
ENGROSSED SUBSTITUTE SENATE BILL 5298

State of Washington

66th Legislature

2019 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Rivers, Palumbo, and Wellman)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to labeling of marijuana products; amending RCW
2 69.50.345, 69.50.346, 82.08.9998, and 82.12.9998; creating a new
3 section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to allow
6 additional information on the labels and labeling of marijuana
7 products to assist consumers in making purchases of these products.

8 The legislature declares that labels and labeling should not make
9 any disease claim indicating the product is intended for use in the
10 diagnosis, treatment, cure, or prevention of any disease.

11 The legislature recognizes that it may be useful for a label or
12 labeling to describe the intended role of a marijuana product that
13 contains nutrients or other dietary ingredients, including herbs and
14 other botanicals, to maintain a structure or function of the body, or
15 characterize the documented mechanism by which the product acts to
16 maintain such structure or function, provided that the claim is
17 substantiated as truthful and not misleading.

18 **Sec. 2.** RCW 69.50.345 and 2018 c 43 s 2 are each amended to read
19 as follows:

1 The state liquor and cannabis board, subject to the provisions of
2 this chapter, must adopt rules that establish the procedures and
3 criteria necessary to implement the following:

4 (1) Licensing of marijuana producers, marijuana processors, and
5 marijuana retailers, including prescribing forms and establishing
6 application, reinstatement, and renewal fees.

7 (a) Application forms for marijuana producers must request the
8 applicant to state whether the applicant intends to produce marijuana
9 for sale by marijuana retailers holding medical marijuana
10 endorsements and the amount of or percentage of canopy the applicant
11 intends to commit to growing plants determined by the department
12 under RCW 69.50.375 to be of a THC concentration, CBD concentration,
13 or THC to CBD ratio appropriate for marijuana concentrates, useable
14 marijuana, or marijuana-infused products sold to qualifying patients.

15 (b) The state liquor and cannabis board must reconsider and
16 increase limits on the amount of square feet permitted to be in
17 production on July 24, 2015, and increase the percentage of
18 production space for those marijuana producers who intend to grow
19 plants for marijuana retailers holding medical marijuana endorsements
20 if the marijuana producer designates the increased production space
21 to plants determined by the department under RCW 69.50.375 to be of a
22 THC concentration, CBD concentration, or THC to CBD ratio appropriate
23 for marijuana concentrates, useable marijuana, or marijuana-infused
24 products to be sold to qualifying patients. If current marijuana
25 producers do not use all the increased production space, the state
26 liquor and cannabis board may reopen the license period for new
27 marijuana producer license applicants but only to those marijuana
28 producers who agree to grow plants for marijuana retailers holding
29 medical marijuana endorsements. Priority in licensing must be given
30 to marijuana producer license applicants who have an application
31 pending on July 24, 2015, but who are not yet licensed and then to
32 new marijuana producer license applicants. After January 1, 2017, any
33 reconsideration of the limits on the amount of square feet permitted
34 to be in production to meet the medical needs of qualifying patients
35 must consider information contained in the medical marijuana
36 authorization database established in RCW 69.51A.230;

37 (2) Determining, in consultation with the office of financial
38 management, the maximum number of retail outlets that may be licensed
39 in each county, taking into consideration:

40 (a) Population distribution;

1 (b) Security and safety issues;

2 (c) The provision of adequate access to licensed sources of
3 marijuana concentrates, useable marijuana, and marijuana-infused
4 products to discourage purchases from the illegal market; and

5 (d) The number of retail outlets holding medical marijuana
6 endorsements necessary to meet the medical needs of qualifying
7 patients. The state liquor and cannabis board must reconsider and
8 increase the maximum number of retail outlets it established before
9 July 24, 2015, and allow for a new license application period and a
10 greater number of retail outlets to be permitted in order to
11 accommodate the medical needs of qualifying patients and designated
12 providers. After January 1, 2017, any reconsideration of the maximum
13 number of retail outlets needed to meet the medical needs of
14 qualifying patients must consider information contained in the
15 medical marijuana authorization database established in RCW
16 69.51A.230;

17 (3) Determining the maximum quantity of marijuana a marijuana
18 producer may have on the premises of a licensed location at any time
19 without violating Washington state law;

20 (4) Determining the maximum quantities of marijuana, marijuana
21 concentrates, useable marijuana, and marijuana-infused products a
22 marijuana processor may have on the premises of a licensed location
23 at any time without violating Washington state law;

24 (5) Determining the maximum quantities of marijuana concentrates,
25 useable marijuana, and marijuana-infused products a marijuana
26 retailer may have on the premises of a retail outlet at any time
27 without violating Washington state law;

28 (6) In making the determinations required by this section, the
29 state liquor and cannabis board shall take into consideration:

30 (a) Security and safety issues;

31 (b) The provision of adequate access to licensed sources of
32 marijuana, marijuana concentrates, useable marijuana, and marijuana-
33 infused products to discourage purchases from the illegal market; and

34 (c) Economies of scale, and their impact on licensees' ability to
35 both comply with regulatory requirements and undercut illegal market
36 prices;

37 (7) Determining the nature, form, and capacity of all containers
38 to be used by licensees to contain marijuana, marijuana concentrates,
39 useable marijuana, and marijuana-infused products, and their labeling
40 requirements (~~(, to include but not be limited to:~~

1 ~~(a) The business or trade name and Washington state unified~~
2 ~~business identifier number of the licensees that produced and~~
3 ~~processed the marijuana, marijuana concentrates, useable marijuana,~~
4 ~~or marijuana-infused product;~~

5 ~~(b) Lot numbers of the marijuana, marijuana concentrates, useable~~
6 ~~marijuana, or marijuana-infused product;~~

7 ~~(c) THC concentration and CBD concentration of the marijuana,~~
8 ~~marijuana concentrates, useable marijuana, or marijuana-infused~~
9 ~~product;~~

10 ~~(d) Medically and scientifically accurate information about the~~
11 ~~health and safety risks posed by marijuana use; and~~

12 ~~(e) Language required by RCW 69.04.480));~~

13 (8) In consultation with the department of agriculture and the
14 department, establishing classes of marijuana, marijuana
15 concentrates, useable marijuana, and marijuana-infused products
16 according to grade, condition, cannabinoid profile, THC
17 concentration, CBD concentration, or other qualitative measurements
18 deemed appropriate by the state liquor and cannabis board;

19 (9) Establishing reasonable time, place, and manner restrictions
20 and requirements regarding advertising of marijuana, marijuana
21 concentrates, useable marijuana, and marijuana-infused products that
22 are not inconsistent with the provisions of this chapter, taking into
23 consideration:

24 (a) Federal laws relating to marijuana that are applicable within
25 Washington state;

26 (b) Minimizing exposure of people under twenty-one years of age
27 to the advertising;

28 (c) The inclusion of medically and scientifically accurate
29 information about the health and safety risks posed by marijuana use
30 in the advertising; and

31 (d) Ensuring that retail outlets with medical marijuana
32 endorsements may advertise themselves as medical retail outlets;

33 (10) Specifying and regulating the time and periods when, and the
34 manner, methods, and means by which, licensees shall transport and
35 deliver marijuana, marijuana concentrates, useable marijuana, and
36 marijuana-infused products within the state;

37 (11) In consultation with the department and the department of
38 agriculture, establishing accreditation requirements for testing
39 laboratories used by licensees to demonstrate compliance with
40 standards adopted by the state liquor and cannabis board, and

1 prescribing methods of producing, processing, and packaging
2 marijuana, marijuana concentrates, useable marijuana, and marijuana-
3 infused products; conditions of sanitation; and standards of
4 ingredients, quality, and identity of marijuana, marijuana
5 concentrates, useable marijuana, and marijuana-infused products
6 produced, processed, packaged, or sold by licensees;

7 (12) Specifying procedures for identifying, seizing,
8 confiscating, destroying, and donating to law enforcement for
9 training purposes all marijuana, marijuana concentrates, useable
10 marijuana, and marijuana-infused products produced, processed,
11 packaged, labeled, or offered for sale in this state that do not
12 conform in all respects to the standards prescribed by this chapter
13 or the rules of the state liquor and cannabis board.

14 **Sec. 3.** RCW 69.50.346 and 2018 c 43 s 1 are each amended to read
15 as follows:

16 (1) The label on a marijuana product container, including
17 marijuana concentrates, useable marijuana, or marijuana-infused
18 products, sold at retail((÷

19 ~~(1-))~~ must include:

20 (a) The business or trade name and Washington state unified
21 business identifier number of the marijuana producer and processor
22 ((that produced and processed the marijuana as required pursuant to
23 RCW 69.50.345(7); and

24 ~~(2) Is))~~ ;

25 (b) The lot numbers of the product;

26 (c) The THC concentration and CBD concentration of the product;

27 (d) Medically and scientifically accurate and reliable
28 information about the health and safety risks posed by marijuana use;
29 and

30 (e) Language required by RCW 69.04.480.

31 (2)(a) For marijuana products that have been identified by the
32 department in rules adopted under RCW 69.50.375(4) in chapter 246-70
33 WAC as being a compliant marijuana product, the product label and
34 labeling may include a structure or function claim describing the
35 intended role of a product to maintain the structure or any function
36 of the body, or characterize the documented mechanism by which the
37 product acts to maintain such structure or function, provided that
38 the claim is substantiated as truthful and not misleading.

1 (b) In the context of describing the product's intended role in
2 maintaining the structure or any function of the body, including the
3 documented mechanism by which a product acts to maintain bodily
4 structure or function, the label and labeling may include such terms
5 as, but not limited to, "wellness," "well-being," "health,"
6 "maintain," "support," "assist," "promote," and "relief," and
7 derivatives of any such terms.

8 (c) A statement made under (a) and (b) of this subsection may not
9 claim to diagnose, mitigate, treat, cure, or prevent any disease.

10 (3) The labels and labeling may not be:

11 (a) False or misleading; or

12 (b) Especially appealing to children.

13 (4) The label is not required to include the business or trade
14 name or Washington state unified business identifier number of, or
15 any information about, the marijuana retailer selling the marijuana
16 product.

17 (5) A marijuana product is not in violation of any Washington
18 state law or rule of the Washington state liquor and cannabis board
19 solely because its label or labeling contains:

20 (a) Directions or recommended conditions of use;

21 (b) A claim describing the psychoactive effects of the marijuana
22 product, provided that the claim is substantiated as truthful and not
23 misleading; or

24 (c) An otherwise legal claim related to the nonmarijuana
25 ingredients.

26 (6) This section does not create any civil liability on the part
27 of the state, the liquor and cannabis board, any other state agency,
28 officer, employee, or agent based on a marijuana licensee's
29 description of a structure or function claim or the product's
30 intended role under subsection (2) of this section.

31 **Sec. 4.** RCW 82.08.9998 and 2015 2nd sp.s. c 4 s 207 are each
32 amended to read as follows:

33 (1) ~~((Beginning July 1, 2016,))~~ The tax levied by RCW 82.08.020
34 does not apply to:

35 (a) Sales of marijuana concentrates, useable marijuana, or
36 marijuana-infused products, identified by the department of health in
37 rules adopted under RCW ((69.50.375 to be beneficial for medical
38 use)) 69.50.375(4) in chapter 246-70 WAC as being a compliant
39 marijuana product, by marijuana retailers with medical marijuana

1 endorsements to qualifying patients or designated providers who have
2 been issued recognition cards;

3 (b) Sales of products containing THC with a THC concentration of
4 0.3 percent or less to qualifying patients or designated providers
5 who have been issued recognition cards by marijuana retailers with
6 medical marijuana endorsements;

7 (c) Sales of marijuana concentrates, useable marijuana, or
8 marijuana-infused products, identified by the department of health
9 under RCW 69.50.375 to have a low THC, high CBD ratio, and to be
10 beneficial for medical use, by marijuana retailers with medical
11 marijuana endorsements, to any person;

12 (d) Sales of topical, noningestible products containing THC with
13 a THC concentration of 0.3 percent or less by health care
14 professionals under RCW 69.51A.280;

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

19 (ii) Any nonmonetary resources and labor contributed by an
20 individual member of the cooperative in which the individual is a
21 member. However, nothing in this subsection (1)(e) may be construed
22 to exempt the individual members of a cooperative from the tax
23 imposed in RCW 82.08.020 on any purchase of property or services
24 contributed to the cooperative.

25 ~~(2) ((From July 1, 2015, until July 1, 2016, the tax levied by~~
26 ~~RCW 82.08.020 does not apply to sales of marijuana, marijuana~~
27 ~~concentrates, useable marijuana, marijuana-infused products, or~~
28 ~~products containing THC with a THC concentration of 0.3 percent or~~
29 ~~less, by collective gardens under RCW 69.51A.085 to qualifying~~
30 ~~patients or designated providers, if such sales are in compliance~~
31 ~~with chapter 69.51A RCW.~~

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

36 ~~((4))~~ (3) The department must provide a separate tax reporting
37 line for exemption amounts claimed under this section.

38 ~~((5))~~ (4) The definitions in this subsection apply throughout
39 this section unless the context clearly requires otherwise.

1 (a) "Cooperative" means a cooperative authorized by and operating
2 in compliance with RCW 69.51A.250.

3 (b) "Marijuana retailer with a medical marijuana endorsement"
4 means a marijuana retailer permitted under RCW 69.50.375 to sell
5 marijuana for medical use to qualifying patients and designated
6 providers.

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

11 (d) "THC concentration," "marijuana," "marijuana concentrates,"
12 "useable marijuana," "marijuana retailer," and "marijuana-infused
13 products" have the same meanings as provided in RCW 69.50.101 and the
14 terms "qualifying patients," "designated providers," and "recognition
15 card" have the same meaning as provided in RCW 69.51A.010.

16 **Sec. 5.** RCW 82.12.9998 and 2015 2nd sp.s. c 4 s 208 are each
17 amended to read as follows:

18 (1) (~~From July 1, 2015, until July 1, 2016, the provisions of~~
19 ~~this chapter do not apply to the use of marijuana, marijuana~~
20 ~~concentrates, useable marijuana, marijuana-infused products, or~~
21 ~~products containing THC with a THC concentration of 0.3 percent or~~
22 ~~less, by a collective garden under RCW 69.51A.085, and the qualifying~~
23 ~~patients or designated providers participating in the collective~~
24 ~~garden, if such use is in compliance with chapter 69.51A RCW.~~

25 ~~(2) Beginning July 1, 2016,~~) The provisions of this chapter do
26 not apply to:

27 (a) The use of marijuana concentrates, useable marijuana, or
28 marijuana-infused products, identified by the department of health in
29 rules adopted under RCW (~~69.50.375 to be beneficial for medical~~
30 ~~use~~) 69.50.375(4) in chapter 246-70 WAC as being a compliant
31 marijuana product, by qualifying patients or designated providers who
32 have been issued recognition cards and have obtained such products
33 from a marijuana retailer with a medical marijuana endorsement.

34 (b) The use of products containing THC with a THC concentration
35 of 0.3 percent or less by qualifying patients or designated providers
36 who have been issued recognition cards and have obtained such
37 products from a marijuana retailer with a medical marijuana
38 endorsement.

1 (c)(i) Marijuana retailers with a medical marijuana endorsement
2 with respect to:

3 (A) Marijuana concentrates, useable marijuana, or marijuana-
4 infused products; or

5 (B) Products containing THC with a THC concentration of 0.3
6 percent or less;

7 (ii) The exemption in this subsection (~~((2))~~) (1)(c) applies only
8 if such products are provided at no charge to a qualifying patient or
9 designated provider who has been issued a recognition card. Each such
10 retailer providing such products at no charge must maintain
11 information establishing eligibility for this exemption in the form
12 and manner required by the department.

13 (d) The use of marijuana concentrates, useable marijuana, or
14 marijuana-infused products, identified by the department of health
15 under RCW 69.50.375 to have a low THC, high CBD ratio, and to be
16 beneficial for medical use, purchased from marijuana retailers with a
17 medical marijuana endorsement.

18 (e) Health care professionals with respect to the use of products
19 containing THC with a THC concentration of 0.3 percent or less
20 provided at no charge by the health care professionals under RCW
21 69.51A.280. Each health care professional providing such products at
22 no charge must maintain information establishing eligibility for this
23 exemption in the form and manner required by the department.

24 (f) The use of topical, noningestible products containing THC
25 with a THC concentration of 0.3 percent or less by qualifying
26 patients when purchased from or provided at no charge by a health
27 care professional under RCW 69.51A.280.

28 (g) The use of:

29 (i) Marijuana, marijuana concentrates, useable marijuana,
30 marijuana-infused products, or products containing THC with a THC
31 concentration of 0.3 percent or less, by a cooperative and its
32 members, when produced by the cooperative; and

33 (ii) Any nonmonetary resources and labor by a cooperative when
34 contributed by its members. However, nothing in this subsection
35 (~~((2))~~) (1)(g) may be construed to exempt the individual members of a
36 cooperative from the tax imposed in RCW 82.12.020 on the use of any
37 property or services purchased by the member and contributed to the
38 cooperative.

39 (~~((3))~~) (2) The definitions in RCW 82.08.9998 apply to this
40 section.

1 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020.

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