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HOUSE BILL 1614

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Kloba, Ormsby, Doglio, and Goodman

1 AN ACT Relating to the home cultivation of cannabis; amending RCW  
2 69.50.4013 and 7.80.120; reenacting and amending RCW 69.50.505 and  
3 69.50.101; and prescribing penalties.

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

5 **Sec. 1.** RCW 69.50.4013 and 2022 c 16 s 86 are each amended to  
6 read as follows:

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

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

15 (3) (a) The possession, by a person (~~(twenty-one)~~) 21 years of age  
16 or older, of useable cannabis, cannabis concentrates, or cannabis-  
17 infused products in amounts that do not exceed those set forth in RCW  
18 69.50.360(3) is not a violation of this section, this chapter, or any  
19 other provision of Washington state law.

20 (b) The possession of cannabis, useable cannabis, cannabis  
21 concentrates, and cannabis-infused products being physically

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

7 (4) (a) The delivery by a person (~~((twenty-one))~~) 21 years of age or  
8 older to one or more persons (~~((twenty-one))~~) 21 years of age or older,  
9 during a single (~~((twenty-four))~~) 24 hour period, for noncommercial  
10 purposes and not conditioned upon or done in connection with the  
11 provision or receipt of financial consideration, of any of the  
12 following cannabis products, is not a violation of this section, this  
13 chapter, or any other provisions of Washington state law:

14 (i) One-half ounce of useable cannabis;

15 (ii) Eight ounces of cannabis-infused product in solid form;

16 (iii) (~~((Thirty-six))~~) 36 ounces of cannabis-infused product in  
17 liquid form; or

18 (iv) (~~((Three and one-half))~~) 3.5 grams of cannabis concentrates.

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

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

24 (ii) The cannabis or cannabis product must be in the original  
25 packaging as purchased from the cannabis retailer.

26 (5) No person under (~~((twenty-one))~~) 21 years of age may possess,  
27 manufacture, sell, or distribute cannabis, cannabis-infused products,  
28 or cannabis concentrates, regardless of THC concentration. This does  
29 not include qualifying patients with a valid authorization.

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

35 (7) (a) It is not a violation of this section, this chapter, or  
36 any other provision of Washington state law for a person 21 years of  
37 age or older to produce or possess no more than six plants on the  
38 premises of the housing unit occupied by the person, if the person  
39 complies with the requirements of this subsection.

1 (b) It is not a violation of this section, this chapter, or any  
2 other provision of Washington state law for a person 21 years of age  
3 or older to produce or possess cannabis, including all stalks and  
4 roots, produced from no more than six plants grown by the person on  
5 the premises of the housing unit occupied by the person, subject to  
6 the limitations provided in (c) of this subsection, if the person  
7 complies with the requirements of this subsection.

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

11 (i) A person may not possess cannabis capable of being processed  
12 into useable cannabis, cannabis-infused products, or cannabis  
13 concentrates, unless the person possesses fewer than 16 ounces of  
14 useable cannabis, irrespective of source;

15 (ii) A person may not produce or possess a total of more than 16  
16 ounces of cannabis-infused products in solid form, irrespective of  
17 source;

18 (iii) A person may not produce or possess a total of more than 72  
19 ounces of cannabis-infused products in liquid form, irrespective of  
20 source; and

21 (iv) A person may not produce or possess a total of more than  
22 seven grams of cannabis concentrates, irrespective of source.

23 (d) No more than 15 plants may be grown at any one time on the  
24 premises of a single housing unit, regardless of the number of  
25 residents living on the premises of the housing unit.

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

29 (f) All cannabis capable of being processed into useable  
30 cannabis, cannabis-infused products, or cannabis concentrates must be  
31 clearly marked with the name, date of birth, and residential address  
32 of the person who grew the plants from which the cannabis is derived,  
33 the date on which the plants were planted, and the date on which the  
34 plants were harvested.

35 (g) All containers containing more than one ounce of useable  
36 cannabis must be clearly marked with the name, date of birth,  
37 residential address of the person who grew the plants from which the  
38 useable cannabis is derived, the date on which the plants were  
39 planted, and the date on which the plants were harvested. Any

1 containers containing one ounce or less of useable cannabis are not  
2 required to be labeled.

3 (h) Any extraction or separation of resin from cannabis and any  
4 production or processing of any form of cannabis concentrates or  
5 cannabis-infused products must be performed in accordance with rules  
6 adopted under RCW 69.51A.270.

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

10 (j) Nothing in this subsection prevents or restricts a property  
11 owner from prohibiting the cultivation of plants by a renter or  
12 lessee upon or within the property under the terms of a rental  
13 agreement, lease, or other contract.

14 (k) The production, possession, delivery, and acquisition of  
15 plants or cannabis capable of being processed into useable cannabis,  
16 cannabis-infused products, or cannabis concentrates, and useable  
17 cannabis under this subsection may not form the basis of a seizure or  
18 forfeiture action pursuant to RCW 69.50.505.

19 (l) A person 21 years of age or older who possesses cannabis in  
20 compliance with this subsection is considered an ultimate user who  
21 may not sell cannabis, useable cannabis, cannabis concentrates, or  
22 cannabis-infused products produced from the person's plants, and is  
23 not required to obtain a registration under RCW 69.50.302 or a  
24 license under RCW 69.50.325.

25 (m) No production, processing, or possession of plants or  
26 cannabis from those plants, as authorized in this subsection, may  
27 occur in a housing unit that is used to provide early childhood  
28 education and early learning services by a family day care provider  
29 as defined in RCW 43.216.010 or a foster family home as defined in  
30 RCW 74.15.020.

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

33 (8) (a) The production, processing, or possession of plants or  
34 cannabis from those plants, as authorized in subsection (7) of this  
35 section, may not result in cannabis being readily smelled from a  
36 public place or the private property of another housing unit.

37 (b) It is unlawful for a person to produce or possess plants or  
38 cannabis from those plants, as otherwise authorized under subsection  
39 (7) of this section, if the plants or cannabis are visible within the  
40 ordinary public view. For purposes of this subsection, "ordinary

1 public view" means within the sight line with normal visual range of  
2 a person, unassisted by any elevating devices, visual aids, or manned  
3 or unmanned aircraft, from a public street or sidewalk adjacent to  
4 real property, or from within an adjacent property.

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

7 (9) (a) Except as provided in (c) of this subsection, a person who  
8 stores or leaves cannabis that was produced on the premises of the  
9 person's housing unit in accordance with subsection (7) of this  
10 section in a location where the person knows, or reasonably should  
11 know, that a person under age 21 may have access to the cannabis:

12 (i) Is guilty of community endangerment due to unsafe storage of  
13 homegrown cannabis in the first degree if a person under age 21  
14 obtains access and possession of the cannabis and is convicted of the  
15 crime of driving or being in physical control of a motor vehicle  
16 after consuming cannabis under RCW 46.61.503 involving the  
17 consumption of the cannabis produced under subsection (7) of this  
18 section; or

19 (ii) Is guilty of community endangerment due to unsafe storage of  
20 homegrown cannabis in the second degree if a person under age 21  
21 obtains access and possession of the cannabis and:

22 (A) The person under age 21 is found in possession of the  
23 cannabis off of the premises of the housing unit at which the  
24 cannabis was produced; or

25 (B) The person under age 21 is found to have consumed the  
26 cannabis on or off the premises of the housing unit at which the  
27 cannabis was grown.

28 (b) Community endangerment due to unsafe storage of homegrown  
29 cannabis in the first degree or second degree is a class 1 civil  
30 infraction, punishable under RCW 7.80.120.

31 (c) Subsection (9) (a) of this section does not apply if:

32 (i) The cannabis was in a securely stored area, or secured in a  
33 locked, secured container; or

34 (ii) The cannabis was obtained by a person under age 21 who did  
35 not reside in the housing unit or have permission from the owner or  
36 lawful occupant to enter the housing unit.

37 (d) A prosecuting attorney may decline to prosecute a violation  
38 of this subsection, even though technically sufficient evidence to  
39 prosecute exists, in situations where prosecution would serve no  
40 public purpose or would defeat the purpose of the law in question.

1 (e) Nothing in this section mandates how or where home-produced  
2 cannabis must be stored.

3 (10)(a) The board may provide mutual law enforcement assistance  
4 to a law enforcement agency with primary territorial jurisdiction  
5 investigating or enforcing subsections (7) through (9) of this  
6 section if such a law enforcement agency requests mutual law  
7 enforcement assistance in accordance with chapter 10.93 RCW and under  
8 the authority of law. For purposes of this subsection, "mutual law  
9 enforcement assistance" and "agency with primary territorial  
10 jurisdiction" have the meanings provided in RCW 10.93.020.

11 (b) Except as provided in (a) of this subsection, the board has  
12 no authority or responsibility to investigate or enforce requirements  
13 in subsections (7) through (9) of this section. Nothing in this  
14 subsection limits the board's authority to enforce state laws related  
15 to commercial cannabis production, processing, or sales, when there  
16 is evidence of a violation of another provision of this chapter.

17 **Sec. 2.** RCW 7.80.120 and 2022 c 105 s 1 are each amended to read  
18 as follows:

19 (1) A person found to have committed a civil infraction shall be  
20 assessed a monetary penalty.

21 (a) The maximum penalty and the default amount for a class 1  
22 civil infraction shall be \$250, not including statutory assessments,  
23 except for an infraction of state law involving (i) potentially  
24 dangerous litter as specified in RCW 70A.200.060(4) or violent video  
25 or computer games under RCW 9.91.180, in which case the maximum  
26 penalty and default amount is \$500; or (ii) a person's refusal to  
27 submit to a test or tests pursuant to RCW 79A.60.040 and 79A.60.700,  
28 in which case the maximum penalty and default amount is \$1,000; or  
29 (iii) the misrepresentation of service animals under RCW 49.60.214,  
30 in which case the maximum penalty and default amount is \$500; or (iv)  
31 untraceable firearms pursuant to RCW 9.41.326 or unfinished frames or  
32 receivers pursuant to RCW 9.41.327, in which case the maximum penalty  
33 and default amount is \$500; or (v) community endangerment due to  
34 unsafe storage of homegrown cannabis in the first degree under RCW  
35 69.50.4013, in which case the maximum penalty and default amount is  
36 \$750;

37 (b) The maximum penalty and the default amount for a class 2  
38 civil infraction shall be \$125, not including statutory assessments;

1 (c) The maximum penalty and the default amount for a class 3  
2 civil infraction shall be \$50, not including statutory assessments;  
3 and

4 (d) The maximum penalty and the default amount for a class 4  
5 civil infraction shall be \$25, not including statutory assessments.

6 (2) The supreme court shall prescribe by rule the conditions  
7 under which local courts may exercise discretion in assessing fines  
8 for civil infractions.

9 (3) Whenever a monetary penalty is imposed by a court under this  
10 chapter it is immediately payable. If the person is unable to pay at  
11 that time the court may grant an extension of the period in which the  
12 penalty may be paid. If the penalty is not paid on or before the time  
13 established for payment, the court may proceed to collect the penalty  
14 in the same manner as other civil judgments and may notify the  
15 prosecuting authority of the failure to pay.

16 (4) The court may also order a person found to have committed a  
17 civil infraction to make restitution.

18 **Sec. 3.** RCW 69.50.505 and 2022 c 162 s 1 and 2022 c 16 s 98 are  
19 each reenacted and amended to read as follows:

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

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

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

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

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

37 (i) No conveyance used by any person as a common carrier in the  
38 transaction of business as a common carrier is subject to forfeiture  
39 under this section unless it appears that the owner or other person

1 in charge of the conveyance is a consenting party or privy to a  
2 violation of this chapter or chapter 69.41 or 69.52 RCW;

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

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

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

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

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

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

26 (g) All moneys, negotiable instruments, securities, or other  
27 tangible or intangible property of value furnished or intended to be  
28 furnished by any person in exchange for a controlled substance in  
29 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
30 or intangible personal property, proceeds, or assets acquired in  
31 whole or in part with proceeds traceable to an exchange or series of  
32 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
33 and all moneys, negotiable instruments, and securities used or  
34 intended to be used to facilitate any violation of this chapter or  
35 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable  
36 instruments, securities, or other tangible or intangible property  
37 encumbered by a bona fide security interest is subject to the  
38 interest of the secured party if, at the time the security interest  
39 was created, the secured party neither had knowledge of nor consented  
40 to the act or omission. No personal property may be forfeited under



1 this subsection (1)(g), to the extent of the interest of an owner, by  
2 reason of any act or omission which that owner establishes was  
3 committed or omitted without the owner's knowledge or consent; and

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

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

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

21 (iii) The acquisition, delivery, production, or possession of  
22 cannabis, useable cannabis, cannabis concentrates, or cannabis-  
23 infused products, including in the manner and in the amount provided  
24 in RCW 69.50.4013(7), shall not result in the forfeiture of real  
25 property unless the cannabis is possessed for commercial purposes  
26 that are unlawful under Washington state law, the amount possessed is  
27 ((~~five or more plants or one pound or more~~) 16 or more plants or,  
28 except as authorized in RCW 69.50.4013(7), more than one pound of  
29 cannabis, and a substantial nexus exists between the possession of  
30 cannabis and the real property. In such a case, the intent of the  
31 offender shall be determined by the preponderance of the evidence,  
32 including the offender's prior criminal history, the amount of  
33 cannabis possessed by the offender, the sophistication of the  
34 activity or equipment used by the offender, whether the offender was  
35 licensed to produce, process, or sell cannabis, or was an employee of  
36 a licensed producer, processor, or retailer, and other evidence which  
37 demonstrates the offender's intent to engage in unlawful commercial  
38 activity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (9)(a) By January 31st of each year, each seizing agency shall  
21 remit to the state an amount equal to ten percent of the net proceeds  
22 of any property forfeited during the preceding calendar year for  
23 deposit into the behavioral health loan repayment program account  
24 created in RCW 28B.115.135 through June 30, 2027, and into the state  
25 general fund thereafter.

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

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

1 appraiser is used, the value of the property appraised is net of the  
2 cost of the appraisal. The value of destroyed property and retained  
3 firearms or illegal property is zero.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 **Sec. 4.** RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and  
11 amended to read as follows:

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

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

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

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

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

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

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

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

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



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

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

10 (g) "Cannabis producer" means a person licensed by the board to  
11 produce and sell cannabis at wholesale to cannabis processors and  
12 other cannabis producers.

13 (h) "Cannabis products" means useable cannabis, cannabis  
14 concentrates, and cannabis-infused products as defined in this  
15 section.

16 (i) "Cannabis researcher" means a person licensed by the board to  
17 produce, process, and possess cannabis for the purposes of conducting  
18 research on cannabis and cannabis-derived drug products.

19 (j) "Cannabis retailer" means a person licensed by the board to  
20 sell cannabis concentrates, useable cannabis, and cannabis-infused  
21 products in a retail outlet.

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

28 (l) "CBD concentration" has the meaning provided in RCW  
29 69.51A.010.

30 (m) "CBD product" means any product containing or consisting of  
31 cannabidiol.

32 (n) "Commission" means the pharmacy quality assurance commission.

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

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

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

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

11 (2) The term does not include:

12 (i) a controlled substance;

13 (ii) a substance for which there is an approved new drug  
14 application;

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

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

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

26 (r) "Department" means the department of health.

27 (s) "Designated provider" has the meaning provided in RCW  
28 69.51A.010.

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

34 (u) "Dispenser" means a practitioner who dispenses.

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

37 (w) "Distributor" means a person who distributes.

38 (x) "Drug" means (1) a controlled substance recognized as a drug  
39 in the official United States pharmacopoeia/national formulary or the  
40 official homeopathic pharmacopoeia of the United States, or any

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

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

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

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

20 (bb) "Immediate precursor" means a substance:

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

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

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

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

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

39 (ee) "Lot number" must identify the licensee by business or trade  
40 name and Washington state unified business identifier number, and the

1 date of harvest or processing for each lot of cannabis, cannabis  
2 concentrates, useable cannabis, or cannabis-infused product.

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

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

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

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

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

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

38 (6) Cocaine base.

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

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

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

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

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

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

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

21 (mm) "Practitioner" means:

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

38 (2) A pharmacy, hospital or other institution licensed,  
39 registered, or otherwise permitted to distribute, dispense, conduct

1 research with respect to or to administer a controlled substance in  
2 the course of professional practice or research in this state.

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

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

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

20 (pp) "Qualifying patient" has the meaning provided in RCW  
21 69.51A.010.

22 (qq) "Recognition card" has the meaning provided in RCW  
23 69.51A.010.

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

27 (ss) "Secretary" means the secretary of health or the secretary's  
28 designee.

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

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

39 (vv) "Ultimate user" means an individual who lawfully possesses a  
40 controlled substance for the individual's own use or for the use of a

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

4 (ww) "Useable cannabis" means dried cannabis flowers. The term  
5 "useable cannabis" does not include either cannabis-infused products  
6 or cannabis concentrates.

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

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

14 NEW SECTION. **Sec. 5.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

--- END ---