
HOUSE BILL 1995

State of Washington

66th Legislature

2019 Regular Session

By Representative Dolan

1 AN ACT Relating to direct sales from certain marijuana producers
2 and processors; and amending RCW 69.50.325, 69.50.363, 69.50.366, and
3 69.50.535.

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

5 **Sec. 1.** RCW 69.50.325 and 2018 c 132 s 3 are each amended to
6 read as follows:

7 (1) (a) There shall be a marijuana producer's license regulated by
8 the state liquor and cannabis board and subject to annual renewal.
9 The licensee ~~((is authorized to))~~ may produce: ~~((+a))~~ (i) Marijuana
10 for sale at wholesale to marijuana processors and other marijuana
11 producers; ~~((+b))~~ (ii) immature plants or clones and seeds for sale
12 to cooperatives as described under RCW 69.51A.250; ~~((and +c))~~ (iii)
13 immature plants or clones and seeds for sale to qualifying patients
14 and designated providers as provided under RCW 69.51A.310; and (iv)
15 marijuana for direct to consumer retail sale from their licensed
16 location. A direct to consumer retail sale license endorsement to the
17 marijuana producer's license must be obtained before engaging in
18 direct to consumer sales. Any sales conducted under the license
19 endorsement are considered a retail sale under RCW 69.50.535.

20 (b) The production, possession, delivery, distribution, and sale
21 of marijuana in accordance with the provisions of this chapter and

1 the rules adopted to implement and enforce it, by a validly licensed
2 marijuana producer, shall not be a criminal or civil offense under
3 Washington state law.

4 (c) Every marijuana producer's license shall be issued in the
5 name of the applicant, shall specify the location at which the
6 marijuana producer intends to operate, which must be within the state
7 of Washington, and the holder thereof shall not allow any other
8 person to use the license.

9 (d) The application fee for a marijuana producer's license shall
10 be two hundred fifty dollars. The annual fee for issuance and renewal
11 of a marijuana producer's license shall be one thousand three hundred
12 eighty-one dollars. The annual fee for a direct to consumer retail
13 sale license endorsement is seventy-five dollars.

14 (e) A separate license shall be required for each location at
15 which a marijuana producer intends to produce marijuana.

16 (2)(a) There shall be a marijuana processor's license (~~(to)~~)
17 regulated by the state liquor and cannabis board and subject to
18 annual renewal. The licensee may: (i) Process, package, and label
19 marijuana concentrates, useable marijuana, and marijuana-infused
20 products for sale at wholesale to marijuana processors and marijuana
21 retailers(~~(, regulated by the state liquor and cannabis board and~~
22 subject to annual renewal)); and (ii) conduct direct to consumer
23 retail sales from their licensed location. A direct to consumer
24 retail sale license endorsement must be obtained before engaging in
25 direct to consumer sales. Any sale conducted under the license
26 endorsement is considered a retail sale under RCW 69.50.535.

27 (b) The processing, packaging, possession, delivery,
28 distribution, and sale of marijuana, useable marijuana, marijuana-
29 infused products, and marijuana concentrates in accordance with the
30 provisions of this chapter and chapter 69.51A RCW and the rules
31 adopted to implement and enforce these chapters, by a validly
32 licensed marijuana processor, shall not be a criminal or civil
33 offense under Washington state law.

34 (c) Every marijuana processor's license shall be issued in the
35 name of the applicant, shall specify the location at which the
36 licensee intends to operate, which must be within the state of
37 Washington, and the holder thereof shall not allow any other person
38 to use the license.

39 (d) The application fee for a marijuana processor's license shall
40 be two hundred fifty dollars. The annual fee for issuance and renewal

1 of a marijuana processor's license shall be one thousand three
2 hundred eighty-one dollars. The annual fee for a direct to consumer
3 retail sale license endorsement is seventy-five dollars.

4 (e) A separate license shall be required for each location at
5 which a marijuana processor intends to process marijuana.

6 (3)(a) There shall be a marijuana retailer's license to sell
7 marijuana concentrates, useable marijuana, and marijuana-infused
8 products at retail in retail outlets, regulated by the state liquor
9 and cannabis board and subject to annual renewal. The possession,
10 delivery, distribution, and sale of marijuana concentrates, useable
11 marijuana, and marijuana-infused products in accordance with the
12 provisions of this chapter and the rules adopted to implement and
13 enforce it, by a validly licensed marijuana retailer, shall not be a
14 criminal or civil offense under Washington state law. Every marijuana
15 retailer's license shall be issued in the name of the applicant,
16 shall specify the location of the retail outlet the licensee intends
17 to operate, which must be within the state of Washington, and the
18 holder thereof shall not allow any other person to use the license.
19 The application fee for a marijuana retailer's license shall be two
20 hundred fifty dollars. The annual fee for issuance and renewal of a
21 marijuana retailer's license shall be one thousand three hundred
22 eighty-one dollars. A separate license shall be required for each
23 location at which a marijuana retailer intends to sell marijuana
24 concentrates, useable marijuana, and marijuana-infused products.

25 (b) An individual retail licensee and all other persons or
26 entities with a financial or other ownership interest in the business
27 operating under the license are limited, in the aggregate, to holding
28 a collective total of not more than five retail marijuana licenses.

29 (c)(i) A marijuana retailer's license is subject to forfeiture in
30 accordance with rules adopted by the state liquor and cannabis board
31 pursuant to this section.

32 (ii) The state liquor and cannabis board shall adopt rules to
33 establish a license forfeiture process for a licensed marijuana
34 retailer that is not fully operational and open to the public within
35 a specified period from the date of license issuance, as established
36 by the state liquor and cannabis board, subject to the following
37 restrictions:

38 (A) No marijuana retailer's license may be subject to forfeiture
39 within the first nine months of license issuance; and

1 (B) The state liquor and cannabis board must require license
2 forfeiture on or before twenty-four calendar months of license
3 issuance if a marijuana retailer is not fully operational and open to
4 the public, unless the board determines that circumstances out of the
5 licensee's control are preventing the licensee from becoming fully
6 operational and that, in the board's discretion, the circumstances
7 warrant extending the forfeiture period beyond twenty-four calendar
8 months.

9 (iii) The state liquor and cannabis board has discretion in
10 adopting rules under this subsection (3)(c).

11 (iv) This subsection (3)(c) applies to marijuana retailer's
12 licenses issued before and after July 23, 2017. However, no license
13 of a marijuana retailer that otherwise meets the conditions for
14 license forfeiture established pursuant to this subsection (3)(c) may
15 be subject to forfeiture within the first nine calendar months of
16 July 23, 2017.

17 (v) The state liquor and cannabis board may not require license
18 forfeiture if the licensee has been incapable of opening a fully
19 operational retail marijuana business due to actions by the city,
20 town, or county with jurisdiction over the licensee that include any
21 of the following:

22 (A) The adoption of a ban or moratorium that prohibits the
23 opening of a retail marijuana business; or

24 (B) The adoption of an ordinance or regulation related to zoning,
25 business licensing, land use, or other regulatory measure that has
26 the effect of preventing a licensee from receiving an occupancy
27 permit from the jurisdiction or which otherwise prevents a licensed
28 marijuana retailer from becoming operational.

29 (4) The liquor and cannabis board shall issue direct to consumer
30 retail sale license endorsements authorizing marijuana producers and
31 marijuana processors to sell marijuana products directly to consumers
32 if:

33 (a) Sales are limited to the marijuana producer's marijuana crop
34 and marijuana products created from their crop, or marijuana products
35 produced by the marijuana processor;

36 (b) Direct sales of useable marijuana must be at least three and
37 one-half grams; and

38 (c) Sales are in compliance with the limits of RCW 69.50.360.

39 (5) A marijuana producer or marijuana processor applying for a
40 direct to consumer retail sale license endorsement may have only one

1 marijuana producer license and/or one marijuana processor license
2 associated with the applicant's uniform business identifier and
3 issued in the name of the applicant. Applicants with multiple
4 marijuana producer or processor licenses may not be issued a license
5 endorsement.

6 (6) A direct to consumer retail sale license endorsement is not a
7 marijuana retail license as defined by RCW 69.50.325(3) and does not
8 count toward the jurisdictional caps on the number of licensed retail
9 locations set by the liquor and cannabis board under RCW
10 69.50.345(2).

11 (7) The liquor and cannabis board must adopt rules on necessary
12 on-site security and operational requirements for direct to consumer
13 sales. However, the security and operational requirements may not be
14 more stringent than those imposed on a marijuana retailer.

15 **Sec. 2.** RCW 69.50.363 and 2015 c 207 s 7 are each amended to
16 read as follows:

17 The following acts, when performed by a validly licensed
18 marijuana processor or employee of a validly licensed marijuana
19 processor in compliance with rules adopted by the state liquor
20 (~~control~~) and cannabis board to implement and enforce chapter 3,
21 Laws of 2013, do not constitute criminal or civil offenses under
22 Washington state law:

23 (1) Purchase and receipt of marijuana that has been properly
24 packaged and labeled from a marijuana producer validly licensed under
25 chapter 3, Laws of 2013;

26 (2) Possession, processing, packaging, and labeling of quantities
27 of marijuana, useable marijuana, and marijuana-infused products that
28 do not exceed the maximum amounts established by the state liquor
29 (~~control~~) and cannabis board under RCW 69.50.345(4);

30 (3) Delivery, distribution, and sale of useable marijuana or
31 marijuana-infused products to a marijuana retailer validly licensed
32 under chapter 3, Laws of 2013; (~~and~~)

33 (4) Delivery, distribution, and sale of useable marijuana,
34 marijuana concentrates, or marijuana-infused products to a federally
35 recognized Indian tribe as permitted under an agreement between the
36 state and the tribe entered into under RCW 43.06.490; and

37 (5) If the marijuana processor holds a direct to consumer retail
38 sale license endorsement, direct to consumer sales of useable
39 marijuana, marijuana-infused products, or marijuana concentrates.

1 **Sec. 3.** RCW 69.50.366 and 2017 c 317 s 6 are each amended to
2 read as follows:

3 The following acts, when performed by a validly licensed
4 marijuana producer or employee of a validly licensed marijuana
5 producer in compliance with rules adopted by the state liquor and
6 cannabis board to implement and enforce this chapter, do not
7 constitute criminal or civil offenses under Washington state law:

8 (1) Production or possession of quantities of marijuana that do
9 not exceed the maximum amounts established by the state liquor and
10 cannabis board under RCW 69.50.345(3);

11 (2) Delivery, distribution, and sale of marijuana to a marijuana
12 processor or another marijuana producer validly licensed under this
13 chapter;

14 (3) Delivery, distribution, and sale of immature plants or clones
15 and marijuana seeds to a licensed marijuana researcher, and to
16 receive or purchase immature plants or clones and seeds from a
17 licensed marijuana researcher; ~~((and))~~

18 (4) Delivery, distribution, and sale of marijuana or useable
19 marijuana to a federally recognized Indian tribe as permitted under
20 an agreement between the state and the tribe entered into under RCW
21 43.06.490; and

22 (5) If the marijuana producer holds a direct to consumer retail
23 sale license endorsement, direct to consumer sales of useable
24 marijuana, marijuana-infused products, or marijuana concentrates.

25 **Sec. 4.** RCW 69.50.535 and 2015 2nd sp.s. c 4 s 205 are each
26 amended to read as follows:

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

36 (b) The tax levied in this section must be reflected in the price
37 list or quoted shelf price in the licensed marijuana retail store or
38 on the premises of a marijuana producer or marijuana processor
39 holding a direct to consumer retail sale license endorsement, and in

1 any advertising that includes prices for all useable marijuana,
2 marijuana concentrates, or marijuana-infused products.

3 (2) All revenues collected from the marijuana excise tax imposed
4 under this section must be deposited each day in the dedicated
5 marijuana account.

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

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

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

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

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

24 (d) "Product" means marijuana, marijuana concentrates, useable
25 marijuana, and marijuana-infused products.

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

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

38 (b) The state liquor and cannabis board must report, in
39 compliance with RCW 43.01.036, to the appropriate committees of the

1 legislature every two years. The report at a minimum must include the
2 following:

3 (i) The specific recommendations required under (a) of this
4 subsection;

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

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

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

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

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

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

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

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

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