (2005), *affirmed*, 158 Wn.2d 683 (2006). Duncan’s reliance on these cases is misplaced.

In *Soper*, Ricky Soper was convicted of one count of manufacturing marijuana and one count of possession of marijuana with intent to distribute. *Soper*, 135 Wn. App. at 93. The court upheld his conviction, finding that he failed to prove the foundation necessary to invoke the affirmative defense; namely, that he was a qualifying patient of a physician licensed in Washington to assert the affirmative defense under the Medical Use of Marijuana Act. *Id.*; RCW 69.51A.043. Soper offered the testimony of a doctor, but the trial court determined the physician was not licensed to practice in Washington and struck his testimony. 135 Wn. App. at 99-100. The Court of Appeals upheld the trial court’s decision, citing and quoting *Tracy* for the proposition that for a patient to qualify for the affirmative defense, the physician must be licensed in Washington. *State v. Soper*, 135 Wn. App. at 100 (quoting *Tracy*, 128 Wn. App. at 397).

The mere fact that in order to invoke the affirmative defense under the Act, one must be a patient of a physician licensed in Washington does not indicate that the physician issues a prescription for the use of marijuana. The Supreme Court was clear in *Seeley* that “[m]arijuana cannot be legally prescribed, nor can a prescription for marijuana be filled . . . .” *Seeley*, 132 Wn.2d at 783. The Court of Appeals cannot overrule the Washington Supreme Court. *State v. Smith*, 124 Wn. App. 417, 434 n.8, 102 P.3d 158 (2004). Thus, *Seeley* expresses Washington law, not *Tracy* or *Soper*.

Another reason Duncan’s reliance on *Tracy* is misplaced is that *Tracy* does not stand for the proposition Duncan asserts. *Tracy* did not decide that Washington licensed physicians may prescribe medical marijuana. Rather, the Court of Appeals addressed whether physicians licensed in other states may qualify as “a physician licensed under ch. 18.71 or 18.57 RCW.” *See Tracy*, 128 Wn. App. at 394-95. The Court of Appeals held that the only reasonable interpretation of the term “licensed” was that it applied only with respect to physicians who had received a license from the state of Washington. *Id.* at 397. In its summary, the Court of Appeals stated: “Accordingly, we hold that only those physicians validly licensed in Washington may prescribe medical marijuana to persons in this state.” *Id.* But notwithstanding that statement, the court did not address the issue of whether Washington physicians may prescribe medical marijuana. “Where

the literal words of a court opinion appear to control an issue, but the court did not in fact address or consider the issue, the ruling is not dispositive and may be reexamined without violating stare decisis in the same court . . . .” *ETCO, Inc. v. Dep’t of Labor & Indus.*, 66 Wn. App. 302, 307, 831 P.2d 1133 (1992). Because the court in *Tracy* did not consider whether Washington physicians may prescribe medical marijuana, its summary statement is not controlling authority.<sup>6</sup> In sum, the medical use of marijuana does not qualify for the sales tax exemption under RCW 82.08.0281, and Duncan was required to collect the sales tax from her customers.

**E. Even If RCW 82.08.0281 Could Be Considered Ambiguous, Legislative History Supports The Board’s Construction Of The Statute.**

RCW 82.08.0281 is not ambiguous, and so this Court can properly apply its plain meaning. But even if the statute were ambiguous, its legislative history confirms what the plain language of the statute already makes clear. RCW 82.08.0281 does not exempt sales of medical marijuana from the sales taxes.

The source of the definition of “prescription” the Legislature added to RCW 82.08.0281 was derived from the Streamlined Sales and Use Tax

---

<sup>6</sup> The Washington Supreme Court accepted review and affirmed *Tracy*. See 158 Wn.2d 683, 147 P.3d 559 (2006). In its opinion, the Supreme Court was careful to use language that follows the statutory scheme. *Tracy*, 158 Wn.2d at 686 (referring to “valid documentation” and stating that “[i]t is also undisputed that no physician who was formally licensed to practice medicine in Washington had authorized Tracy to use marijuana”). The Court did not adopt (or even repeat) the language from the Court of Appeals decision in *Tracy* that Duncan relies upon.

Agreement adopted into law in 2003. Laws of 2003, ch. 168, § 403. In 2004, the Legislature amended that definition by adding the words “to prescribe” to the end, so that the definition read:

“Prescription: means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.”

Laws of 2004, ch. 153, § 108. The final bill report for the 2004 amendment explained the purpose of this amendment as being to clarify that “[a] prescription for items or drugs that are exempt must be prescribed by a person whose license authorizes him or her to prescribe the item or drugs.” Final Bill Report on Senate Bill 6515, 58th Leg. (2004) at 2.

This legislative clarification supports the Board’s conclusion that “by its plain language, the statutory definition of ‘prescription’ requires that the practitioner be authorized to prescribe the drugs or devices referenced in the order.” CP at 62-63. Because marijuana cannot be prescribed pursuant to federal or state law, there is no exemption from sales tax for the sale of medical marijuana.

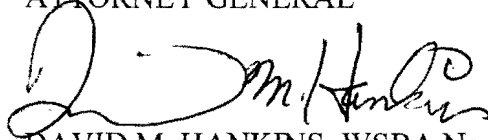
## **VI. CONCLUSION**

Duncan misconstrues the statutory sales tax exemption for prescription drugs to include sales of medical marijuana. Health care practitioners do not write or issue prescriptions to patients who qualify for

the medicinal use of marijuana under Washington's Medical Cannabis Act, because they are not legally allowed to do so. The authorization health care practitioners provide to patients for the medicinal use of marijuana is not a prescription. Accordingly, the sales tax exemption for prescription drugs did not apply to patients purchasing medical marijuana in 2009 and does not today. This Court should affirm the decision of the Board of Tax Appeals.

RESPECTFULLY SUBMITTED this 13th day of July, 2015.

ROBERT W. FERGUSON  
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "David M. Hankins", is written over the printed name of David M. Hankins.

DAVID M. HANKINS, WSBA No. 19194  
Senior Counsel  
Attorneys for Department of Revenue  
P.O. Box 40123  
Olympia, WA 98504-0123  
OID No. 91027

**PROOF OF SERVICE**


I certify that I served a copy of this document, via electronic mail,

per agreement, on the following:

Jeffry Finer  
LAW OFFICES OF JEFFRY K. FINER  
35 W. Main St., Ste 300  
Spokane, WA 99201  
[jeffry@finer-bering.com](mailto:jeffry@finer-bering.com)  
[danette@finer-bering.com](mailto:danette@finer-bering.com)

I certify under penalty of perjury under the laws of the State of  
Washington that the foregoing is true and correct.

DATED this 13th day of July, 2015, at Tumwater, WA.

  
Julie Johnson, Legal Assistant

# **APPENDIX 1**

BEFORE THE BOARD OF TAX APPEALS  
STATE OF WASHINGTON

1  
2  
3 RHONDA L. DUNCAN d/b/a THE )  
COMPASSIONATE KITCHEN, ) Docket No. 12-286  
4 )  
Appellant, )  
5 ) RE: EXCISE TAX APPEAL  
v. )  
6 )  
7 STATE OF WASHINGTON ) FINAL DECISION:  
DEPARTMENT OF REVENUE, ) ORDER GRANTING  
8 ) SUMMARY JUDGMENT  
Respondent. )  
9 )

---

10 This matter came before the Board of Tax Appeals, with Marta B. Powell, Chair,  
11 presiding, on May 22, 2014, for a hearing on a motion for summary judgment filed, pursuant to  
12 WAC 456-09-545, by the Appellant, Rhonda L. Duncan d/b/a the Compassionate Kitchen (the  
13 Taxpayer). Attorney Jeffry K. Finer, PS, represented the Taxpayer. David M. Hankins, Senior  
14 Counsel, Office of the Attorney General, represented the Respondent, State of Washington  
Department of Revenue (the Department).

15 The Board heard the oral arguments of counsel and considered the written materials filed  
16 in this matter, including the following:

- 17 1. Taxpayer's Motion for Summary Judgment;
- 18 2. Taxpayer's Memorandum in Support of Summary Judgment;
- 19 3. Affidavit of Taxpayer's Counsel in Support of Summary Judgment (attaching  
20 Exhibits A1-A4);
- 21 4. Department of Revenue's Response to Appellant's Motion for Summary  
22 Judgment;
- 23 5. Declaration of David M. Hankins in Support of Respondent's Response to  
24 Appellant's Motion for Summary Judgment (attaching Exhibits 1-16); and
6. Taxpayer's Rebuttal Memorandum in Support of Summary Judgment.



1 Based on the parties' written submissions and oral arguments, the Board concludes that  
2 there are no genuine issues of material fact and that the Department is entitled to summary judgment  
3 as a matter of law.<sup>1</sup> Therefore, pursuant to WAC 456-09-545, the Board now grants the  
4 Department's request for summary judgment in this matter.

#### 5 PROCEDURAL HISTORY

6 **Powell.** On March 7, 2011, the Taxpayer, a provider of medical marijuana, requested a  
7 refund of \$19,312.38 for retail sales tax paid for the period January 1, 2009, to December 31,  
8 2009.<sup>2</sup> On May 19, 2011, the Department's Taxpayer Account Administration Division denied  
9 the request on the grounds that the sale of medical marijuana is a retail sale subject to retailing  
10 Business and Occupation (B&O) tax and retail sales tax.<sup>3</sup>

11 The Taxpayer petitioned the Department's Appeals Division for review. On May 31,  
12 2012, the Department denied the petition in Determination No. 12-0142.<sup>4</sup>

13 On July 3, 2012, the Taxpayer appealed the Department's Determination to the Board.  
14 On December 2, 2013, in the Board's second prehearing teleconference with the parties, the  
15 Taxpayer withdrew the statement of issues originally set forth in her Notice of Appeal and  
16 restated the issue before the Board as whether the sale of medical marijuana is a tax-exempt  
17 retail sale under RCW 82.08.0281.<sup>5</sup>

18 The Taxpayer moved for summary judgment on April 30, 2014. In its responsive  
19 memorandum, the Department asserted that the Taxpayer's "summary judgment motion should  
20 be denied and an order entered affirming the Department's denial of a tax refund."<sup>6</sup> On May 22,  
21 2014, the Board held a hearing on the parties' requests for summary judgment under WAC 456-  
22 09-545.

23 <sup>1</sup> Although Superior Court Civil Rule (CR) 56 does not expressly permit the granting of summary judgment to a  
24 nonmoving party, case law supports the practice. See *Impecoven v. Dep't of Revenue*, 120 Wn.2d 357, 365, 841  
P.2d 752 (1992) ("order[ing] entry of summary judgment in favor of [the Department], the nonmoving party," where  
"the facts are not in dispute"); and *In re Estate of Toland*, 180 Wn.2d 836, 329 P.3d 878 (2014) (granting summary  
judgment in favor of the nonmoving party). As amended in 2010, the federal rules expressly permit a court to "grant  
summary judgment for a nonmovant," provided the moving party has received "notice and a reasonable time to  
respond." Fed. R. Civ. P. 56(f)(1). Prior to that express provision, federal case law permitted the practice. See  
*Bulchis v. Edmonds*, 671 F. Supp. 1270, 1271 n.1 (W.D. Wash. 1987) (observing that "a court may sua sponte grant  
summary judgment to a non-moving party after full consideration if it appears that a trial would be useless").

<sup>2</sup> Exhibit 9, Det. No. 12-0142 (May 31, 2012), at 1-2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See the Board's Revised Order Establishing Procedural Dates (entered Dec. 3, 2013), p. 1.

<sup>6</sup> Department of Revenue's Response to Appellant's Motion for Summary Judgment, p. 1. On the propriety of  
granting summary judgment to the nonmoving party, see n.1, above.

1  
2  
3  
4  
5  
6  
7

## ISSUE

Are sales of medical marijuana, made pursuant to RCW 69.51A, exempt from retail sales tax under RCW 82.08.0281(1), which exempts “sales of drugs for human use dispensed . . . to patients, pursuant to a prescription”?

More specifically, does the “statement signed by a . . . physician,” confirming that “the patient may benefit from the medical use of marijuana,”<sup>7</sup> come within the exemption statute’s definition of “prescription” as “an order, formula, or recipe issued in any form . . . by a duly licensed practitioner authorized by the laws of this state to prescribe”?<sup>8</sup>

## ANALYSIS AND CONCLUSIONS

8  
9  
10  
11  
12  
13  
14

**Summary Judgment Standard.** Summary judgment is appropriate where “the written record shows [1] that there is no genuine issue as to any material fact and [2] that the moving party is entitled to judgment as a matter of law.”<sup>9</sup>

**Facts.** In the present case, the material facts—that is, those upon which the resolution of this appeal depends<sup>10</sup>—are undisputed. On or about July 1, 2008, the Taxpayer opened a tax reporting account (UBI 602 851 485) for a medical marijuana dispensary; effective October 31, 2010, the Taxpayer closed the account.<sup>11</sup> The Taxpayer paid sales tax “on all 2009 transactions involving medical marijuana.”<sup>12</sup> The Taxpayer seeks a refund of the retail sales taxes she remitted for the period January 1, 2009, to December 31, 2009.<sup>13</sup>

15  
16

**The Parties’ Arguments and the Board’s Conclusions.** At issue is the interpretation of a statutory exemption for retail sales tax. As stated in previous decisions, the Board’s role in

17  
18  
19  
20  
21  
22

---

<sup>7</sup> Former RCW 69.51A.010(5)(a). The subsequently amended version of the provision, effective June 10, 2010, requires that the “statement [be] signed and dated by a . . . health care professional” and “written on tamper-resistant paper.” RCW 69.51A.010(7)(a). The term “health care professional” is defined, for purposes of RCW 69.51A, as six categories of licensed health care professionals: physicians, physicians’ assistants, osteopathic physicians, osteopathic physicians’ assistants, naturopaths, and advanced registered nurse practitioners. RCW 69.51A.010(2).

<sup>8</sup> The Taxpayer also raised an issue concerning the segregation of nontaxable consultation fees from taxable sales of medical marijuana. See Memorandum in Support of Summary Judgment, pp. 9-10. The Department responded that the new issue was procedurally barred, and the Taxpayer withdrew the argument and confirmed that the sole issue in the appeal is her entitlement to a tax refund under RCW 82.08.0281. See Department of Revenue’s Response to Appellant’s Motion for Summary Judgment, pp. 9-10; Rebuttal Memorandum in Support of Summary Judgment, pp. 3-4.

<sup>9</sup> WAC 456-09-545; CR 56(c). On the propriety of granting summary judgment to the nonmoving party, see n.1, above.

<sup>10</sup> See *Capitol Hill Methodist Church of Seattle v. Seattle*, 52 Wn.2d 359, 364, 324 P.2d 1113 (1958).

<sup>11</sup> In 2010, the Taxpayer began operating a new business, Club Compassion, under a separate UBI number (UBI 603 004 701). See Exhibit 1; Exhibit 2, p. 5.

<sup>12</sup> Taxpayer’s Rebuttal Memorandum in Support of Summary Judgment, p. 3.

<sup>13</sup> See *id.*; Exhibits 8 and 18.

1 interpreting statutes is to determine the legislature’s intended meaning. If the Board concludes  
2 that the meaning of the statute is plain and unambiguous, whether on its face or in the context of  
3 closely related statutes, the Board looks no further for legislative intent.<sup>14</sup> However, if the  
4 meaning of the statute “remains susceptible to more than one reasonable meaning, the statute is  
5 ambiguous and it is appropriate to resort to aids to construction, including legislative history.”<sup>15</sup>  
6 In any case, statutory exemptions must “be strictly construed, though fairly and in keeping with  
7 the ordinary meaning of the language employed.”<sup>16</sup> Because “[a] tax exemption presupposes a  
8 taxable status . . . the burden is on the taxpayer to establish eligibility for the benefit.”<sup>17</sup>

9 The Taxpayer contends that her sales of medical marijuana were exempt from retail sales  
10 tax under RCW 82.08.0281(1): “The tax levied by RCW 82.08.020 shall not apply to sales of  
11 drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription.” The  
12 Taxpayer necessarily contends that her sales were made pursuant to a “prescription,” as that term  
13 is defined in RCW 82.08.0281(4)(a):

14 “Prescription” means an order, formula, or recipe issued in any form of oral,  
15 written, electronic, or other means of transmission by a duly licensed practitioner  
16 authorized by the laws of this state to prescribe.

17 In the Taxpayer’s view, the statutory definition of “prescription” encompasses the signed  
18 document that medical marijuana patients must provide from a physician—that is, a “statement  
19 signed by a . . . physician,” confirming that “the patient may benefit from the medical use of  
20 marijuana.”<sup>18</sup>

21 The Taxpayer contends that “[t]he text is unambiguous” and that the Department offers “an  
22 ungrammatical and strained reading of the text.”<sup>19</sup> The focus of the Taxpayer’s argument is the  
23 phrase “authorized by the laws of this state to prescribe.” The Taxpayer argues that “[t]he term  
24 ‘authorized’ . . . refers not to the substance being prescribed but to the genus of the person doing the  
prescribing.” The Taxpayer emphasizes that the statute contains “no limitation upon what  
constitutes an authorized substance”:

---

21 <sup>14</sup> See, e.g., *Scottish Rite Temple of Seattle v. Dep’t of Revenue*, Docket No. 12-122 and 12-123 (2014), at 9-10  
(citing *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003) (citations omitted)).

22 <sup>15</sup> *Dep’t of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 12, 43 P.3d 4 (2002) (citations omitted).

23 <sup>16</sup> WAC 458-16-100(2)(c).

24 <sup>17</sup> *In re Sehome Park Care Center, Inc.*, 127 Wn.2d 774, 778, 903 P.2d 443 (1995). See also WAC 458-16-100  
(2)(b).

<sup>18</sup> See n.7, above.

<sup>19</sup> Taxpayer’s Memorandum in Support of Summary Judgment, pp. 6 and 10.

1 There is no reference to federal law, the DEA, Schedules of controlled substances, or  
2 anything relating to the nature of the thing prescribed other than its being a[n] order,  
formula or recipe.

3 The Taxpayer thus contends that the statute unambiguously defines “prescription” as “an order . . .  
4 issued . . . by a . . . practitioner [who is] authorized . . . to prescribe.”

5 To support her reading of the statute, the Taxpayer applies a canon of statutory  
6 construction,<sup>20</sup> “the last antecedent rule,” which “provides that unless a contrary intention appears in  
7 the statute, qualifying words and phrases refer to the last antecedent.”<sup>21</sup> For example, in the  
8 following statute, the qualifying phrase “over eighty inches in overall width” would refer, under the  
9 last antecedent rule, to “truck tractor,” the last noun that precedes the qualifying phrase: “No person  
10 shall operate *any motor truck, passenger bus or truck tractor over eighty inches in overall width*  
11 upon any highway” except under certain conditions.<sup>22</sup> In the present case, the Taxpayer is  
12 apparently invoking the last antecedent rule to argue that the phrase “authorized . . . to prescribe”  
refers to “practitioner,” rather than to the more remote noun phrase “order, formula, or recipe.” The  
13 Taxpayer’s reference to the rule, however, is unnecessary, since the Department also reads the  
14 phrase “authorized . . . to prescribe” as modifying the word “practitioner.”<sup>23</sup>

15 In fact, the Taxpayer’s interpretation of the statutory definition of “prescription” rests on her  
16 claim that the unexpressed object of the infinitive “to prescribe” can be nothing that goes beyond the  
17 order itself: “The only limitations on the nature of the thing being prescribed is the requirement that  
18 it be ‘an order, formula, or recipe.’”<sup>24</sup> In effect, in the Taxpayer’s reading, a “prescription” is an  
19 order issued by a practitioner who is authorized by law either (1) to prescribe the order itself or (2)  
20 to prescribe *something*, without regard to the contents of the order. But the Taxpayer’s reading is  
21 either circular or vague. First, if the Taxpayer is contending that the definition requires only the  
22 authority to prescribe the order itself, the Taxpayer is ignoring the ordinary meaning of the verb “to  
23  
24

---

<sup>20</sup> The Taxpayer’s assertion that the statute is unambiguous is at odds with the Taxpayer’s resort to a canon of  
statutory construction. *See Cockle v. Dep’t of Labor & Indus.*, 142 Wn.2d 801, 808, 16 P.3d 583 (2001)  
(recognizing that, upon finding a statutory “phrase ambiguous,” a court may “resort to principles of statutory  
construction, legislative history, and relevant case law to assist . . . in discerning legislative intent”).

<sup>21</sup> *In re Sehome Park*, 127 Wn.2d at 781.

<sup>22</sup> *Schneider v. Forcier*, 67 Wn.2d 161, 163, 406 P.2d 935 (1965).

<sup>23</sup> The Department’s issue statement is whether “sales of marijuana under the medical cannabis statute [are] exempt  
from sales tax . . . when both federal and state law do not authorize health care providers to write prescriptions for  
the use of marijuana”). Department of Revenue’s Response to Appellant’s Motion for Summary Judgment, p. 3.

<sup>24</sup> Taxpayer’s Memorandum in Support of Summary Judgment, p. 8.

1 prescribe”: “to direct, designate, or order the use of as a remedy <the doctor *prescribed* quinine>.”<sup>25</sup>  
2 Practitioners do not prescribe a prescription; they prescribe medications. Second, if the Taxpayer is  
3 arguing that the practitioner need only have the authority under state law to prescribe *something*,  
4 then, as the Department observes, the Taxpayer is “interpret[ing] this last phrase in a vacuum” and  
5 “employ[ing] a simplistic reading” of the statute.<sup>26</sup> The Board concludes that, by its plain meaning,  
6 the statute defines a “prescription” as an order issued by a practitioner who is authorized to  
7 prescribe the drugs or devices referenced in that order.

8 Even if the Board were to conclude that the statute is “susceptible to more than one  
9 reasonable meaning,”<sup>27</sup> a consideration of the legislative history of the statutory definition would  
10 confirm that the definition requires issuance of an order by a practitioner authorized to prescribe  
11 the drugs or devices referenced in the order. The source of the definition of “prescription” in RCW  
12 82.08.0281 is the Streamlined Sales and Use Tax Agreement, which the Washington State  
13 Legislature adopted in 2003. Former RCW 82.08.0281(4)(a) (2003) is virtually identical to the  
14 definition of “prescription” in the Agreement:

15 “Prescription” means an order, formula or recipe issued in any form of oral,  
16 written, electronic, or other means of transmission by a duly licensed practitioner  
17 authorized by the laws of the member state.<sup>28</sup>

18 Notably, neither the definition in the Agreement nor the definition in the 2003 version of the statute  
19 includes the final phrase “to prescribe.” The legislature’s addition of the phrase “to prescribe” in a  
20 2004 amendment was intended to clarify what the “duly licensed practitioner” had to be  
21 “authorized” by state law to do. According to the Final Bill Report, the purpose of the 2004  
22 legislation (SB 6515) was to address “errors in and omissions from” the 2003 implementation of  
23 portions of the Agreement.<sup>29</sup> The Final Bill Report contains the following explanation: “A  
24 prescription for items or drugs that are exempt must be prescribed by *a person whose license*  
*authorizes him or her to prescribe the item or drugs.*”<sup>30</sup> The statement is fully supportive of the  
Board’s conclusion that, by its plain language, the statutory definition of “prescription” requires that

<sup>25</sup> WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1792 (2002), definition *vi.* 4.

<sup>26</sup> Department of Revenue’s Response to Appellant’s Motion for Summary Judgment, p. 7.

<sup>27</sup> *Dep’t of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d at 12.

<sup>28</sup> Streamlined Sales and Use Tax Agreement, Appendix C: Library of Definitions, p. 109, available at  
[http://www.streamlinedsalestax.org/uploads/downloads/Archive/SSUTA/SSUTA%20As%20Amended%205\\_15\\_14.pdf](http://www.streamlinedsalestax.org/uploads/downloads/Archive/SSUTA/SSUTA%20As%20Amended%205_15_14.pdf).

<sup>29</sup> Final Bill Report (SB 6515), available at <http://apps.leg.wa.gov/documents/billdocs/2003-04/Pdf/Bill%20Reports/Senate/6515.FBR.pdf>.

<sup>30</sup> *Id.*

1 the practitioner be authorized to prescribe the drugs or devices referenced in the order. Such a  
2 requirement is essential, given that, under Washington law, not all health care practitioners have the  
3 same prescriptive authority.<sup>31</sup>

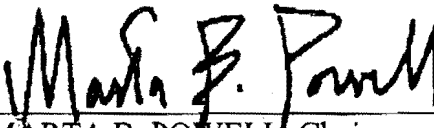
4 A "prescription," as that term is defined in RCW 82.08.0281(4)(a), does not encompass a  
5 physician's written statement that a "patient may benefit from the medical use of marijuana."<sup>32</sup>  
6 Under federal and Washington law, marijuana is classified as a Schedule I controlled substance,<sup>33</sup>  
7 and no physician, or "health care professional,"<sup>34</sup> is authorized under federal or Washington law  
8 to prescribe marijuana.<sup>35</sup> Because the exemption in RCW 82.08.0281(1) applies to "sales of  
9 drugs . . . dispensed . . . pursuant to a prescription," the Board determines as a matter of law that  
10 the exemption cannot apply to the Taxpayer's sales of medical marijuana and that her refund  
11 request must therefore be denied.

### 12 DECISION

13 Pursuant to WAC 456-09-545, the Board hereby grants the Department's request for  
14 summary judgment, dismissing the Taxpayer's appeal.

15 DATED this 13<sup>th</sup> day of October, 2014.

16 BOARD OF TAX APPEALS

17   
18 MARTA B. POWELL, Chair

19   
20 MARK J. MAXWELL, Vice Chair

21   
22 CAROL A. LIEN, Member

23 <sup>31</sup> For a summary, see "Who Can Prescribe/Administer/Possess Legend Drugs and/or Controlled Substances in  
24 Washington State?," available at <http://www.doh.wa.gov/portals/1/Documents/Pubs/690158.pdf>.

<sup>32</sup> Former RCW 69.51A.010(5)(a).

<sup>33</sup> See 21 U.S.C. §§ 812(c)(10) and 841-865; RCW 69.50.204(c)(22) and .401-.440.

<sup>34</sup> See n.7, above.

<sup>35</sup> See *Seeley v. State*, 132 Wn.2d 776, 940 P.2d 604 (1997) (holding that the categorization of marijuana as a  
Schedule I controlled substance unavailable by prescription does not violate the state constitution).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**Right of Reconsideration of a Final Decision**

Pursuant to WAC 456-09-955, you may file a petition for reconsideration of this Final Decision. You must file the petition for reconsideration with the Board within 10 business days of the date of mailing of the Final Decision. The petition must state the specific grounds upon which relief is requested. You must also serve a copy on all other parties and their representatives of record. The Board may deny the petition, modify its decision, or reopen the hearing.

Please be advised that a party petitioning for judicial review of a Final Decision is responsible for the reasonable costs incurred by this agency in preparing the necessary copies of the record for transmittal to the superior court. Charges for the transcript are payable separately to the court reporter.

CERTIFICATE OF MAILING

I certify that on October 13, 2014, I personally forwarded by United States mail or e-mailed,  
a true and correct copy of the attached document to the following:

RHONDA L DUNCAN DBA THE COMPASSIONATE KITCHEN  
3618 E 9TH AVE  
SPOKANE WA 99202  
Sent by email & USPS

JEFFRY K FINER  
WEST 35 MAIN ST SUITE 300  
SPOKANE WA 99201  
Sent by email & USPS

STATE OF WASHINGTON  
ATTORNEY GENERAL'S OFFICE  
ATTN: DAVID M. HANKINS  
REVENUE DIVISION  
PO BOX 40123  
OLYMPIA WA 98504-0123  
Sent by email

STATE OF WASHINGTON  
DEPARTMENT OF REVENUE  
APPEALS DIVISION  
PO BOX 47460  
OLYMPIA WA 98504-7460  
Sent by email

  
Donna Oyama



# **APPENDIX 2**

COPY

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

EXPEDITE  
 No Hearing Set  
 Hearing is Set  
Date: February 20, 2015  
Time: 10:00 a.m.  
Judge /Civil Michael Price

COPY  
ORIGINAL FILED

MAR 02 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON  
FOR SPOKANE COUNTY

RHONDA L. DUNCAN d/b/a THE  
COMPASSIONATE KITCHEN,

Appellant,

v.

STATE OF WASHINGTON  
DEPARTMENT OF REVENUE,

Respondent.

NO. 14-2-04440-7

ORDER REVERSING BOARD OF  
TAX APPEAL'S DECISION

THIS MATTER came before the above-entitled Court on February 20, 2015, upon Rhonda L. Duncan d/b/a The Compassionate Kitchen's petition for judicial review of the Board of Tax Appeal Final Decision Granting Summary Judgment dated October 13, 2014. The Department was represented by Attorney General Robert W. Ferguson and David M. Hankins, Senior Counsel. Rhonda L. Duncan d/b/a The Compassionate Kitchen was represented by Jeffry K. Finer. Pursuant to RCW 34.05.574(1), the Court hereby enters the following order.

**I. DOCUMENTS CONSIDERED BY THE COURT**

In reaching its decision the Court has reviewed the entire file, including a certified copy of Board of Tax Appeal's record for this matter (Docket No. 12-286), consisting of 206 pages; and the entire Superior Court file, Cause No. 14-2-04440-7. The Court also heard oral argument of counsel on February 20, 2015.

Jeffry K Finer PS

35 W Main Street • Suite 300  
Spokane, Washington • 99201

509.464.7611 [jeffry@finer-bering.com](mailto:jeffry@finer-bering.com)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**II. DECISION**

The Court, having reviewed the entire file enters its decision reversing the Board of Tax Appeal's Final Decision Granting Summary Judgment to the Department of Revenue. Under the Court's reading of RCW 82.08.0281(1), sales of medical marijuana made pursuant to RCW 69.51A are exempt from retail sales tax. Under RCW 34.05.570(3)(d), the Board of Tax Appeals has erroneously interpreted or applied the law.

**III. ORDER AND JUDGMENT**

On the basis of the foregoing Decision, it is hereby ORDERED, ADJUDGED AND DECREED that:

The Final Decision of the Board of Tax Appeals dated October 13, 2014, is REVERSED and the matter is stayed for thirty days to allow the Department to consider its decision to appeal.

DATED this 2<sup>nd</sup> day of March, 2015.

Honorable Michael P. Price  
Superior Court Judge

\_\_\_\_\_  
JUDGE MICHAEL PRICE

Presented By:

Law Offices of Jeffrey K. Finer PS

  
\_\_\_\_\_  
Jeffrey K. Finer, WSBA No. 14610

Notice of Presentation Waived  
Approved as to form only:

ROBERT W. FERGUSON

*Approved electronically*  
\_\_\_\_\_  
David M. Hankins, WSBA No. 19194

Senior Counsel  
OID No. 91027  
Attorneys for Respondent

Jeffrey K Finer PS

35 W Main Street • Suite 300  
Spokane, Washington • 99201  
509.464.7611 [jeffry@finer-bearing.com](mailto:jeffry@finer-bearing.com)

# **APPENDIX 3**

(ii) Control, guide, measure, tune, verify, align, regulate, test, or physically support blood, bone, or tissue; and

(iii) Protect the health and safety of employees or others present during research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(b) "Chemical" means any catalyst, solvent, water, acid, oil, or other additive that physically or chemically interacts with blood, bone, or tissue.

(c) "Materials" means any item of tangible personal property, including, but not limited to, bags, packs, collecting sets, filtering materials, testing reagents, antisera, and refrigerants used or consumed in performing research on, procuring, testing, processing, storing, packaging, distributing, or using blood, bone, or tissue.

(d) "Research" means basic and applied research that has as its objective the design, development, refinement, testing, marketing, or commercialization of a product, service, or process.

(e) The definitions in RCW 82.04.324 apply to this section. [2004 c 82 § 2; 1995 2nd sp.s. c 9 § 4.]

**Effective date—1995 2nd sp.s. c 9:** See note following RCW 84.36.035.

**82.08.02806 Exemptions—Sales of human blood, tissue, organs, bodies, or body parts for medical research and quality control testing.** The tax levied by RCW 82.08.020 shall not apply to sales of human blood, tissue, organs, bodies, or body parts for medical research and quality control testing purposes. [1996 c 141 § 1.]

**Effective date—1996 c 141:** "This act shall take effect July 1, 1996." [1996 c 141 § 3.]

**82.08.02807 Exemptions—Sales to organ procurement organization.** The tax levied by RCW 82.08.020 shall not apply to the sales of medical supplies, chemicals, or materials to an organ procurement organization exempt under RCW 82.04.326. The definitions of medical supplies, chemicals, and materials in \*RCW 82.04.324 apply to this section. This exemption does not apply to the sale of construction materials, office equipment, building equipment, administrative supplies, or vehicles. [2002 c 113 § 2.]

**\*Reviser's note:** RCW 82.04.324 was amended by 2004 c 82 § 1, deleting the definitions of "medical supplies," "chemicals," and "materials."

**Effective date—2002 c 113:** See note following RCW 82.04.326.

**82.08.0281 Exemptions—Sales of prescription drugs.**

(1) The tax levied by RCW 82.08.020 shall not apply to sales of drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription.

(2) The tax levied by RCW 82.08.020 shall not apply to sales of drugs or devices used for family planning purposes, including the prevention of conception, for human use dispensed or to be dispensed to patients, pursuant to a prescription.

(3) The tax levied by RCW 82.08.020 shall not apply to sales of drugs and devices used for family planning purposes, including the prevention of conception, for human use supplied by a family planning clinic that is under contract with the department of health to provide family planning services.

(2008 Ed.)

(4) The definitions in this subsection apply throughout this section.

(a) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

(b) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; or

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(iii) Intended to affect the structure or any function of the body.

(c) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug required by 21 C.F.R. Sec. 201.66, as amended or renumbered on January 1, 2003. The label includes:

(i) A "drug facts" panel; or

(ii) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance, or preparation. [2004 c 153 § 108; 2003 c 168 § 403; 1993 sp.s. c 25 § 308; 1980 c 37 § 46. Formerly RCW 82.08.030(28).]

**Retroactive effective date—Effective date—2004 c 153:** See note following RCW 82.08.0293.

**Effective dates—Part headings not law—2003 c 168:** See notes following RCW 82.08.010.

**Finding—1993 sp.s. c 25:** "The legislature finds that prevention is a significant element in the reduction of health care costs. The legislature further finds that taxing some physician prescriptions and not others is unfair to patients. It is, therefore, the intent of the legislature to remove the taxes from prescriptions issued for family planning purposes." [1993 sp.s. c 25 § 307.]

**Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**82.08.0282 Exemptions—Sales of returnable containers for beverages and foods.** The tax levied by RCW 82.08.020 shall not apply to sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers. [1980 c 37 § 47. Formerly RCW 82.08.030(29).]

**Intent—1980 c 37:** See note following RCW 82.04.4281.

**82.08.0283 Exemptions—Certain medical items.** (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

(a) Prosthetic devices prescribed, fitted, or furnished for an individual by a person licensed under the laws of this state to prescribe, fit, or furnish prosthetic devices, and the components of such prosthetic devices;

(b) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW; and

(c) Medically prescribed oxygen, including, but not limited to, oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen

# **APPENDIX 4**

CERTIFICATION OF ENROLLMENT

**SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2136**

Chapter 4, Laws of 2015

64th Legislature  
2015 2nd Special Session

MARIJUANA--REFORMS--TAXATION

EFFECTIVE DATE: 7/1/2015 - Except Section 503, Part V which becomes effective 10/1/2015; Sections 203 and 1001, which become effective 7/1/2016; and Sections 302, 503, 901, 1204, and 1601 and Part XV which become effective 7/24/15.

Passed by the House June 26, 2015  
Yeas 59 Nays 38

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate June 27, 2015  
Yeas 36 Nays 7

BRAD OWEN

**President of the Senate**

Approved June 30, 2015 3:58 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2136** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

**Chief Clerk**

FILED

June 30, 2015

**Secretary of State  
State of Washington**





1 while continuing efforts towards disbanding the unregulated marijuana  
2 markets. The legislature further finds that ongoing evaluation on the  
3 impact of meaningful marijuana tax reform for the purpose of  
4 stabilizing revenues is crucial to the overall effort of protecting  
5 the citizens and resources of this state. The legislature further  
6 finds that a partnership with local jurisdictions in this effort is  
7 imperative to the success of the legislature's policy objective. The  
8 legislature further finds that sharing revenues to promote a  
9 successful partnership in achieving the legislature's intent should  
10 be transparent and hold local jurisdictions accountable for their use  
11 of state shared revenues. Therefore, the legislature intends to  
12 reform the current tax structure for the regulated legal marijuana  
13 system to create price parity with the large medical and illicit  
14 markets with the specific objective of increasing the market share of  
15 the legal and highly regulated marijuana market. The legislature  
16 further intends to share marijuana tax revenues with local  
17 jurisdictions for public safety purposes and to facilitate the  
18 ongoing process of ensuring a safe regulated marijuana market in all  
19 communities across the state.

20 (b) The legislature further finds marijuana use for qualifying  
21 patients is a valid and necessary option health care professionals  
22 may recommend for their patients. The legislature further finds that  
23 while recognizing the difference between recreational and medical use  
24 of marijuana, it is also imperative to distinguish that the  
25 authorization for medical use of marijuana is different from a valid  
26 prescription provided by a doctor to a patient. The legislature  
27 further finds the authorization for medical use of marijuana is  
28 unlike over-the-counter medications that require no oversight by a  
29 health care professional. The legislature further finds that due to  
30 the unique characterization of authorizations for the medical use of  
31 marijuana, the policy of providing a tax preference benefit for  
32 patients using an authorization should in no way be construed as  
33 precedent for changes in the treatment of prescription medications or  
34 over-the-counter medications. Therefore, the legislature intends to  
35 provide qualifying patients and their designated providers a retail  
36 sales and use tax exemption on marijuana purchased or obtained for  
37 medical use when authorized by a health care professional.

38 (2)(a) This subsection is the tax preference performance  
39 statement for the retail sales and use tax exemption for marijuana  
40 purchased or obtained by qualifying patients or their designated

1 providers provided in sections 207(1) and 208(1) of this act. The  
2 performance statement is only intended to be used for subsequent  
3 evaluation of the tax preference. It is not intended to create a  
4 private right of action by any party or be used to determine  
5 eligibility for preferential tax treatment.

6 (b) The legislature categorizes the tax preference as one  
7 intended to accomplish the general purposes indicated in RCW  
8 82.32.808(2)(e).

9 (c) It is the legislature's specific public policy objective to  
10 provide qualifying patients and their designated providers a retail  
11 sales and use tax exemption on marijuana purchased or obtained for  
12 medical use when authorized by a health care professional.

13 (d) To measure the effectiveness of the exemption provided in  
14 this act in achieving the specific public policy objective described  
15 in (c) of this subsection, the department of revenue must provide the  
16 necessary data and assistance to the state liquor and cannabis board  
17 for the report required in RCW 69.50.535.

## 18 PART II

### 19 Marijuana Excise Tax, Exemptions, and Distribution of Revenues

20 **Sec. 201.** RCW 69.50.334 and 2013 c 3 s 7 are each amended to  
21 read as follows:

22 (1) The action, order, or decision of the state liquor  
23 ~~((control))~~ and cannabis board as to any denial of an application for  
24 the reissuance of a license to produce, process, or sell marijuana,  
25 or as to any revocation, suspension, or modification of any license  
26 to produce, process, or sell marijuana, ~~((shall))~~ or as to the  
27 administrative review of a notice of unpaid trust fund taxes under  
28 section 202 of this act, must be an adjudicative proceeding and  
29 subject to the applicable provisions of chapter 34.05 RCW.

30 ~~((+1))~~ (2) An opportunity for a hearing may be provided to an  
31 applicant for the reissuance of a license prior to the disposition of  
32 the application, and if no opportunity for a prior hearing is  
33 provided then an opportunity for a hearing to reconsider the  
34 application must be provided the applicant.

35 ~~((+2))~~ (3) An opportunity for a hearing must be provided to a  
36 licensee prior to a revocation or modification of any license and,  
37 except as provided in subsection ~~((+4))~~ (6) of this section, prior  
38 to the suspension of any license.

1       ~~((3))~~ (4) An opportunity for a hearing must be provided to any  
2 person issued a notice of unpaid trust fund taxes under section 202  
3 of this act.

4       (5) No hearing ~~((shall))~~ may be required under this section until  
5 demanded by the applicant ~~((or))~~, licensee, or person issued a notice  
6 of unpaid trust fund taxes under section 202 of this act.

7       ~~((4))~~ (6) The state liquor ~~((control))~~ and cannabis board may  
8 summarily suspend a license for a period of up to one hundred eighty  
9 days without a prior hearing if it finds that public health, safety,  
10 or welfare imperatively require emergency action, and it incorporates  
11 a finding to that effect in its order. Proceedings for revocation or  
12 other action must be promptly instituted and determined. An  
13 administrative law judge may extend the summary suspension period for  
14 up to one calendar year from the first day of the initial summary  
15 suspension in the event the proceedings for revocation or other  
16 action cannot be completed during the initial one hundred eighty-day  
17 period due to actions by the licensee. The state liquor ~~((control))~~  
18 and cannabis board's enforcement division shall complete a  
19 preliminary staff investigation of the violation before requesting an  
20 emergency suspension by the state liquor ~~((control))~~ and cannabis  
21 board.

22       NEW SECTION.   **Sec. 202.** A new section is added to chapter 69.50  
23 RCW under the subchapter heading "article V" to read as follows:

24       (1) Whenever the board determines that a limited liability  
25 business entity has collected trust fund taxes and has failed to  
26 remit those taxes to the board and that business entity has been  
27 terminated, dissolved, or abandoned, or is insolvent, the board may  
28 pursue collection of the entity's unpaid trust fund taxes, including  
29 penalties on those taxes, against any or all of the responsible  
30 individuals. For purposes of this subsection, "insolvent" means the  
31 condition that results when the sum of the entity's debts exceeds the  
32 fair market value of its assets. The board may presume that an entity  
33 is insolvent if the entity refuses to disclose to the board the  
34 nature of its assets and liabilities.

35       (2)(a) For a responsible individual who is the current or a  
36 former chief executive or chief financial officer, liability under  
37 this section applies regardless of fault or whether the individual  
38 was or should have been aware of the unpaid trust fund tax liability  
39 of the limited liability business entity.

1 (b) For any other responsible individual, liability under this  
2 section applies only if he or she willfully failed to pay or to cause  
3 to be paid to the board the trust fund taxes due from the limited  
4 liability business entity.

5 (3)(a) Except as provided in this subsection (3)(a), a  
6 responsible individual who is the current or a former chief executive  
7 or chief financial officer is liable under this section only for  
8 trust fund tax liability accrued during the period that he or she was  
9 the chief executive or chief financial officer. However, if the  
10 responsible individual had the responsibility or duty to remit  
11 payment of the limited liability business entity's trust fund taxes  
12 to the board during any period of time that the person was not the  
13 chief executive or chief financial officer, that individual is also  
14 liable for trust fund tax liability that became due during the period  
15 that he or she had the duty to remit payment of the limited liability  
16 business entity's taxes to the board but was not the chief executive  
17 or chief financial officer.

18 (b) All other responsible individuals are liable under this  
19 section only for trust fund tax liability that became due during the  
20 period he or she had the responsibility or duty to remit payment of  
21 the limited liability business entity's taxes to the board.

22 (4) Persons described in subsection (3)(b) of this section are  
23 exempt from liability under this section in situations where  
24 nonpayment of the limited liability business entity's trust fund  
25 taxes was due to reasons beyond their control as determined by the  
26 board by rule.

27 (5) Any person having been issued a notice of unpaid trust fund  
28 taxes under this section is entitled to an administrative hearing  
29 under RCW 69.50.334 and any such rules the board may adopt.

30 (6) This section does not relieve the limited liability business  
31 entity of its trust fund tax liability or otherwise impair other tax  
32 collection remedies afforded by law.

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

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

36 (b) "Chief executive" means: The president of a corporation or  
37 for other entities or organizations other than corporations or if the  
38 corporation does not have a president as one of its officers, the  
39 highest ranking executive manager or administrator in charge of the  
40 management of the company or organization.

1 (c) "Chief financial officer" means: The treasurer of a  
2 corporation or for entities or organizations other than corporations  
3 or if a corporation does not have a treasurer as one of its officers,  
4 the highest senior manager who is responsible for overseeing the  
5 financial activities of the entire company or organization.

6 (d) "Limited liability business entity" means a type of business  
7 entity that generally shields its owners from personal liability for  
8 the debts, obligations, and liabilities of the entity, or a business  
9 entity that is managed or owned in whole or in part by an entity that  
10 generally shields its owners from personal liability for the debts,  
11 obligations, and liabilities of the entity. Limited liability  
12 business entities include corporations, limited liability companies,  
13 limited liability partnerships, trusts, general partnerships and  
14 joint ventures in which one or more of the partners or parties are  
15 also limited liability business entities, and limited partnerships in  
16 which one or more of the general partners are also limited liability  
17 business entities.

18 (e) "Manager" has the same meaning as in RCW 25.15.005.

19 (f) "Member" has the same meaning as in RCW 25.15.005, except  
20 that the term only includes members of member-managed limited  
21 liability companies.

22 (g) "Officer" means any officer or assistant officer of a  
23 corporation, including the president, vice president, secretary, and  
24 treasurer.

25 (h)(i) "Responsible individual" includes any current or former  
26 officer, manager, member, partner, or trustee of a limited liability  
27 business entity with unpaid trust fund tax liability.

28 (ii) "Responsible individual" also includes any current or former  
29 employee or other individual, but only if the individual had the  
30 responsibility or duty to remit payment of the limited liability  
31 business entity's unpaid trust fund tax liability.

32 (iii) Whenever any taxpayer has one or more limited liability  
33 business entities as a member, manager, or partner, "responsible  
34 individual" also includes any current and former officers, members,  
35 or managers of the limited liability business entity or entities or  
36 of any other limited liability business entity involved directly in  
37 the management of the taxpayer. For purposes of this subsection  
38 (7)(h)(iii), "taxpayer" means a limited liability business entity  
39 with unpaid trust fund taxes.

1 (i) "Trust fund taxes" means taxes collected from buyers and  
2 deemed held in trust under RCW 69.50.535.

3 (j) "Willfully failed to pay or to cause to be paid" means that  
4 the failure was the result of an intentional, conscious, and  
5 voluntary course of action.

6 **Sec. 203.** RCW 69.50.357 and 2015 c 70 s 12 are each amended to  
7 read as follows:

8 (1) Retail outlets (~~((shall sell no))~~) may not sell products or  
9 services other than marijuana concentrates, useable marijuana,  
10 marijuana-infused products, or paraphernalia intended for the storage  
11 or use of marijuana concentrates, useable marijuana, or marijuana-  
12 infused products.

13 (2) Licensed marijuana retailers (~~((shall))~~) may not employ persons  
14 under twenty-one years of age or allow persons under twenty-one years  
15 of age to enter or remain on the premises of a retail outlet.  
16 However, qualifying patients between eighteen and twenty-one years of  
17 age with a recognition card may enter and remain on the premises of a  
18 retail outlet holding a medical marijuana endorsement and may  
19 purchase products for their personal medical use. Qualifying patients  
20 who are under the age of eighteen with a recognition card and who  
21 accompany their designated providers may enter and remain on the  
22 premises of a retail outlet holding a medical marijuana endorsement,  
23 but may not purchase products for their personal medical use.

24 (3)(a) Licensed marijuana retailers must ensure that all  
25 employees are trained on the rules adopted to implement this chapter,  
26 identification of persons under the age of twenty-one, and other  
27 requirements adopted by the state liquor and cannabis board to ensure  
28 that persons under the age of twenty-one are not permitted to enter  
29 or remain on the premises of a retail outlet.

30 (b) Licensed marijuana retailers with a medical marijuana  
31 endorsement must ensure that all employees are trained on the  
32 subjects required by (a) of this subsection as well as identification  
33 of authorizations and recognition cards. Employees must also be  
34 trained to permit qualifying patients who hold recognition cards and  
35 are between the ages of eighteen and twenty-one to enter the premises  
36 and purchase marijuana for their personal medical use and to permit  
37 qualifying patients who are under the age of eighteen with a  
38 recognition card to enter the premises if accompanied by their  
39 designated providers.

1 (4) Licensed marijuana retailers (~~shall~~) may not display any  
2 signage (~~in a window, on a door, or on the outside of the premises~~  
3 ~~of a retail outlet that is visible to the general public from a~~  
4 ~~public right-of-way, other than a single sign no larger than one~~  
5 ~~thousand six hundred square inches identifying the retail outlet by~~  
6 ~~the licensee's business or trade name. Retail outlets that hold~~  
7 ~~medical marijuana endorsements may include this information on~~  
8 ~~signage.~~

9 ~~(5) Licensed marijuana retailers shall not display marijuana~~  
10 ~~concentrates, useable marijuana, or marijuana-infused products in a~~  
11 ~~manner that is visible to the general public from a public right-of-~~  
12 ~~way.~~

13 ~~(6))~~ outside of the licensed premises, other than two signs  
14 identifying the retail outlet by the licensee's business or trade  
15 name. Each sign must be no larger than one thousand six hundred  
16 square inches, be permanently affixed to a building or other  
17 structure, and be posted not less than one thousand feet from any  
18 elementary school, secondary school, or playground.

19 (5) No licensed marijuana retailer or employee of a retail outlet  
20 (~~shall~~) may open or consume, or allow to be opened or consumed, any  
21 marijuana concentrates, useable marijuana, or marijuana-infused  
22 product on the outlet premises.

23 (~~(7))~~ (6) The state liquor and cannabis board (~~shall~~) must  
24 fine a licensee one thousand dollars for each violation of any  
25 subsection of this section. Fines collected under this section must  
26 be deposited into the dedicated marijuana (~~fund~~) account created  
27 under RCW 69.50.530.

28 **Sec. 204.** RCW 69.50.369 and 2013 c 3 s 18 are each amended to  
29 read as follows:

30 (1) No licensed marijuana producer, processor, researcher, or  
31 retailer (~~shall~~) may place or maintain, or cause to be placed or  
32 maintained, an advertisement of marijuana, useable marijuana,  
33 marijuana concentrates, or a marijuana-infused product in any form or  
34 through any medium whatsoever:

35 (a) Within one thousand feet of the perimeter of a school  
36 grounds, playground, recreation center or facility, child care  
37 center, public park, or library, or any game arcade admission to  
38 which is not restricted to persons aged twenty-one years or older;

1 (b) On or in a public transit vehicle or public transit shelter;  
2 or  
3 (c) On or in a publicly owned or operated property.

4 (2) Merchandising within a retail outlet is not advertising for  
5 the purposes of this section.

6 (3) This section does not apply to a noncommercial message.

7 (4) The state liquor (~~control~~) and cannabis board (~~shall~~)  
8 must fine a licensee one thousand dollars for each violation of  
9 subsection (1) of this section. Fines collected under this subsection  
10 must be deposited into the dedicated marijuana (~~fund~~) account  
11 created under RCW 69.50.530.

12 **Sec. 205.** RCW 69.50.535 and 2014 c 192 s 7 are each amended to  
13 read as follows:

14 (1) (~~There is levied and collected a marijuana excise tax equal~~  
15 ~~to twenty-five percent of the selling price on each wholesale sale in~~  
16 ~~this state of marijuana by a licensed marijuana producer to a~~  
17 ~~licensed marijuana processor or another licensed marijuana producer.~~  
18 ~~This tax is the obligation of the licensed marijuana producer.~~

19 (2) ~~There is levied and collected a marijuana excise tax equal to~~  
20 ~~twenty-five percent of the selling price on each wholesale sale in~~  
21 ~~this state of marijuana concentrates, useable marijuana, and~~  
22 ~~marijuana-infused products by a licensed marijuana processor to a~~  
23 ~~licensed marijuana retailer. This tax is the obligation of the~~  
24 ~~licensed marijuana processor.~~

25 (3)) (a) There is levied and collected a marijuana excise tax  
26 equal to (~~twenty-five~~) thirty-seven percent of the selling price on  
27 each retail sale in this state of marijuana concentrates, useable  
28 marijuana, and marijuana-infused products. This tax is (~~the~~  
29 ~~obligation of the licensed marijuana retailer, is~~) separate and in  
30 addition to general state and local sales and use taxes that apply to  
31 retail sales of tangible personal property, and is not part of the  
32 total retail price to which general state and local sales and use  
33 taxes apply. The tax must be separately itemized from the state and  
34 local retail sales tax on the sales receipt provided to the buyer.

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



1       ~~((4))~~ (2) All revenues collected from the marijuana excise  
2 ~~((taxes))~~ tax imposed under ~~((subsections (1) through (3) of))~~ this  
3 section ~~((shall))~~ must be deposited each day in ~~((a depository~~  
4 ~~approved by the state treasurer and transferred to the state~~  
5 ~~treasurer to be credited to))~~ the dedicated marijuana ~~((fund))~~  
6 account.

7       ~~((5))~~ (3) The ~~((state liquor control board shall))~~ tax imposed  
8 in this section must be paid by the buyer to the seller. Each seller  
9 must collect from the buyer the full amount of the tax payable on  
10 each taxable sale. The tax collected as required by this section is  
11 deemed to be held in trust by the seller until paid to the board. If  
12 any seller fails to collect the tax imposed in this section or,  
13 having collected the tax, fails to pay it as prescribed by the board,  
14 whether such failure is the result of the seller's own acts or the  
15 result of acts or conditions beyond the seller's control, the seller  
16 is, nevertheless, personally liable to the state for the amount of  
17 the tax.

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

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

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

22       (c) "Selling price" has the same meaning as in RCW 82.08.010,  
23 except that when product is sold under circumstances where the total  
24 amount of consideration paid for the product is not indicative of its  
25 true value, "selling price" means the true value of the product sold.

26       (d) "Product" means marijuana, marijuana concentrates, useable  
27 marijuana, and marijuana-infused products.

28       (e) "True value" means market value based on sales at comparable  
29 locations in this state of the same or similar product of like  
30 quality and character sold under comparable conditions of sale to  
31 comparable purchasers. However, in the absence of such sales of the  
32 same or similar product, true value means the value of the product  
33 sold as determined by all of the seller's direct and indirect costs  
34 attributable to the product.

35       (5)(a) The board must regularly review the tax level((s))  
36 established under this section and make recommendations, in  
37 consultation with the department of revenue, to the legislature as  
38 appropriate regarding adjustments that would further the goal of  
39 discouraging use while undercutting illegal market prices.

1 (b) The state liquor and cannabis board must report, in  
2 compliance with RCW 43.01.036, to the appropriate committees of the  
3 legislature every two years. The report at a minimum must include the  
4 following:

5 (i) The specific recommendations required under (a) of this  
6 subsection;

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

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

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

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

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

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

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

21 (6) The legislature does not intend and does not authorize any  
22 person or entity to engage in activities or to conspire to engage in  
23 activities that would constitute per se violations of state and  
24 federal antitrust laws including, but not limited to, agreements  
25 among retailers as to the selling price of any goods sold.

26 **Sec. 206.** RCW 69.50.540 and 2013 c 3 s 28 are each amended to  
27 read as follows:

28 ~~((All marijuana excise taxes collected from sales of marijuana,~~  
29 ~~useable marijuana, and marijuana-infused products under RCW~~  
30 ~~69.50.535, and the license fees, penalties, and forfeitures derived~~  
31 ~~under chapter 3, Laws of 2013 from marijuana producer, marijuana~~  
32 ~~processor, and marijuana retailer licenses shall every three months~~  
33 ~~be disbursed by the state liquor control board as follows:~~

34 ~~(1))~~ The legislature must annually appropriate moneys in the  
35 dedicated marijuana account created in RCW 69.50.530 as follows:

36 (1) For the purposes listed in this subsection (1), the  
37 legislature must appropriate to the respective agencies amounts  
38 sufficient to make the following expenditures on a quarterly basis:

1        (a) Beginning July 1, 2015, one hundred twenty-five thousand  
2 dollars to the department of social and health services to design and  
3 administer the Washington state healthy youth survey, analyze the  
4 collected data, and produce reports, in collaboration with the office  
5 of the superintendent of public instruction, department of health,  
6 department of commerce, family policy council, and state liquor  
7 ~~((control))~~ and cannabis board. The survey ~~((shall))~~ must be  
8 conducted at least every two years and include questions regarding,  
9 but not necessarily limited to, academic achievement, age at time of  
10 substance use initiation, antisocial behavior of friends, attitudes  
11 toward antisocial behavior, attitudes toward substance use, laws and  
12 community norms regarding antisocial behavior, family conflict,  
13 family management, parental attitudes toward substance use, peer  
14 rewarding of antisocial behavior, perceived risk of substance use,  
15 and rebelliousness. Funds disbursed under this subsection may be used  
16 to expand administration of the healthy youth survey to student  
17 populations attending institutions of higher education in Washington;

18        ~~((+2))~~ (b) Beginning July 1, 2015, fifty thousand dollars to the  
19 department of social and health services for the purpose of  
20 contracting with the Washington state institute for public policy to  
21 conduct the cost-benefit evaluation and produce the reports described  
22 in RCW 69.50.550. This appropriation ~~((shall))~~ ends after production  
23 of the final report required by RCW 69.50.550;

24        ~~((+3))~~ (c) Beginning July 1, 2015, five thousand dollars to the  
25 University of Washington alcohol and drug abuse institute for the  
26 creation, maintenance, and timely updating of web-based public  
27 education materials providing medically and scientifically accurate  
28 information about the health and safety risks posed by marijuana use;

29        ~~((+4))~~ (d) An amount not ~~((exceeding))~~ less than one million two  
30 hundred fifty thousand dollars to the state liquor ~~((control board as~~  
31 ~~is necessary for administration of chapter 3, Laws of 2013;~~

32        ~~(5) Of the funds remaining after the disbursements identified in~~  
33 ~~subsections (1) through (4) of this section))~~ and cannabis board for  
34 administration of this chapter as appropriated in the omnibus  
35 appropriations act;

36        (e) Twenty-three thousand seven hundred fifty dollars to the  
37 department of enterprise services provided solely for the state  
38 building code council established under RCW 19.27.070, to develop and  
39 adopt fire and building code provisions related to marijuana

1 processing and extraction facilities. The distribution under this  
2 subsection (1)(e) is for fiscal year 2016 only;

3 (2) From the amounts in the dedicated marijuana account after  
4 appropriation of the amounts identified in subsection (1) of this  
5 section, the legislature must appropriate for the purposes listed in  
6 this subsection (2) as follows:

7 (a) ~~((Fifteen percent))~~ (i) Up to fifteen percent to the  
8 department of social and health services division of behavioral  
9 health and recovery for ~~((implementation and maintenance))~~ the  
10 development, implementation, maintenance, and evaluation of programs  
11 and practices aimed at the prevention or reduction of maladaptive  
12 substance use, substance-use disorder, substance abuse or substance  
13 dependence, as these terms are defined in the Diagnostic and  
14 Statistical Manual of Mental Disorders, among middle school and high  
15 school age students, whether as an explicit goal of a given program  
16 or practice or as a consistently corresponding effect of its  
17 implementation, mental health services for children and youth, and  
18 services for pregnant and parenting women; PROVIDED, That:

19 ~~((+i))~~ (A) Of the funds ~~((disbursed))~~ appropriated under (a)(i)  
20 of this subsection for new programs and new services, at least  
21 eighty-five percent must be directed to evidence-based ~~((and cost-~~  
22 beneficial)) or research-based programs and practices that produce  
23 objectively measurable results and, by September 1, 2020, are cost-  
24 beneficial; and

25 ~~((+ii))~~ (B) Up to fifteen percent of the funds ~~((disbursed))~~  
26 appropriated under (a)(i) of this subsection for new programs and new  
27 services may be directed to ~~((research-based and))~~ proven and tested  
28 practices, emerging best practices, or promising practices.

29 (ii) In deciding which programs and practices to fund, the  
30 secretary of the department of social and health services ~~((shall))~~  
31 must consult, at least annually, with the University of Washington's  
32 social development research group and the University of Washington's  
33 alcohol and drug abuse institute.

34 (iii) For the fiscal year beginning July 1, 2016, and each  
35 subsequent fiscal year, the legislature must appropriate a minimum of  
36 twenty-five million five hundred thirty-six thousand dollars under  
37 this subsection (2)(a);

38 (b) ~~((Ten percent))~~ (i) Up to ten percent to the department of  
39 health for the following, subject to (b)(ii) of this subsection (2):

1       (A) Creation, implementation, operation, and management of a  
2 marijuana education and public health program that contains the  
3 following:

4       ~~((i))~~ (I) A marijuana use public health hotline that provides  
5 referrals to substance abuse treatment providers, utilizes evidence-  
6 based or research-based public health approaches to minimizing the  
7 harms associated with marijuana use, and does not solely advocate an  
8 abstinence-only approach;

9       ~~((ii))~~ (II) A grants program for local health departments or  
10 other local community agencies that supports development and  
11 implementation of coordinated intervention strategies for the  
12 prevention and reduction of marijuana use by youth; and

13       ~~((iii))~~ (III) Media-based education campaigns across  
14 television, internet, radio, print, and out-of-home advertising,  
15 separately targeting youth and adults, that provide medically and  
16 scientifically accurate information about the health and safety risks  
17 posed by marijuana use; and

18       (B) The Washington poison control center.

19       (ii) For the fiscal year beginning July 1, 2016, and each  
20 subsequent fiscal year, the legislature must appropriate a minimum of  
21 nine million seven hundred fifty thousand dollars under this  
22 subsection (2)(b);

23       (c)(i) Up to six-tenths of one percent to the University of  
24 Washington and four-tenths of one percent to Washington State  
25 University for research on the short and long-term effects of  
26 marijuana use, to include but not be limited to formal and informal  
27 methods for estimating and measuring intoxication and impairment, and  
28 for the dissemination of such research.

29       (ii) For the fiscal year beginning July 1, 2016, and each  
30 subsequent fiscal year, the legislature must appropriate a minimum of  
31 one million twenty-one thousand dollars to the University of  
32 Washington and a minimum of six hundred eighty-one thousand dollars  
33 to Washington State University under this subsection (2)(c);

34       (d) Fifty percent to the state basic health plan trust account to  
35 be administered by the Washington basic health plan administrator and  
36 used as provided under chapter 70.47 RCW;

37       (e) Five percent to the Washington state health care authority to  
38 be expended exclusively through contracts with community health  
39 centers to provide primary health and dental care services, migrant

1 health services, and maternity health care services as provided under  
2 RCW 41.05.220;

3 (f)(i) Up to three-tenths of one percent to the office of the  
4 superintendent of public instruction to fund grants to building  
5 bridges programs under chapter 28A.175 RCW.

6 (ii) For the fiscal year beginning July 1, 2016, and each  
7 subsequent fiscal year, the legislature must appropriate a minimum of  
8 five hundred eleven thousand dollars to the office of the  
9 superintendent of public instruction under this subsection (2)(f);  
10 and

11 (g) ((The remainder to the general fund.)) At the end of each  
12 fiscal year, the treasurer must transfer any amounts in the dedicated  
13 marijuana account that are not appropriated pursuant to subsection  
14 (1) of this section and this subsection (2) into the general fund,  
15 except as provided in (g)(i) of this subsection (2).

16 (i) Beginning in fiscal year 2018, if marijuana excise tax  
17 collections deposited into the general fund in the prior fiscal year  
18 exceed twenty-five million dollars, then each fiscal year the  
19 legislature must appropriate an amount equal to thirty percent of all  
20 marijuana excise taxes deposited into the general fund the prior  
21 fiscal year to the treasurer for distribution to counties, cities,  
22 and towns as follows:

23 (A) Thirty percent must be distributed to counties, cities, and  
24 towns where licensed marijuana retailers are physically located. Each  
25 jurisdiction must receive a share of the revenue distribution under  
26 this subsection (2)(g)(i)(A) based on the proportional share of the  
27 total revenues generated in the individual jurisdiction from the  
28 taxes collected under RCW 69.50.535, from licensed marijuana  
29 retailers physically located in each jurisdiction. For purposes of  
30 this subsection (2)(g)(i)(A), one hundred percent of the proportional  
31 amount attributed to a retailer physically located in a city or town  
32 must be distributed to the city or town.

33 (B) Seventy percent must be distributed to counties, cities, and  
34 towns ratably on a per capita basis. Counties must receive sixty  
35 percent of the distribution, which must be disbursed based on each  
36 county's total proportional population. Funds may only be distributed  
37 to jurisdictions that do not prohibit the siting of any state  
38 licensed marijuana producer, processor, or retailer.

1 (ii) Distribution amounts allocated to each county, city, and  
2 town must be distributed in four installments by the last day of each  
3 fiscal quarter.

4 (iii) By September 15th of each year, the state liquor and  
5 cannabis board must provide the state treasurer the annual  
6 distribution amount, if any, for each county and city as determined  
7 in (g)(i) of this subsection (2).

8 (iv) The total share of marijuana excise tax revenues distributed  
9 to counties and cities in (g)(i) of this subsection (2) may not  
10 exceed fifteen million dollars in fiscal years 2018 and 2019 and  
11 twenty million dollars per fiscal year thereafter.

12 For the purposes of this section, "marijuana products" means  
13 "useable marijuana," "marijuana concentrates," and "marijuana-infused  
14 products" as those terms are defined in RCW 69.50.101.

15 NEW SECTION. Sec. 207. A new section is added to chapter 82.08  
16 RCW to read as follows:

17 (1) Beginning July 1, 2016, the tax levied by RCW 82.08.020 does  
18 not apply to:

19 (a) Sales of marijuana concentrates, useable marijuana, or  
20 marijuana-infused products, identified by the department of health  
21 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to be  
22 beneficial for medical use, by marijuana retailers with medical  
23 marijuana endorsements to qualifying patients or designated providers  
24 who have been issued recognition cards;

25 (b) Sales of products containing THC with a THC concentration of  
26 0.3 percent or less to qualifying patients or designated providers  
27 who have been issued recognition cards by marijuana retailers with  
28 medical marijuana endorsements;

29 (c) Sales of marijuana concentrates, useable marijuana, or  
30 marijuana-infused products, identified by the department of health  
31 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to have a  
32 low THC, high CBD ratio, and to be beneficial for medical use, by  
33 marijuana retailers with medical marijuana endorsements, to any  
34 person;

35 (d) Sales of topical, noningestible products containing THC with  
36 a THC concentration of 0.3 percent or less by health care  
37 professionals under RCW 69.51A.--- (section 35, chapter 70, Laws of  
38 2015);

1 (e)(i) Marijuana, marijuana concentrates, useable marijuana,  
2 marijuana-infused products, or products containing THC with a THC  
3 concentration of 0.3 percent or less produced by a cooperative and  
4 provided to its members; and

5 (ii) Any nonmonetary resources and labor contributed by an  
6 individual member of the cooperative in which the individual is a  
7 member. However, nothing in this subsection (1)(e) may be construed  
8 to exempt the individual members of a cooperative from the tax  
9 imposed in RCW 82.08.020 on any purchase of property or services  
10 contributed to the cooperative.

11 (2) From the effective date of this section until July 1, 2016,  
12 the tax levied by RCW 82.08.020 does not apply to sales of marijuana,  
13 marijuana concentrates, useable marijuana, marijuana-infused  
14 products, or products containing THC with a THC concentration of 0.3  
15 percent or less, by collective gardens under RCW 69.51A.085 to  
16 qualifying patients or designated providers, if such sales are in  
17 compliance with chapter 69.51A RCW.

18 (3) Each seller making exempt sales under subsection (1) or (2)  
19 of this section must maintain information establishing eligibility  
20 for the exemption in the form and manner required by the department.

21 (4) The department must provide a separate tax reporting line for  
22 exemption amounts claimed under this section.

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

25 (a) "Cooperative" means a cooperative authorized by and operating  
26 in compliance with RCW 69.51A.--- (section 26, chapter 70, Laws of  
27 2015).

28 (b) "Marijuana retailer with a medical marijuana endorsement"  
29 means a marijuana retailer permitted under RCW 69.50.--- (section 10,  
30 chapter 70, Laws of 2015) to sell marijuana for medical use to  
31 qualifying patients and designated providers.

32 (c) "Products containing THC with a THC concentration of 0.3  
33 percent or less" means all products containing THC with a THC  
34 concentration not exceeding 0.3 percent and that, when used as  
35 intended, are inhalable, ingestible, or absorbable.

36 (d) "THC concentration," "marijuana," "marijuana concentrates,"  
37 "useable marijuana," "marijuana retailer," and "marijuana-infused  
38 products" have the same meanings as provided in RCW 69.50.101 and the  
39 terms "qualifying patients," "designated providers," and "recognition  
40 card" have the same meaning as provided in RCW 69.51A.010.



1 NEW SECTION. **Sec. 208.** A new section is added to chapter 82.12

2 RCW to read as follows:

3 (1) From the effective date of this section until July 1, 2016,  
4 the provisions of this chapter do not apply to the use of marijuana,  
5 marijuana concentrates, useable marijuana, marijuana-infused  
6 products, or products containing THC with a THC concentration of 0.3  
7 percent or less, by a collective garden under RCW 69.51A.085, and the  
8 qualifying patients or designated providers participating in the  
9 collective garden, if such use is in compliance with chapter 69.51A  
10 RCW.

11 (2) Beginning July 1, 2016, the provisions of this chapter do not  
12 apply to:

13 (a) The use of marijuana concentrates, useable marijuana, or  
14 marijuana-infused products, identified by the department of health  
15 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to be  
16 beneficial for medical use, by qualifying patients or designated  
17 providers who have been issued recognition cards and have obtained  
18 such products from a marijuana retailer with a medical marijuana  
19 endorsement.

20 (b) The use of products containing THC with a THC concentration  
21 of 0.3 percent or less by qualifying patients or designated providers  
22 who have been issued recognition cards and have obtained such  
23 products from a marijuana retailer with a medical marijuana  
24 endorsement.

25 (c)(i) Marijuana retailers with a medical marijuana endorsement  
26 with respect to:

27 (A) Marijuana concentrates, useable marijuana, or marijuana-  
28 infused products; or

29 (B) Products containing THC with a THC concentration of 0.3  
30 percent or less;

31 (ii) The exemption in this subsection (2)(c) applies only if such  
32 products are provided at no charge to a qualifying patient or  
33 designated provider who has been issued a recognition card. Each such  
34 retailer providing such products at no charge must maintain  
35 information establishing eligibility for this exemption in the form  
36 and manner required by the department.

37 (d) The use of marijuana concentrates, useable marijuana, or  
38 marijuana-infused products, identified by the department of health  
39 under RCW 69.50.--- (section 10, chapter 70, Laws of 2015) to have a  
40 low THC, high CBD ratio, and to be beneficial for medical use,

1 purchased from marijuana retailers with a medical marijuana  
2 endorsement.

3 (e) Health care professionals with respect to the use of products  
4 containing THC with a THC concentration of 0.3 percent or less  
5 provided at no charge by the health care professionals under RCW  
6 69.51A.--- (section 35, chapter 70, Laws of 2015). Each health care  
7 professional providing such products at no charge must maintain  
8 information establishing eligibility for this exemption in the form  
9 and manner required by the department.

10 (f) The use of topical, noningestible products containing THC  
11 with a THC concentration of 0.3 percent or less by qualifying  
12 patients when purchased from or provided at no charge by a health  
13 care professional under RCW 69.51A.--- (section 35, chapter 70, Laws  
14 of 2015).

15 (g) The use of:

16 (i) Marijuana, marijuana concentrates, useable marijuana,  
17 marijuana-infused products, or products containing THC with a THC  
18 concentration of 0.3 percent or less, by a cooperative and its  
19 members, when produced by the cooperative; and

20 (ii) Any nonmonetary resources and labor by a cooperative when  
21 contributed by its members. However, nothing in this subsection  
22 (2)(g) may be construed to exempt the individual members of a  
23 cooperative from the tax imposed in RCW 82.12.020 on the use of any  
24 property or services purchased by the member and contributed to the  
25 cooperative.

26 (3) The definitions in section 207 of this act apply to this  
27 section.

28 NEW SECTION. **Sec. 209.** The provisions of RCW 82.32.805 and  
29 82.32.808(8) do not apply to the exemptions in sections 207 and 208  
30 of this act.

31 NEW SECTION. **Sec. 210.** A new section is added to chapter 69.50  
32 RCW to read as follows:

33 (1)(a) Except as provided in (b) of this subsection, a retail  
34 sale of a bundled transaction that includes marijuana product is  
35 subject to the tax imposed under RCW 69.50.535 on the entire selling  
36 price of the bundled transaction.

37 (b) If the selling price is attributable to products that are  
38 taxable and products that are not taxable under RCW 69.50.535, the

1 portion of the price attributable to the nontaxable products are  
2 subject to the tax imposed by RCW 69.50.535 unless the seller can  
3 identify by reasonable and verifiable standards the portion that is  
4 not subject to tax from its books and records that are kept in the  
5 regular course of business for other purposes including, but not  
6 limited to, nontax purposes.

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

9 (a) "Bundled transaction" means:

10 (i) The retail sale of two or more products where the products  
11 are otherwise distinct and identifiable, are sold for one nonitemized  
12 price, and at least one product is a marijuana product subject to the  
13 tax under RCW 69.50.535; and

14 (ii) A marijuana product provided free of charge with the  
15 required purchase of another product. A marijuana product is provided  
16 free of charge if the sales price of the product purchased does not  
17 vary depending on the inclusion of the marijuana product provided  
18 free of charge.

19 (b) "Distinct and identifiable products" does not include  
20 packaging such as containers, boxes, sacks, bags, and bottles, or  
21 materials such as wrapping, labels, tags, and instruction guides,  
22 that accompany the retail sale of the products and are incidental or  
23 immaterial to the retail sale thereof. Examples of packaging that are  
24 incidental or immaterial include grocery sacks, shoeboxes, and dry  
25 cleaning garment bags.

26 (c) "Marijuana product" means "useable marijuana," "marijuana  
27 concentrates," and "marijuana-infused products" as defined in RCW  
28 69.50.101.

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

33 (e) "True value" means market value based on sales at comparable  
34 locations in this state of the same or similar product of like  
35 quality and character sold under comparable conditions of sale to  
36 comparable purchasers. However, in the absence of such sales of the  
37 same or similar product, "true value" means the value of the product  
38 sold as determined by all of the seller's direct and indirect costs  
39 attributable to the product.

1 NEW SECTION. **Sec. 211.** A new section is added to chapter 69.50

2 RCW to read as follows:

3 (1) Marijuana producers, processors, and retailers are prohibited  
4 from making sales of any marijuana or marijuana product, if the sale  
5 of the marijuana or marijuana product is conditioned upon the buyer's  
6 purchase of any service or nonmarijuana product. This subsection  
7 applies whether the buyer purchases such service or nonmarijuana  
8 product at the time of sale of the marijuana or marijuana product, or  
9 in a separate transaction.

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

12 (a) "Marijuana product" means "useable marijuana," "marijuana  
13 concentrates," and "marijuana-infused products," as those terms are  
14 defined in RCW 69.50.101.

15 (b) "Nonmarijuana product" includes paraphernalia, promotional  
16 items, lighters, bags, boxes, containers, and such other items as may  
17 be identified by the state liquor and cannabis board.

18 (c) "Selling price" has the same meaning as in RCW 69.50.535.

19 (d) "Service" includes memberships and any other services  
20 identified by the state liquor and cannabis board.

21 **PART III**

22 **Marijuana Business: Buffers and Licensee Residency**

23 **Sec. 301.** RCW 69.50.331 and 2015 c 70 s 6 are each amended to  
24 read as follows:

25 (1) For the purpose of considering any application for a license  
26 to produce, process, research, transport, or deliver marijuana,  
27 useable marijuana, marijuana concentrates, or marijuana-infused  
28 products subject to the regulations established under section 502 of  
29 this act, or sell marijuana, or for the renewal of a license to  
30 produce, process, research, transport, or deliver marijuana, useable  
31 marijuana, marijuana concentrates, or marijuana-infused products  
32 subject to the regulations established under section 502 of this act,  
33 or sell marijuana, the state liquor and cannabis board must conduct a  
34 comprehensive, fair, and impartial evaluation of the applications  
35 timely received.

36 (a) The state liquor and cannabis board must develop a  
37 competitive, merit-based application process that includes, at a  
38 minimum, the opportunity for an applicant to demonstrate experience

1 and qualifications in the marijuana industry. The state liquor and  
2 cannabis board (~~shall~~) must give preference between competing  
3 applications in the licensing process to applicants that have the  
4 following experience and qualifications, in the following order of  
5 priority:

6 (i) First priority is given to applicants who:

7 (A) Applied to the state liquor and cannabis board for a  
8 marijuana retailer license prior to July 1, 2014;

9 (B) Operated or were employed by a collective garden before  
10 January 1, 2013;

11 (C) Have maintained a state business license and a municipal  
12 business license, as applicable in the relevant jurisdiction; and

13 (D) Have had a history of paying all applicable state taxes and  
14 fees;

15 (ii) Second priority (~~shall~~) must be given to applicants who:

16 (A) Operated or were employed by a collective garden before  
17 January 1, 2013;

18 (B) Have maintained a state business license and a municipal  
19 business license, as applicable in the relevant jurisdiction; and

20 (C) Have had a history of paying all applicable state taxes and  
21 fees; and

22 (iii) Third priority (~~shall~~) must be given to all other  
23 applicants who do not have the experience and qualifications  
24 identified in (a)(i) and (ii) of this subsection.

25 (b) The state liquor and cannabis board may cause an inspection  
26 of the premises to be made, and may inquire into all matters in  
27 connection with the construction and operation of the premises. For  
28 the purpose of reviewing any application for a license and for  
29 considering the denial, suspension, revocation, or renewal or denial  
30 thereof, of any license, the state liquor and cannabis board may  
31 consider any prior criminal conduct of the applicant including an  
32 administrative violation history record with the state liquor and  
33 cannabis board and a criminal history record information check. The  
34 state liquor and cannabis board may submit the criminal history  
35 record information check to the Washington state patrol and to the  
36 identification division of the federal bureau of investigation in  
37 order that these agencies may search their records for prior arrests  
38 and convictions of the individual or individuals who filled out the  
39 forms. The state liquor and cannabis board (~~shall~~) must require  
40 fingerprinting of any applicant whose criminal history record

1 information check is submitted to the federal bureau of  
2 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A  
3 RCW (~~shall~~) do not apply to these cases. Subject to the provisions  
4 of this section, the state liquor and cannabis board may, in its  
5 discretion, grant or deny the renewal or license applied for. Denial  
6 may be based on, without limitation, the existence of chronic illegal  
7 activity documented in objections submitted pursuant to subsections  
8 (7)(c) and (~~(9)~~) (10) of this section. Authority to approve an  
9 uncontested or unopposed license may be granted by the state liquor  
10 and cannabis board to any staff member the board designates in  
11 writing. Conditions for granting this authority (~~shall~~) must be  
12 adopted by rule.

13 (c) No license of any kind may be issued to:

14 (i) A person under the age of twenty-one years;

15 (ii) A person doing business as a sole proprietor who has not  
16 lawfully resided in the state for at least (~~three~~) six months prior  
17 to applying to receive a license;

18 (iii) A partnership, employee cooperative, association, nonprofit  
19 corporation, or corporation unless formed under the laws of this  
20 state, and unless all of the members thereof are qualified to obtain  
21 a license as provided in this section; or

22 (iv) A person whose place of business is conducted by a manager  
23 or agent, unless the manager or agent possesses the same  
24 qualifications required of the licensee.

25 (2)(a) The state liquor and cannabis board may, in its  
26 discretion, subject to the provisions of RCW 69.50.334, suspend or  
27 cancel any license; and all protections of the licensee from criminal  
28 or civil sanctions under state law for producing, processing,  
29 researching, or selling marijuana, marijuana concentrates, useable  
30 marijuana, or marijuana-infused products thereunder (~~shall~~) must be  
31 suspended or terminated, as the case may be.

32 (b) The state liquor and cannabis board (~~shall~~) must  
33 immediately suspend the license of a person who has been certified  
34 pursuant to RCW 74.20A.320 by the department of social and health  
35 services as a person who is not in compliance with a support order.  
36 If the person has continued to meet all other requirements for  
37 reinstatement during the suspension, reissuance of the license  
38 (~~shall be~~) is automatic upon the state liquor and cannabis board's  
39 receipt of a release issued by the department of social and health  
40 services stating that the licensee is in compliance with the order.

1 (c) The state liquor and cannabis board may request the  
2 appointment of administrative law judges under chapter 34.12 RCW who  
3 shall have power to administer oaths, issue subpoenas for the  
4 attendance of witnesses and the production of papers, books,  
5 accounts, documents, and testimony, examine witnesses, and to receive  
6 testimony in any inquiry, investigation, hearing, or proceeding in  
7 any part of the state, under rules and regulations the state liquor  
8 and cannabis board may adopt.

9 (d) Witnesses (~~(shall)~~) must be allowed fees and mileage each way  
10 to and from any inquiry, investigation, hearing, or proceeding at the  
11 rate authorized by RCW 34.05.446. Fees need not be paid in advance of  
12 appearance of witnesses to testify or to produce books, records, or  
13 other legal evidence.

14 (e) In case of disobedience of any person to comply with the  
15 order of the state liquor and cannabis board or a subpoena issued by  
16 the state liquor and cannabis board, or any of its members, or  
17 administrative law judges, or on the refusal of a witness to testify  
18 to any matter regarding which he or she may be lawfully interrogated,  
19 the judge of the superior court of the county in which the person  
20 resides, on application of any member of the board or administrative  
21 law judge, (~~(shall)~~) compels obedience by contempt proceedings, as in  
22 the case of disobedience of the requirements of a subpoena issued  
23 from said court or a refusal to testify therein.

24 (3) Upon receipt of notice of the suspension or cancellation of a  
25 license, the licensee (~~(shall)~~) must forthwith deliver up the license  
26 to the state liquor and cannabis board. Where the license has been  
27 suspended only, the state liquor and cannabis board (~~(shall)~~) must  
28 return the license to the licensee at the expiration or termination  
29 of the period of suspension. The state liquor and cannabis board  
30 (~~(shall)~~) must notify all other licensees in the county where the  
31 subject licensee has its premises of the suspension or cancellation  
32 of the license; and no other licensee or employee of another licensee  
33 may allow or cause any marijuana, marijuana concentrates, useable  
34 marijuana, or marijuana-infused products to be delivered to or for  
35 any person at the premises of the subject licensee.

36 (4) Every license issued under this chapter (~~(3, Laws of 2013~~  
37 ~~shall be)~~) is subject to all conditions and restrictions imposed by  
38 this chapter (~~(3, Laws of 2013)~~) or by rules adopted by the state  
39 liquor and cannabis board to implement and enforce this chapter (~~(3,~~  
40 ~~Laws of 2013)~~). All conditions and restrictions imposed by the state

1 liquor and cannabis board in the issuance of an individual license  
2 (~~shall~~) must be listed on the face of the individual license along  
3 with the trade name, address, and expiration date.

4 (5) Every licensee (~~shall~~) must post and keep posted its  
5 license, or licenses, in a conspicuous place on the premises.

6 (6) No licensee (~~shall~~) may employ any person under the age of  
7 twenty-one years.

8 (7)(a) Before the state liquor and cannabis board issues a new or  
9 renewed license to an applicant it (~~shall~~) must give notice of the  
10 application to the chief executive officer of the incorporated city  
11 or town, if the application is for a license within an incorporated  
12 city or town, or to the county legislative authority, if the  
13 application is for a license outside the boundaries of incorporated  
14 cities or towns.

15 (b) The incorporated city or town through the official or  
16 employee selected by it, or the county legislative authority or the  
17 official or employee selected by it, (~~shall have~~) has the right to  
18 file with the state liquor and cannabis board within twenty days  
19 after the date of transmittal of the notice for applications, or at  
20 least thirty days prior to the expiration date for renewals, written  
21 objections against the applicant or against the premises for which  
22 the new or renewed license is asked. The state liquor and cannabis  
23 board may extend the time period for submitting written objections.

24 (c) The written objections (~~shall~~) must include a statement of  
25 all facts upon which the objections are based, and in case written  
26 objections are filed, the city or town or county legislative  
27 authority may request, and the state liquor and cannabis board may in  
28 its discretion hold, a hearing subject to the applicable provisions  
29 of Title 34 RCW. If the state liquor and cannabis board makes an  
30 initial decision to deny a license or renewal based on the written  
31 objections of an incorporated city or town or county legislative  
32 authority, the applicant may request a hearing subject to the  
33 applicable provisions of Title 34 RCW. If a hearing is held at the  
34 request of the applicant, state liquor and cannabis board  
35 representatives (~~shall~~) must present and defend the state liquor  
36 and cannabis board's initial decision to deny a license or renewal.

37 (d) Upon the granting of a license under this title the state  
38 liquor and cannabis board (~~shall~~) must send written notification to  
39 the chief executive officer of the incorporated city or town in which  
40 the license is granted, or to the county legislative authority if the



1 license is granted outside the boundaries of incorporated cities or  
2 towns.

3 (8)(a) Except as provided in (b) through (d) of this subsection,  
4 the state liquor and cannabis board (~~shall~~) may not issue a license  
5 for any premises within one thousand feet of the perimeter of the  
6 grounds of any elementary or secondary school, playground, recreation  
7 center or facility, child care center, public park, public transit  
8 center, or library, or any game arcade admission to which is not  
9 restricted to persons aged twenty-one years or older.

10 (b) A city, county, or town may permit the licensing of premises  
11 within one thousand feet but not less than one hundred feet of the  
12 facilities described in (a) of this subsection, except elementary  
13 schools, secondary schools, and playgrounds, by enacting an ordinance  
14 authorizing such distance reduction, provided that such distance  
15 reduction will not negatively impact the jurisdiction's civil  
16 regulatory enforcement, criminal law enforcement interests, public  
17 safety, or public health.

18 (c) A city, county, or town may permit the licensing of research  
19 premises allowed under RCW 69.50.--- (section 1, chapter 71, Laws of  
20 2015) within one thousand feet but not less than one hundred feet of  
21 the facilities described in (a) of this subsection by enacting an  
22 ordinance authorizing such distance reduction, provided that the  
23 ordinance will not negatively impact the jurisdiction's civil  
24 regulatory enforcement, criminal law enforcement, public safety, or  
25 public health.

26 (d) The state liquor and cannabis board may license premises  
27 located in compliance with the distance requirements set in an  
28 ordinance adopted under (b) or (c) of this subsection. Before issuing  
29 or renewing a research license for premises within one thousand feet  
30 but not less than one hundred feet of an elementary school, secondary  
31 school, or playground in compliance with an ordinance passed pursuant  
32 to (c) of this subsection, the board must ensure that the facility:

33 (i) Meets a security standard exceeding that which applies to  
34 marijuana producer, processor, or retailer licensees;

35 (ii) Is inaccessible to the public and no part of the operation  
36 of the facility is in view of the general public; and

37 (iii) Bears no advertising or signage indicating that it is a  
38 marijuana research facility.

39 (9) Subject to section 1601 of this act, a city, town, or county  
40 may adopt an ordinance prohibiting a marijuana producer or marijuana

1 processor from operating or locating a business within areas zoned  
2 primarily for residential use or rural use with a minimum lot size of  
3 five acres or smaller.

4 (10) In determining whether to grant or deny a license or renewal  
5 of any license, the state liquor and cannabis board (~~shall~~) must  
6 give substantial weight to objections from an incorporated city or  
7 town or county legislative authority based upon chronic illegal  
8 activity associated with the applicant's operations of the premises  
9 proposed to be licensed or the applicant's operation of any other  
10 licensed premises, or the conduct of the applicant's patrons inside  
11 or outside the licensed premises. "Chronic illegal activity" means  
12 (a) a pervasive pattern of activity that threatens the public health,  
13 safety, and welfare of the city, town, or county including, but not  
14 limited to, open container violations, assaults, disturbances,  
15 disorderly conduct, or other criminal law violations, or as  
16 documented in crime statistics, police reports, emergency medical  
17 response data, calls for service, field data, or similar records of a  
18 law enforcement agency for the city, town, county, or any other  
19 municipal corporation or any state agency; or (b) an unreasonably  
20 high number of citations for violations of RCW 46.61.502 associated  
21 with the applicant's or licensee's operation of any licensed premises  
22 as indicated by the reported statements given to law enforcement upon  
23 arrest.

#### 24 PART IV

#### 25 Consumption of Marijuana in a Public Place

26 **Sec. 401.** RCW 69.50.445 and 2013 c 3 s 21 are each amended to  
27 read as follows:

28 (1) It is unlawful to open a package containing marijuana,  
29 useable marijuana, (~~or a~~) marijuana-infused products, or marijuana  
30 concentrates, or consume marijuana, useable marijuana, (~~or a~~)  
31 marijuana-infused products, or marijuana concentrates, in view of the  
32 general public or in a public place.

33 (2) For the purposes of this section, "public place" has the same  
34 meaning as defined in RCW 66.04.010, but the exclusions in RCW  
35 66.04.011 do not apply.

36 (3) A person who violates this section is guilty of a class 3  
37 civil infraction under chapter 7.80 RCW.

1 **PART V**

2 **Transportation of Marijuana Products**

3 NEW SECTION. **Sec. 501.** A new section is added to chapter 69.50  
4 RCW to read as follows:

5 (1) A licensed marijuana producer, marijuana processor, marijuana  
6 researcher, or marijuana retailer, or their employees, in accordance  
7 with the requirements of this chapter and the administrative rules  
8 adopted thereunder, may use the services of a common carrier subject  
9 to regulation under chapters 81.28 and 81.29 RCW and licensed in  
10 compliance with the regulations established under section 502 of this  
11 act, to physically transport or deliver marijuana, useable marijuana,  
12 marijuana concentrates, and marijuana-infused products between  
13 licensed marijuana businesses located within the state.

14 (2) An employee of a common carrier engaged in marijuana-related  
15 transportation or delivery services authorized under subsection (1)  
16 of this section is prohibited from carrying or using a firearm during  
17 the course of providing such services, unless:

18 (a) Pursuant to section 502 of this act, the state liquor and  
19 cannabis board explicitly authorizes the carrying or use of firearms  
20 by such employee while engaged in the transportation or delivery  
21 services;

22 (b) The employee has an armed private security guard license  
23 issued pursuant to RCW 18.170.040; and

24 (c) The employee is in full compliance with the regulations  
25 established by the state liquor and cannabis board under section 502  
26 of this act.

27 (3) A common carrier licensed under section 502 of this act may,  
28 for the purpose of transporting and delivering marijuana, useable  
29 marijuana, marijuana concentrates, and marijuana-infused products,  
30 utilize Washington state ferry routes for such transportation and  
31 delivery.

32 (4) The possession of marijuana, useable marijuana, marijuana  
33 concentrates, and marijuana-infused products being physically  
34 transported or delivered within the state, in amounts not exceeding  
35 those that may be established under section 502(3) of this act, by a  
36 licensed employee of a common carrier when performing the duties  
37 authorized under, and in accordance with, this section and section  
38 502 of this act, is not a violation of this section, this chapter, or  
39 any other provision of Washington state law.

1        NEW SECTION.    **Sec. 502.**    A new section is added to chapter 69.50  
2    RCW to read as follows:

3        (1)    The state liquor and cannabis board must adopt rules  
4    providing for an annual licensing procedure of a common carrier who  
5    seeks to transport or deliver marijuana, useable marijuana, marijuana  
6    concentrates, and marijuana-infused products within the state.

7        (2)    The rules for licensing must:

8        (a)    Establish criteria for considering the approval or denial of  
9    a common carrier's original application or renewal application;

10       (b)    Provide minimum qualifications for any employee authorized to  
11   drive or operate the transportation or delivery vehicle, including a  
12   minimum age of at least twenty-one years;

13       (c)    Address the safety of the employees transporting or  
14   delivering the products, including issues relating to the carrying of  
15   firearms by such employees;

16       (d)    Address the security of the products being transported,  
17   including a system of electronically tracking all products at both  
18   the point of pickup and the point of delivery; and

19       (e)    Set reasonable fees for the application and licensing  
20   process.

21       (3)    The state liquor and cannabis board may adopt rules  
22   establishing the maximum amounts of marijuana, useable marijuana,  
23   marijuana concentrates, and marijuana-infused products that may be  
24   physically transported or delivered at one time by a common carrier  
25   as provided under section 501 of this act.

26       **Sec. 503.**    RCW 69.50.4013 and 2015 c 70 s 14 are each amended to  
27   read as follows:

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

33       (2)    Except as provided in RCW 69.50.4014, any person who violates  
34   this section is guilty of a class C felony punishable under chapter  
35   9A.20 RCW.

36       (3) (a)    The possession, by a person twenty-one years of age or  
37   older, of useable marijuana, marijuana concentrates, or marijuana-  
38   infused products in amounts that do not exceed those set forth in RCW

1 69.50.360(3) is not a violation of this section, this chapter, or any  
2 other provision of Washington state law.

3 (b) The possession of marijuana, useable marijuana, marijuana  
4 concentrates, and marijuana-infused products being physically  
5 transported or delivered within the state, in amounts not exceeding  
6 those that may be established under section 502(3) of this act, by a  
7 licensed employee of a common carrier when performing the duties  
8 authorized in accordance with sections 501 and 502 of this act, is  
9 not a violation of this section, this chapter, or any other provision  
10 of Washington state law.

11 (4) No person under twenty-one years of age may possess,  
12 manufacture, sell, or distribute marijuana, marijuana-infused  
13 products, or marijuana concentrates, regardless of THC concentration.  
14 This does not include qualifying patients with a valid authorization.

15 (5) The possession by a qualifying patient or designated provider  
16 of marijuana concentrates, useable marijuana, marijuana-infused  
17 products, or plants in accordance with chapter 69.51A RCW is not a  
18 violation of this section, this chapter, or any other provision of  
19 Washington state law.

20 **Sec. 504.** RCW 18.170.020 and 2007 c 154 s 2 are each amended to  
21 read as follows:

22 The requirements of this chapter do not apply to:

23 (1) A person who is employed exclusively or regularly by one  
24 employer and performs the functions of a private security guard  
25 solely in connection with the affairs of that employer, if the  
26 employer is not a private security company. However, in accordance  
27 with section 501 of this act, an employee engaged in marijuana-  
28 related transportation or delivery services on behalf of a common  
29 carrier must be licensed as an armed private security guard under  
30 this chapter in order to be authorized to carry or use a firearm  
31 while providing such services;

32 (2) A sworn peace officer while engaged in the performance of the  
33 officer's official duties;

34 (3) A sworn peace officer while employed by any person to engage  
35 in off-duty employment as a private security guard, but only if the  
36 employment is approved by the chief law enforcement officer of the  
37 jurisdiction where the employment takes place and the sworn peace  
38 officer does not employ, contract with, or broker for profit other

1 persons to assist him or her in performing the duties related to his  
2 or her private employer; or

3 (4)(a) A person performing crowd management or guest services  
4 including, but not limited to, a person described as a ticket taker,  
5 usher, door attendant, parking attendant, crowd monitor, or event  
6 staff who:

7 ((+a)) (i) Does not carry a firearm or other dangerous weapon  
8 including, but not limited to, a stun gun, taser, pepper mace, or  
9 nightstick;

10 ((+b)) (ii) Does not wear a uniform or clothing readily  
11 identifiable by a member of the public as that worn by a private  
12 security officer or law enforcement officer; and

13 ((+c)) (iii) Does not have as his or her primary responsibility  
14 the detainment of persons or placement of persons under arrest.

15 (b) The exemption provided in this subsection applies only when a  
16 crowd has assembled for the purpose of attending or taking part in an  
17 organized event, including preevent assembly, event operation hours,  
18 and postevent departure activities.

19 **Sec. 505.** RCW 69.50.4014 and 2003 c 53 s 335 are each amended to  
20 read as follows:

21 Except as provided in RCW 69.50.401(2)(c) or as otherwise  
22 authorized by this chapter, any person found guilty of possession of  
23 forty grams or less of ((marihuana)) marijuana is guilty of a  
24 misdemeanor.

## 25 **PART VI**

### 26 **Funding for Marijuana Health Awareness Program**

27 **Sec. 601.** RCW 66.08.050 and 2014 c 63 s 3 are each amended to  
28 read as follows:

29 The board, subject to the provisions of this title and the rules,  
30 must:

31 (1) Determine the nature, form and capacity of all packages to be  
32 used for containing liquor kept for sale under this title;

33 (2) Execute or cause to be executed, all contracts, papers, and  
34 documents in the name of the board, under such regulations as the  
35 board may fix;

36 (3) Pay all customs, duties, excises, charges and obligations  
37 whatsoever relating to the business of the board;

1 (4) Require bonds from all employees in the discretion of the  
2 board, and to determine the amount of fidelity bond of each such  
3 employee;

4 (5) Perform services for the state lottery commission to such  
5 extent, and for such compensation, as may be mutually agreed upon  
6 between the board and the commission;

7 (6) Accept and deposit into the general fund-local account and  
8 disburse, subject to appropriation, federal grants or other funds or  
9 donations from any source for the purpose of improving public  
10 awareness of the health risks associated with alcohol and marijuana  
11 consumption by youth and the abuse of alcohol and marijuana by adults  
12 in Washington state. The board's alcohol awareness program must  
13 cooperate with federal and state agencies, interested organizations,  
14 and individuals to effect an active public beverage alcohol awareness  
15 program;

16 (7) Monitor and regulate the practices of licensees as necessary  
17 in order to prevent the theft and illegal trafficking of liquor  
18 pursuant to RCW 66.28.350;

19 (8) Perform all other matters and things, whether similar to the  
20 foregoing or not, to carry out the provisions of this title, and has  
21 full power to do each and every act necessary to the conduct of its  
22 regulatory functions, including all supplies procurement, preparation  
23 and approval of forms, and every other undertaking necessary to  
24 perform its regulatory functions whatsoever, subject only to audit by  
25 the state auditor. However, the board has no authority to regulate  
26 the content of spoken language on licensed premises where wine and  
27 other liquors are served and where there is not a clear and present  
28 danger of disorderly conduct being provoked by such language or to  
29 restrict advertising of lawful prices.

## 30 PART VII

### 31 Cannabis Health and Beauty Aid Exemption

32 NEW SECTION. **Sec. 701.** A new section is added to chapter 69.50  
33 RCW to read as follows:

34 (1) Cannabis health and beauty aids are not subject to the  
35 regulations and penalties of this chapter that apply to marijuana,  
36 marijuana concentrates, or marijuana-infused products.

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

4 (a) Is intended for use only as a topical application to provide  
5 therapeutic benefit or to enhance appearance;

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

7 (c) Does not cross the blood-brain barrier; and

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

9 **PART VIII**

10 **Signage and Public Notice Requirements**

11 NEW SECTION. **Sec. 801.** A new section is added to chapter 69.50  
12 RCW to read as follows:

13 (1) Applicants for a marijuana producer's, marijuana processor's,  
14 marijuana researcher's or marijuana retailer's license under this  
15 chapter must display a sign provided by the state liquor and cannabis  
16 board on the outside of the premises to be licensed notifying the  
17 public that the premises are subject to an application for such  
18 license. The sign must:

19 (a) Contain text with content sufficient to notify the public of  
20 the nature of the pending license application, the date of the  
21 application, the name of the applicant, and contact information for  
22 the state liquor and cannabis board;

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

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

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

30 (2) The state liquor and cannabis board must adopt such rules as  
31 are necessary for the implementation of this section, including rules  
32 pertaining to the size of the sign and the text thereon, the textual  
33 content of the sign, the fee for providing the sign, and any other  
34 requirements necessary to ensure that the sign provides adequate  
35 notice to the public.

36 (3)(a) A city, town, or county may adopt an ordinance requiring  
37 individual notice by an applicant for a marijuana producer's,  
38 marijuana processor's, marijuana researcher's, or marijuana



1 retailer's license under this chapter, sixty days prior to issuance  
2 of the license, to any elementary or secondary school, playground,  
3 recreation center or facility, child care center, church, public  
4 park, public transit center, library, or any game arcade admission to  
5 which is not restricted to persons aged twenty-one years or older,  
6 that is within one thousand feet of the perimeter of the grounds of  
7 the establishment seeking licensure. The notice must provide the  
8 contact information for the liquor and cannabis board where any of  
9 the owners or operators of these entities may submit comments or  
10 concerns about the proposed business location.

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

## 14 PART IX

### 15 Marijuana-Infused Products and Concentrates

16 **Sec. 901.** RCW 69.50.101 and 2015 c 70 s 4 are each amended to  
17 read as follows:

18 ~~((Unless the context clearly requires otherwise, definitions of~~  
19 ~~terms shall be as indicated where used in this chapter:))~~ The  
20 definitions in this section apply throughout this chapter unless the  
21 context clearly requires otherwise.

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

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

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

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

33 (c) "Commission" means the pharmacy quality assurance commission.

34 (d) "Controlled substance" means a drug, substance, or immediate  
35 precursor included in Schedules I through V as set forth in federal  
36 or state laws, or federal or commission rules.

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

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

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

14 (2) The term does not include:

15 (i) a controlled substance;

16 (ii) a substance for which there is an approved new drug  
17 application;

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

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

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

29 (g) "Department" means the department of health.

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

35 (i) "Dispenser" means a practitioner who dispenses.

36 (j) "Distribute" means to deliver other than by administering or  
37 dispensing a controlled substance.

38 (k) "Distributor" means a person who distributes.

39 (l) "Drug" means (1) a controlled substance recognized as a drug  
40 in the official United States pharmacopoeia/national formulary or the

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

10 (m) "Drug enforcement administration" means the drug enforcement  
11 administration in the United States Department of Justice, or its  
12 successor agency.

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

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

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

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

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

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

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

37 (r) "Lot number" ~~((shall))~~ must identify the licensee by business  
38 or trade name and Washington state unified business identifier  
39 number, and the date of harvest or processing for each lot of

1 marijuana, marijuana concentrates, useable marijuana, or marijuana-  
2 infused product.

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

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

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

19 (t) "Marijuana" or "marihuana" means all parts of the plant  
20 *Cannabis*, whether growing or not, with a THC concentration greater  
21 than 0.3 percent on a dry weight basis; the seeds thereof; the resin  
22 extracted from any part of the plant; and every compound,  
23 manufacture, salt, derivative, mixture, or preparation of the plant,  
24 its seeds or resin. The term does not include the mature stalks of  
25 the plant, fiber produced from the stalks, oil or cake made from the  
26 seeds of the plant, any other compound, manufacture, salt,  
27 derivative, mixture, or preparation of the mature stalks (except the  
28 resin extracted therefrom), fiber, oil, or cake, or the sterilized  
29 seed of the plant which is incapable of germination.

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

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

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

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

7 (y) "Marijuana-infused products" means products that contain  
8 marijuana or marijuana extracts, are intended for human use, are  
9 derived from marijuana as defined in subsection (t) of this section,  
10 and have a THC concentration no greater than ~~((0.3))~~ ten percent  
11 ~~((and no greater than sixty percent))~~. The term "marijuana-infused  
12 products" does not include either useable marijuana or marijuana  
13 concentrates.

14 ~~((+y))~~ (z) "Marijuana researcher" means a person licensed by the  
15 state liquor and cannabis board to produce, process, and possess  
16 marijuana for the purposes of conducting research on marijuana and  
17 marijuana-derived drug products.

18 (aa) "Marijuana retailer" means a person licensed by the state  
19 liquor and cannabis board to sell marijuana concentrates, useable  
20 marijuana, and marijuana-infused products in a retail outlet.

21 ~~((+z))~~ (bb) "Narcotic drug" means any of the following, whether  
22 produced directly or indirectly by extraction from substances of  
23 vegetable origin, or independently by means of chemical synthesis, or  
24 by a combination of extraction and chemical synthesis:

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

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

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

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

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

40 (6) Cocaine base.

1 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
2 thereof.

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

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

14 ~~((bb))~~ (dd) "Opium poppy" means the plant of the species  
15 *Papaver somniferum* L., except its seeds.

16 ~~((cc))~~ (ee) "Person" means individual, corporation, business  
17 trust, estate, trust, partnership, association, joint venture,  
18 government, governmental subdivision or agency, or any other legal or  
19 commercial entity.

20 ~~((dd))~~ (ff) "Poppy straw" means all parts, except the seeds, of  
21 the opium poppy, after mowing.

22 ~~((ee))~~ (gg) "Practitioner" means:

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

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

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

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

21 ~~((gg))~~ (ii) "Production" includes the manufacturing, planting,  
22 cultivating, growing, or harvesting of a controlled substance.

23 ~~((hh))~~ (jj) "Retail outlet" means a location licensed by the  
24 state liquor and cannabis board for the retail sale of marijuana  
25 concentrates, useable marijuana, and marijuana-infused products.

26 ~~((ii))~~ (kk) "Secretary" means the secretary of health or the  
27 secretary's designee.

28 ~~((jjj))~~ (ll) "State," unless the context otherwise requires,  
29 means a state of the United States, the District of Columbia, the  
30 Commonwealth of Puerto Rico, or a territory or insular possession  
31 subject to the jurisdiction of the United States.

32 ~~((kk))~~ (mm) "THC concentration" means percent of delta-9  
33 tetrahydrocannabinol content per dry weight of any part of the plant  
34 *Cannabis*, or per volume or weight of marijuana product, or the  
35 combined percent of delta-9 tetrahydrocannabinol and  
36 tetrahydrocannabinolic acid in any part of the plant *Cannabis*  
37 regardless of moisture content.

38 ~~((ll))~~ (nn) "Ultimate user" means an individual who lawfully  
39 possesses a controlled substance for the individual's own use or for  
40 the use of a member of the individual's household or for

1 administering to an animal owned by the individual or by a member of  
2 the individual's household.

3 ~~((mm))~~ (oo) "Useable marijuana" means dried marijuana flowers.  
4 The term "useable marijuana" does not include either marijuana-  
5 infused products or marijuana concentrates.

6 ~~((nn))~~ (pp) "Designated provider" has the meaning provided in  
7 RCW 69.51A.010.

8 ~~((oo))~~ (qq) "Qualifying patient" has the meaning provided in  
9 RCW 69.51A.010.

10 ~~((pp))~~ (rr) "CBD concentration" has the meaning provided in RCW  
11 69.51A.010.

12 ~~((qq))~~ (ss) "Plant" has the meaning provided in RCW 69.51A.010.

13 ~~((rr))~~ (tt) "Recognition card" has the meaning provided in RCW  
14 69.51A.010.

15

## PART X

16

### Medical Use of Marijuana

17 **Sec. 1001.** RCW 69.51A.--- and 2015 c 70 s 26 are each amended to  
18 read as follows:

19 (1) Qualifying patients or designated providers may form a  
20 cooperative and share responsibility for acquiring and supplying the  
21 resources needed to produce and process marijuana only for the  
22 medical use of members of the cooperative. No more than four  
23 qualifying patients or designated providers may become members of a  
24 cooperative under this section and all members must hold valid  
25 recognition cards. All members of the cooperative must be at least  
26 twenty-one years old. The designated provider of a qualifying patient  
27 who is under twenty-one years old may be a member of a cooperative on  
28 the qualifying patient's behalf.

29 (2) ~~((Cooperatives may not be located within one mile of a  
30 marijuana retailer. People))~~ Qualifying patients and designated  
31 providers who wish to form a cooperative must register the location  
32 with the state liquor and cannabis board and this is the only  
33 location where cooperative members may grow or process marijuana.  
34 This registration must include the names of all participating members  
35 and copies of each participant's recognition card. Only qualifying  
36 patients or designated providers registered with the state liquor and  
37 cannabis board in association with the location may participate in



1 growing or receive useable marijuana or marijuana-infused products  
2 grown at that location.

3 (3) No cooperative may be located in any of the following areas:

4 (a) Within one mile of a marijuana retailer;

5 (b) Within the smaller of either:

6 (i) One thousand feet of the perimeter of the grounds of any  
7 elementary or secondary school, playground, recreation center or  
8 facility, child care center, public park, public transit center,  
9 library, or any game arcade that admission to which is not restricted  
10 to persons aged twenty-one years or older; or

11 (ii) The area restricted by ordinance, if the cooperative is  
12 located in a city, county, or town that has passed an ordinance  
13 pursuant to RCW 69.50.331(8); or

14 (c) Where prohibited by a city, town, or county zoning provision.

15 (4) The state liquor and cannabis board must deny the  
16 registration of any cooperative if the location (~~is within one mile~~  
17 ~~of a marijuana retailer~~) does not comply with the requirements set  
18 forth in subsection (3) of this section.

19 ~~((+3))~~ (5) If a qualifying patient or designated provider no  
20 longer participates in growing at the location, he or she must notify  
21 the state liquor and cannabis board within fifteen days of the date  
22 the qualifying patient or designated provider ceases participation.  
23 The state liquor and cannabis board must remove his or her name from  
24 connection to the cooperative. Additional qualifying patients or  
25 designated providers may not join the cooperative until sixty days  
26 have passed since the date on which the last qualifying patient or  
27 designated provider notifies the state liquor and cannabis board that  
28 he or she no longer participates in that cooperative.

29 ~~((+4))~~ (6) Qualifying patients or designated providers who  
30 participate in a cooperative under this section:

31 (a) May grow up to the total amount of plants for which each  
32 participating member is authorized on their recognition cards, up to  
33 a maximum of sixty plants. At the location, the qualifying patients  
34 or designated providers may possess the amount of useable marijuana  
35 that can be produced with the number of plants permitted under this  
36 subsection, but no more than seventy-two ounces;

37 (b) May only participate in one cooperative;

38 (c) May only grow plants in the cooperative and if he or she  
39 grows plants in the cooperative may not grow plants elsewhere;

1 (d) Must provide assistance in growing plants. A monetary  
2 contribution or donation is not to be considered assistance under  
3 this section. Participants must provide nonmonetary resources and  
4 labor in order to participate; and

5 (e) May not sell, donate, or otherwise provide marijuana,  
6 marijuana concentrates, useable marijuana, or marijuana-infused  
7 products to a person who is not participating under this section.

8 ~~((+5))~~ (7) The location of the cooperative must be the domicile  
9 of one of the participants. Only one cooperative may be located per  
10 property tax parcel. A copy of each participant's recognition card  
11 must be kept at the location at all times.

12 ~~((+6))~~ (8) The state liquor and cannabis board may adopt rules  
13 to implement this section including:

14 (a) Any security requirements necessary to ensure the safety of  
15 the cooperative and to reduce the risk of diversion from the  
16 cooperative;

17 (b) A seed to sale traceability model that is similar to the seed  
18 to sale traceability model used by licensees that will allow the  
19 state liquor and cannabis board to track all marijuana grown in a  
20 cooperative.

21 ~~((+7))~~ (9) The state liquor and cannabis board or law  
22 enforcement may inspect a cooperative registered under this section  
23 to ensure members are in compliance with this section. The state  
24 liquor and cannabis board must adopt rules on reasonable inspection  
25 hours and reasons for inspections.

26 NEW SECTION. **Sec. 1002.** A new section is added to chapter 42.56  
27 RCW to read as follows:

28 (1) Registration information submitted to the state liquor and  
29 cannabis board under RCW 69.51A.--- (section 26, chapter 70, Laws of  
30 2015) including the names of all participating members of a  
31 cooperative, copies of each member's recognition card, location of  
32 the cooperative, and other information required for registration by  
33 the state liquor and cannabis board is exempt from disclosure under  
34 this chapter.

35 (2) The definitions in this section apply throughout this section  
36 unless the context clearly requires otherwise.

37 (a) "Cooperative" means a cooperative established under RCW  
38 69.51A.--- (section 26, chapter 70, Laws of 2015) to produce and

1 process marijuana only for the medical use of members of the  
2 cooperative.

3 (b) "Recognition card" has the same meaning as provided in RCW  
4 69.51A.010.

5 **PART XI**

6 **Dedicated Marijuana Account**

7 **Sec. 1101.** RCW 69.50.530 and 2013 c 3 s 26 are each amended to  
8 read as follows:

9 ~~((1) There shall be a fund, known as the dedicated marijuana  
10 fund, which shall consist of all marijuana excise taxes, license  
11 fees, penalties, forfeitures, and all other moneys, income, or  
12 revenue received by the state liquor control board from marijuana-  
13 related activities. The state treasurer shall be custodian of the  
14 fund.~~

15 ~~(2))~~ The dedicated marijuana account is created in the state  
16 treasury. All moneys received by the state liquor ~~((control))~~ and  
17 cannabis board, or any employee thereof, from marijuana-related  
18 activities ~~((shall))~~ must be deposited ~~((each day in a depository~~  
19 ~~approved by the state treasurer and transferred to the state~~  
20 ~~treasurer to be credited to the dedicated marijuana fund.~~

21 ~~(3) Disbursements from the dedicated marijuana fund shall be on~~  
22 ~~authorization of the state liquor control board or a duly authorized~~  
23 ~~representative thereof))~~ in the account. Unless otherwise provided in  
24 this act, all marijuana excise taxes collected from sales of  
25 marijuana, useable marijuana, marijuana concentrates, and marijuana-  
26 infused products under RCW 69.50.535, and the license fees,  
27 penalties, and forfeitures derived under this chapter from marijuana  
28 producer, marijuana processor, marijuana researcher, and marijuana  
29 retailer licenses, must be deposited in the account. Moneys in the  
30 account may only be spent after appropriation.

31 **PART XII**

32 **Synthetic Cannabinoids and Bath Salts**

33 NEW SECTION. **Sec. 1201.** A new section is added to chapter 69.50  
34 RCW to read as follows:

35 (1) It is an unfair or deceptive practice under RCW 19.86.020 for  
36 any person or entity to distribute, dispense, manufacture, display

1 for sale, offer for sale, attempt to sell, or sell to a purchaser any  
2 product that contains any amount of any synthetic cannabinoid. The  
3 legislature finds that practices covered by this section are matters  
4 vitally affecting the public interest for the purpose of applying the  
5 consumer protection act, chapter 19.86 RCW. Violations of this  
6 section are not reasonable in relation to the development and  
7 preservation of business.

8 (2) "Synthetic cannabinoid" includes any chemical compound  
9 identified in RCW 69.50.204(c)(30) or by the pharmacy quality  
10 assurance commission under RCW 69.50.201.

11 NEW SECTION. **Sec. 1202.** A new section is added to chapter 69.50  
12 RCW to read as follows:

13 It is an unfair or deceptive practice under RCW 19.86.020 for any  
14 person or entity to distribute, dispense, manufacture, display for  
15 sale, offer for sale, attempt to sell, or sell to a purchaser any  
16 product that contains any amount of any cathinone or methcathinone as  
17 identified in RCW 69.50.204(e) (3) and (5). The legislature finds  
18 that practices covered by this section are matters vitally affecting  
19 the public interest for the purpose of applying the consumer  
20 protection act, chapter 19.86 RCW. Violations of this section are not  
21 reasonable in relation to the development and preservation of  
22 business.

23 **Sec. 1203.** RCW 69.50.204 and 2010 c 177 s 2 are each amended to  
24 read as follows:

25 Unless specifically excepted by state or federal law or  
26 regulation or more specifically included in another schedule, the  
27 following controlled substances are listed in Schedule I:

28 (a) Any of the following opiates, including their isomers,  
29 esters, ethers, salts, and salts of isomers, esters, and ethers  
30 whenever the existence of these isomers, esters, ethers, and salts is  
31 possible within the specific chemical designation:

32 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-  
33 piperidinyl]-N-phenylacetamide);

34 (2) Acetylmethadol;

35 (3) Allylprodine;

36 (4) Alphacetylmethadol, except levo-alphacetylmethadol, also  
37 known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

38 (5) Alphameprodine;

1 (6) Alphamethadol;  
2 (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)  
3 ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-  
4 propanilido) piperidine);  
5 (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-  
6 piperidinyl]-N-phenylpropanamide);  
7 (9) Benzethidine;  
8 (10) Betacetylmethadol;  
9 (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-  
10 piperidinyl]-N-phenylpropanamide);  
11 (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-  
12 [1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-  
13 phenylpropanamide;  
14 (13) Betameprodine;  
15 (14) Betamethadol;  
16 (15) Betaprodine;  
17 (16) Clonitazene;  
18 (17) Dextromoramide;  
19 (18) Diampromide;  
20 (19) Diethylthiambutene;  
21 (20) Difenoxyin;  
22 (21) Dimenoxadol;  
23 (22) Dimepheptanol;  
24 (23) Dimethylthiambutene;  
25 (24) Dioxaphetyl butyrate;  
26 (25) Dipipanone;  
27 (26) Ethylmethylthiambutene;  
28 (27) Etonitazene;  
29 (28) Etoxeridine;  
30 (29) Furethidine;  
31 (30) Hydroxypethidine;  
32 (31) Ketobemidone;  
33 (32) Levomoramide;  
34 (33) Levophenacylmorphan;  
35 (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-  
36 piperidyl]-N-phenylprop anamide);  
37 (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-  
38 piperidinyl]-N-phenylpropanamide);  
39 (36) Morpheridine;  
40 (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

- 1 (38) Noracymethadol;
- 2 (39) Norlevorphanol;
- 3 (40) Normethadone;
- 4 (41) Norpipanone;
- 5 (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-
- 6 phenethyl)-4-piperidinyl] propanamide);
- 7 (43) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 8 (44) Phenadoxone;
- 9 (45) Phenampromide;
- 10 (46) Phenomorphan;
- 11 (47) Phenoperidine;
- 12 (48) Piritramide;
- 13 (49) Proheptazine;
- 14 (50) Properidine;
- 15 (51) Propiram;
- 16 (52) Racemoramide;
- 17 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
- 18 propanamide);
- 19 (54) Tilidine;
- 20 (55) Trimeperidine.
- 21 (b) Opium derivatives. Unless specifically excepted or unless
- 22 listed in another schedule, any of the following opium derivatives,
- 23 including their salts, isomers, and salts of isomers whenever the
- 24 existence of those salts, isomers, and salts of isomers is possible
- 25 within the specific chemical designation:
- 26 (1) Acetorphine;
- 27 (2) Acetyldihydrocodeine;
- 28 (3) Benzylmorphine;
- 29 (4) Codeine methylbromide;
- 30 (5) Codeine-N-Oxide;
- 31 (6) Cyprenorphine;
- 32 (7) Desomorphine;
- 33 (8) Dihydromorphine;
- 34 (9) Drotebanol;
- 35 (10) Etorphine, except hydrochloride salt;
- 36 (11) Heroin;
- 37 (12) Hydromorphanol;
- 38 (13) Methyldesorphine;
- 39 (14) Methyldihydromorphine;
- 40 (15) Morphine methylbromide;

- 1 (16) Morphine methylsulfonate;
- 2 (17) Morphine-N-Oxide;
- 3 (18) Myrophine;
- 4 (19) Nicocodeine;
- 5 (20) Nicomorphine;
- 6 (21) Normorphine;
- 7 (22) Pholcodine;
- 8 (23) Thebacon.

9 (c) Hallucinogenic substances. Unless specifically excepted or  
10 unless listed in another schedule, any material, compound, mixture,  
11 or preparation which contains any quantity of the following  
12 hallucinogenic substances, including their salts, isomers, and salts  
13 of isomers whenever the existence of those salts, isomers, and salts  
14 of isomers is possible within the specific chemical designation. For  
15 the purposes of this subsection only, the term "isomer" includes the  
16 optical, position, and geometric isomers:

17 (1) Alpha-ethyltryptamine: Some trade or other names:  
18 Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)  
19 indole; a-ET; and AET;

20 (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names:  
21 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

22 (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other  
23 names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl  
24 DOB; 2C-B, nexus;

25 (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-  
26 dimethoxy-a-methylphenethylamine; 2,5-DMA;

27 (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

28 (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name:  
29 2C-T-7;

30 (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-  
31 methylphenethylamine; paramethoxyamphetamine, PMA;

32 (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

33 (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other  
34 names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and  
35 "STP";

36 (10) 3,4-methylenedioxy amphetamine;

37 (11) 3,4-methylenedioxymethamphetamine (MDMA);

38 (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-  
39 ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA,  
40 MDE, MDEA;

- 1 (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as  
2 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy  
3 MDA;
- 4 (14) 3,4,5-trimethoxy amphetamine;
- 5 (15) Alpha-methyltryptamine: Other name: AMT;
- 6 (16) Bufotenine: Some trade or other names: 3-(beta-  
7 Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-  
8 indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine;  
9 mappine;
- 10 (17) Diethyltryptamine: Some trade or other names: N,N-  
11 Diethyltryptamine; DET;
- 12 (18) Dimethyltryptamine: Some trade or other names: DMT;
- 13 (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- 14 (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,  
15 7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2)  
16 azepino (5,4-b) indole; Tabernanthe iboga;
- 17 (21) Lysergic acid diethylamide;
- 18 (22) Marihuana or marijuana;
- 19 (23) Mescaline;
- 20 (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-  
21 hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-  
22 dibenzo[b,d]pyran; synhexyl;
- 23 (25) Peyote, meaning all parts of the plant presently classified  
24 botanically as *Lophophora Williamsii* Lemaire, whether growing or not,  
25 the seeds thereof, any extract from any part of such plant, and every  
26 compound, manufacture, salts, derivative, mixture, or preparation of  
27 such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812  
28 (c), Schedule I (c)(12));
- 29 (26) N-ethyl-3-piperidyl benzilate;
- 30 (27) N-methyl-3-piperidyl benzilate;
- 31 (28) Psilocybin;
- 32 (29) Psilocyn;
- 33 (30) Tetrahydrocannabinols, meaning tetrahydrocannabinols  
34 naturally contained in a plant of the genus *Cannabis* (*cannabis*  
35 plant), as well as synthetic equivalents of the substances contained  
36 in the plant, or in the resinous extractives of *Cannabis*, species,  
37 and/or synthetic substances, derivatives, and their isomers with  
38 similar chemical structure and pharmacological activity such as the  
39 following:



1 (i) 1 - cis - or trans tetrahydrocannabinol, and their optical  
2 isomers, excluding tetrahydrocannabinol in sesame oil and  
3 encapsulated in a soft gelatin capsule in a drug product approved by  
4 the United States Food and Drug Administration;

5 (ii) 6 - cis - or trans tetrahydrocannabinol, and their optical  
6 isomers;

7 (iii) 3,4 - cis - or trans tetrahydrocannabinol, and its optical  
8 isomers; or

9 (iv) That is chemically synthesized and either:

10 (a) Has been demonstrated to have binding activity at one or more  
11 cannabinoid receptors; or

12 (b) Is a chemical analog or isomer of a compound that has been  
13 demonstrated to have binding activity at one or more cannabinoid  
14 receptors;

15 (Since nomenclature of these substances is not internationally  
16 standardized, compounds of these structures, regardless of numerical  
17 designation of atomic positions covered.)

18 (31) Ethylamine analog of phencyclidine: Some trade or other  
19 names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)  
20 ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

21 (32) Pyrrolidine analog of phencyclidine: Some trade or other  
22 names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

23 (33) Thiophene analog of phencyclidine: Some trade or other  
24 names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienyl analog of  
25 phencyclidine; TPCP; TCP;

26 (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other  
27 name is TCPy.

28 (d) Depressants. Unless specifically excepted or unless listed in  
29 another schedule, any material, compound, mixture, or preparation  
30 which contains any quantity of the following substances having a  
31 depressant effect on the central nervous system, including its salts,  
32 isomers, and salts of isomers whenever the existence of such salts,  
33 isomers, and salts of isomers is possible within the specific  
34 chemical designation.

35 (1) Gamma-hydroxybutyric acid: Some other names include GHB;  
36 gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid;  
37 sodium oxybate; sodium oxybutyrate;

38 (2) Mecloqualone;

39 (3) Methaqualone.

1 (e) Stimulants. Unless specifically excepted or unless listed in  
2 another schedule, any material, compound, mixture, or preparation  
3 which contains any quantity of the following substances having a  
4 stimulant effect on the central nervous system, including its salts,  
5 isomers, and salts of isomers:

6 (1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-  
7 oxazoline; or 4, 5-dihydro-5-phenly-2-oxazolamine;

8 (2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

9 (3) Cathinone, also known as 2-amino-1-phenyl-1-propanone,  
10 alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

11 (4) Fenethylamine;

12 (5) Methcathinone: Some other names: 2-(methylamino)-  
13 propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-  
14 phenylpropan-1-one; alpha-N-methylaminopropiophenone;  
15 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone;  
16 AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and  
17 salts of optical isomers;

18 (6) (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-  
19 phenyl-2-oxazolamine);

20 (7) N-ethylamphetamine;

21 (8) N,N-dimethylamphetamine: Some trade or other names: N,N-  
22 alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

23 The controlled substances in this section may be added,  
24 rescheduled, or deleted as provided for in RCW 69.50.201.

25 **Sec. 1204.** RCW 69.50.430 and 2015 c 265 s 36 are each amended to  
26 read as follows:

27 (1) Every adult offender convicted of a felony violation of RCW  
28 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403,  
29 69.50.406, 69.50.407, 69.50.410, or 69.50.415 (~~shall~~) must be fined  
30 one thousand dollars in addition to any other fine or penalty  
31 imposed. Unless the court finds the adult offender to be indigent,  
32 this additional fine (~~shall~~) may not be suspended or deferred by  
33 the court.

34 (2) On a second or subsequent conviction for violation of any of  
35 the laws listed in subsection (1) of this section, the adult offender  
36 (~~shall~~) must be fined two thousand dollars in addition to any other  
37 fine or penalty imposed. Unless the court finds the adult offender to  
38 be indigent, this additional fine (~~shall~~) may not be suspended or  
39 deferred by the court.

1 (3) In addition to any other civil or criminal penalty, every  
2 person who violates or causes another to violate RCW 69.50.401 by  
3 distributing, dispensing, manufacturing, displaying for sale,  
4 offering for sale, attempting to sell, or selling to a purchaser any  
5 product that contains any amount of any synthetic cannabinoid, as  
6 identified in RCW 69.50.204, must be fined not less than ten thousand  
7 dollars and not more than five hundred thousand dollars. If, however,  
8 the person who violates or causes another to violate RCW 69.50.401 by  
9 distributing, dispensing, manufacturing, displaying for sale,  
10 offering for sale, attempting to sell, or selling any product that  
11 contains any amount of any synthetic cannabinoid, as identified in  
12 RCW 69.50.204, to a purchaser under the age of eighteen, the minimum  
13 penalty is twenty-five thousand dollars if the person is at least two  
14 years older than the minor. Unless the court finds the person to be  
15 indigent, this additional fine may not be suspended or deferred by  
16 the court.

17 **NEW SECTION. Sec. 1205.** A new section is added to chapter 69.50  
18 RCW to read as follows:

19 In addition to any other civil or criminal penalty, every person  
20 who violates or causes another to violate RCW 69.50.401 by  
21 distributing, dispensing, manufacturing, displaying for sale,  
22 offering for sale, attempting to sell, or selling to a purchaser any  
23 product that contains any amount of any cathinone or methcathinone,  
24 as identified in RCW 69.50.204, must be fined not less than ten  
25 thousand dollars and not more than five hundred thousand dollars. If,  
26 however, the person who violates or causes another to violate RCW  
27 69.50.401 by distributing, dispensing, manufacturing, displaying for  
28 sale, offering for sale, attempting to sell, or selling any product  
29 that contains any amount of any cathinone or methcathinone, as  
30 identified in RCW 69.50.204, to a purchaser under the age of  
31 eighteen, the minimum penalty is twenty-five thousand dollars if the  
32 person is at least two years older than the minor. Unless the court  
33 finds the person to be indigent, this additional fine may not be  
34 suspended or deferred by the court.

35 **PART XIII**  
36 **Restricting Certain Methods of Selling Marijuana**

1        NEW SECTION. Sec. 1301. A new section is added to chapter 69.50  
2 RCW to read as follows:

3        (1) A retailer licensed under this chapter is prohibited from  
4 operating a vending machine, as defined in RCW 82.08.080(3) for the  
5 sale of marijuana products at retail or a drive-through purchase  
6 facility where marijuana products are sold at retail and dispensed  
7 through a window or door to a purchaser who is either in or on a  
8 motor vehicle or otherwise located outside of the licensed premises  
9 at the time of sale.

10       (2) The state liquor and cannabis board may not issue, transfer,  
11 or renew a marijuana retail license for any licensee in violation of  
12 the provisions of subsection (1) of this section.

13                           **PART XIV**  
14                           **Marijuana Clubs**

15        NEW SECTION. Sec. 1401. A new section is added to chapter 69.50  
16 RCW to read as follows:

17        (1) It is unlawful for any person to conduct or maintain a  
18 marijuana club by himself or herself or by associating with others,  
19 or in any manner aid, assist, or abet in conducting or maintaining a  
20 marijuana club.

21        (2) It is unlawful for any person to conduct or maintain a public  
22 place where marijuana is held or stored, except as provided for a  
23 licensee under this chapter, or consumption of marijuana is  
24 permitted.

25        (3) Any person who violates this section is guilty of a class C  
26 felony punishable under chapter 9A.20 RCW.

27        (4) The following definitions apply throughout this section  
28 unless the context clearly requires otherwise.

29        (a) "Marijuana club" means a club, association, or other  
30 business, for profit or otherwise, that conducts or maintains a  
31 premises for the primary or incidental purpose of providing a  
32 location where members or other persons may keep or consume marijuana  
33 on the premises.

34        (b) "Public place" means, in addition to the definition provided  
35 in RCW 66.04.010, any place to which admission is charged or for  
36 which any pecuniary gain is realized by the owner or operator of such  
37 place.

PART XV

Marijuana Research Licenses

Sec. 1501. RCW 69.50.--- and 2015 c 71 s 1 are each amended to read as follows:

(1) There shall be a marijuana research license that permits a licensee to produce, process, and possess marijuana for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of marijuana-derived drug products;

(c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and

(d) To conduct genomic or agricultural research.

(2) As part of the application process for a marijuana research license, an applicant must submit to the life sciences discovery fund authority a description of the research that is intended to be conducted. The life sciences discovery fund authority must review the project and determine that it meets the requirements of subsection (1) of this section. If the life sciences discovery fund authority determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The state liquor (~~control~~) and cannabis board may revoke a marijuana research license for violations of this subsection.

(4) A marijuana research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the life sciences discovery fund authority and meet the requirements of subsection (1) of this section.

(5) In establishing a marijuana research license, the state liquor (~~control~~) and cannabis board may adopt rules on the following:

(a) Application requirements;

(b) Marijuana research license renewal requirements, including whether additional research projects may be added or considered;

(c) Conditions for license revocation;

1 (d) Security measures to ensure marijuana is not diverted to  
2 purposes other than research;

3 (e) Amount of plants, useable marijuana, marijuana concentrates,  
4 or marijuana-infused products a licensee may have on its premises;

5 (f) Licensee reporting requirements;

6 (g) Conditions under which marijuana grown by marijuana  
7 processors may be donated to marijuana research licensees; and

8 (h) Additional requirements deemed necessary by the state liquor  
9 (~~control~~) and cannabis board.

10 (6) The production, processing, possession, delivery, donation,  
11 and sale of marijuana in accordance with this section and the rules  
12 adopted to implement and enforce it, by a validly licensed marijuana  
13 researcher, shall not be a criminal or civil offense under Washington  
14 state law. Every marijuana research license (~~shall~~) must be issued  
15 in the name of the applicant, (~~shall~~) must specify the location at  
16 which the marijuana researcher intends to operate, which must be  
17 within the state of Washington, and the holder thereof (~~shall~~) may  
18 not allow any other person to use the license.

19 (7) The application fee for a marijuana research license is two  
20 hundred fifty dollars. The annual fee for issuance and renewal of a  
21 marijuana research license is one thousand dollars. Fifty percent of  
22 the application fee, the issuance fee, and the renewal fee must be  
23 deposited to the life sciences discovery fund under RCW 43.350.070,  
24 or, if that fund ceases to exist, to the general fund.

25 **Sec. 1502.** RCW 28B.20.502 and 2015 c 71 s 2 are each amended to  
26 read as follows:

27 (1) The University of Washington and Washington State University  
28 may conduct scientific research on the efficacy and safety of  
29 administering marijuana as part of medical treatment. As part of this  
30 research, the University of Washington and Washington State  
31 University may develop and conduct studies to ascertain the general  
32 medical safety and efficacy of marijuana, and may develop medical  
33 guidelines for the appropriate administration and use of marijuana.

34 (2) The University of Washington and Washington State University  
35 may, in accordance with RCW 69.50.--- (section 1, chapter 71, Laws of  
36 2015), contract with marijuana research licensees to conduct research  
37 permitted under this section and RCW 69.50.--- (section 1, chapter  
38 71, Laws of 2015).

1       (3) The University of Washington and Washington State University  
2 may contract to conduct marijuana research with an entity licensed to  
3 conduct such research by a federally recognized Indian tribe located  
4 within the geographical boundaries of the state of Washington.

5       **Sec. 1503.** RCW 43.350.030 and 2015 c 71 s 3 are each amended to  
6 read as follows:

7       In addition to other powers and duties prescribed in this  
8 chapter, the authority is empowered to:

9       (1) Use public moneys in the life sciences discovery fund,  
10 leveraging those moneys with amounts received from other public and  
11 private sources in accordance with contribution agreements, to  
12 promote life sciences research;

13       (2) Solicit and receive gifts, grants, and bequests, and enter  
14 into contribution agreements with private entities and public  
15 entities other than the state to receive moneys in consideration of  
16 the authority's promise to leverage those moneys with amounts  
17 received through appropriations from the legislature and  
18 contributions from other public entities and private entities, in  
19 order to use those moneys to promote life sciences research. Nonstate  
20 moneys received by the authority for this purpose shall be deposited  
21 in the life sciences discovery fund created in RCW 43.350.070;

22       (3) Hold funds received by the authority in trust for their use  
23 pursuant to this chapter to promote life sciences research;

24       (4) Manage its funds, obligations, and investments as necessary  
25 and as consistent with its purpose including the segregation of  
26 revenues into separate funds and accounts;

27       (5) Make grants to entities pursuant to contract for the  
28 promotion of life sciences research to be conducted in the state.  
29 Grant agreements (~~shall~~) must specify deliverables to be provided  
30 by the recipient pursuant to the grant. The authority shall solicit  
31 requests for funding and evaluate the requests by reference to  
32 factors such as: (a) The quality of the proposed research; (b) its  
33 potential to improve health outcomes, with particular attention to  
34 the likelihood that it will also lower health care costs, substitute  
35 for a more costly diagnostic or treatment modality, or offer a  
36 breakthrough treatment for a particular disease or condition; (c) its  
37 potential for leveraging additional funding; (d) its potential to  
38 provide health care benefits or benefit human learning and  
39 development; (e) its potential to stimulate the health care delivery,

1 biomedical manufacturing, and life sciences related employment in the  
2 state; (f) the geographic diversity of the grantees within  
3 Washington; (g) evidence of potential royalty income and contractual  
4 means to recapture such income for purposes of this chapter; and (h)  
5 evidence of public and private collaboration;

6 (6) Create one or more advisory boards composed of scientists,  
7 industrialists, and others familiar with life sciences research;

8 (7) Review and approve or disapprove marijuana research license  
9 applications under RCW 69.50.--- (section 1, chapter 71, Laws of  
10 2015);

11 (8) Review any reports made by marijuana research licensees under  
12 state liquor (~~((control))~~) and cannabis board rule and provide the  
13 state liquor (~~((control))~~) and cannabis board with its determination on  
14 whether the research project continues to meet research  
15 qualifications under RCW 69.50.---(1) (section 1, chapter 71, Laws of  
16 2015); and

17 (9) Adopt policies and procedures to facilitate the orderly  
18 process of grant application, review, and reward.

19 **Sec. 1504.** RCW 42.56.--- and 2015 c 71 s 4 are each amended to  
20 read as follows:

21 Reports submitted by marijuana research licensees in accordance  
22 with rules adopted by the state liquor (~~((control))~~) and cannabis board  
23 under RCW 69.50.--- (section 1, chapter 71, Laws of 2015) that  
24 contain proprietary information are exempt from disclosure under this  
25 chapter.

## 26 **PART XVI**

### 27 **Miscellaneous Provisions**

28 **Sec. 1601.** RCW 69.50.342 and 2015 c 70 s 7 are each amended to  
29 read as follows:

30 (1) For the purpose of carrying into effect the provisions of  
31 chapter 3, Laws of 2013 according to their true intent or of  
32 supplying any deficiency therein, the state liquor and cannabis board  
33 may adopt rules not inconsistent with the spirit of chapter 3, Laws  
34 of 2013 as are deemed necessary or advisable. Without limiting the  
35 generality of the preceding sentence, the state liquor and cannabis  
36 board is empowered to adopt rules regarding the following:



1 (a) The equipment and management of retail outlets and premises  
2 where marijuana is produced or processed, and inspection of the  
3 retail outlets and premises where marijuana is produced or processed;

4 (b) The books and records to be created and maintained by  
5 licensees, the reports to be made thereon to the state liquor and  
6 cannabis board, and inspection of the books and records;

7 (c) Methods of producing, processing, and packaging marijuana,  
8 useable marijuana, marijuana concentrates, and marijuana-infused  
9 products; conditions of sanitation; safe handling requirements;  
10 approved pesticides and pesticide testing requirements; and standards  
11 of ingredients, quality, and identity of marijuana, useable  
12 marijuana, marijuana concentrates, and marijuana-infused products  
13 produced, processed, packaged, or sold by licensees;

14 (d) Security requirements for retail outlets and premises where  
15 marijuana is produced or processed, and safety protocols for  
16 licensees and their employees;

17 (e) Screening, hiring, training, and supervising employees of  
18 licensees;

19 (f) Retail outlet locations and hours of operation;

20 (g) Labeling requirements and restrictions on advertisement of  
21 marijuana, useable marijuana, marijuana concentrates, cannabis health  
22 and beauty aids, and marijuana-infused products for sale in retail  
23 outlets;

24 (h) Forms to be used for purposes of this chapter and chapter  
25 69.51A RCW or the rules adopted to implement and enforce these  
26 chapters, the terms and conditions to be contained in licenses issued  
27 under this chapter and chapter 69.51A RCW, and the qualifications for  
28 receiving a license issued under this chapter and chapter 69.51A RCW,  
29 including a criminal history record information check. The state  
30 liquor and cannabis board may submit any criminal history record  
31 information check to the Washington state patrol and to the  
32 identification division of the federal bureau of investigation in  
33 order that these agencies may search their records for prior arrests  
34 and convictions of the individual or individuals who filled out the  
35 forms. The state liquor and cannabis board (~~shall~~) must require  
36 fingerprinting of any applicant whose criminal history record  
37 information check is submitted to the federal bureau of  
38 investigation;

39 (i) Application, reinstatement, and renewal fees for licenses  
40 issued under this chapter and chapter 69.51A RCW, and fees for

1 anything done or permitted to be done under the rules adopted to  
2 implement and enforce this chapter and chapter 69.51A RCW;

3 (j) The manner of giving and serving notices required by this  
4 chapter and chapter 69.51A RCW or rules adopted to implement or  
5 enforce these chapters;

6 (k) Times and periods when, and the manner, methods, and means by  
7 which, licensees (~~shall~~) transport and deliver marijuana, marijuana  
8 concentrates, useable marijuana, and marijuana-infused products  
9 within the state;

10 (1) Identification, seizure, confiscation, destruction, or  
11 donation to law enforcement for training purposes of all marijuana,  
12 marijuana concentrates, useable marijuana, and marijuana-infused  
13 products produced, processed, sold, or offered for sale within this  
14 state which do not conform in all respects to the standards  
15 prescribed by this chapter or chapter 69.51A RCW or the rules adopted  
16 to implement and enforce these chapters.

17 (2) Rules adopted on retail outlets holding medical marijuana  
18 endorsements must be adopted in coordination and consultation with  
19 the department.

20 NEW SECTION. **Sec. 1602.** RCW 69.50.425 (Misdemeanor violations—  
21 Minimum penalties) and 2015 c 265 s 35, 2002 c 175 s 44, & 1989 c 271  
22 s 105 are each repealed.

23 NEW SECTION. **Sec. 1603.** (1) Subject to appropriation, if, in  
24 addition to any distributions required by section 206 of this act,  
25 funding of at least six million dollars per fiscal year for fiscal  
26 years 2016 and 2017 is not provided by June 30, 2015, in the omnibus  
27 appropriations act for distribution to local governments for  
28 marijuana enforcement, this section is null and void. The  
29 appropriation in the omnibus appropriations act must reference this  
30 section by bill and section number. Distributions to local  
31 governments are based on the distribution formula in subsection (2)  
32 of this section.

33 (2)(a) The distribution amount allocated to each county,  
34 including the portion for eligible cities within the county, is  
35 ratably based on the total amount of taxable sales of marijuana  
36 products subject to the marijuana excise tax under RCW 69.50.535 in  
37 the prior fiscal year within the county, including all taxable sales  
38 attributable to the incorporated areas within the county.

1 Distribution amounts allocated to each county, and eligible cities  
2 within the county, must be distributed in four installments by the  
3 last day of each fiscal quarter as follows.

4 (b) Sixty percent must be distributed to each county, except  
5 where there is no eligible city with taxable sales of marijuana  
6 products in the prior fiscal year, in which case the county must  
7 receive one hundred percent of the distribution amount allocated to  
8 the county as determined in (a) of this subsection. A county in which  
9 the producing, processing, or retailing of marijuana products is  
10 prohibited in the unincorporated area of the county is not entitled  
11 to a distribution and the distribution amount must be distributed  
12 instead to the eligible cities within the county as provided in (c)  
13 of this subsection.

14 (c) After making any distribution to counties as provided in (b)  
15 of this subsection, the treasurer must distribute the remaining  
16 amount to eligible cities within the counties. The share to each  
17 eligible city within a county must be determined by a division among  
18 the eligible cities within each county ratably based on total sales,  
19 from the prior fiscal year, of all marijuana products subject to the  
20 marijuana excise tax under RCW 69.50.535 within the boundaries of  
21 each eligible city located within the county. "Eligible city" means  
22 any city or town in which sales of marijuana products are  
23 attributable to a marijuana retailer, as defined in RCW 69.50.101,  
24 located within the boundaries of the city or town.

25 (d) By September 15th of each year, the state liquor and cannabis  
26 board must provide the state treasurer the annual distribution  
27 amount, if any, for each county and city as determined in subsection  
28 (2) of this section.

29 NEW SECTION. **Sec. 1604.** If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 1605.** (1) Except as provided otherwise in  
34 this section, this act is necessary for the immediate preservation of  
35 the public peace, health, or safety, or support of the state  
36 government and its existing public institutions, and takes effect  
37 July 1, 2015.

1 (2) Except for section 503 of this act, part V of this act takes  
2 effect October 1, 2015.

3 (3) Sections 203 and 1001 of this act take effect July 1, 2016.

4 (4) Sections 302, 503, 901, 1204, and 1601 of this act and part  
5 XV of this act are necessary for the immediate preservation of the  
6 public peace, health, or safety, or support of the state government  
7 and its existing public institutions, and take effect July 24, 2015.

Passed by the House June 26, 2015.

Passed by the Senate June 27, 2015.

Approved by the Governor June 30, 2015.

Filed in Office of Secretary of State June 30, 2015.

--- END ---