



## Washington State Liquor and Cannabis Board

**Bill Description:** Concerning the regulation of products containing THC

**Bill Number:** E2SSB 5367

**Sponsor:** Sen. June Robinson

**Effective Date:** 7/23/23

**Amends:** RCW 15.140.020; 69.50.326, 69.50.346; 69.50.101; and adds a new section to 69.50 RCW, and creates a new section.

### Background

State law defined cannabis as all parts of the cannabis plant with a THC concentration greater than 0.3%, and the specific form of THC used in determining the THC content is Delta-9 THC. There are several isomers (molecules with the same basic structure, but with differing arrangement of atoms within the molecule) of THC, including Delta-9, Delta-8, Delta-10 THC, and Cannabidiol (CBD), among many others. These isomers can be converted into others. That is, CBD can be converted into Delta-8 THC. Delta-8 can be converted into Delta-9, etc.

The federal 2018 Farm Bill legalized hemp, defined as “cannabis plants containing less than 0.3% THC,” allowing many hemp products to be sold and marketed across the nation. Shortly thereafter, many companies began marketing Delta-8 THC products – produced by converting hemp-derived CBD into Delta-8 THC – completely outside of the legal cannabis market. They are seen in convenience stores, and available on-line. Many of these manufacturers and retailers argued that these products are hemp products, and not THC products, because they are derived from hemp as defined by the federal government.

Similarly, many hemp-derived CBD products contained higher levels of THC, albeit combined with many other cannabinoids. So-called “full spectrum” products contain all the cannabinoids produced by the cannabis plant, while “broad spectrum” products have the THC removed chemically.

The 2022 Supplemental Operating budget created a Hemp in Food Task Force, with the State Department of Agriculture staffing the work. It was tasked with working through science and policy issues around hemp products in food, and with submitting a final report to the Legislature in December of 2022. The Task Force recommended, among other things, that hemp be restricted to pre-packaged foods, and that foods must not exceed 0.3% THC in hemp ingredients, and to set a cap on the total milligrams of THC and THC-like cannabinoids in final products. They also recommended that the Legislature create a pilot program.

## **Summary**

A hemp consumable is defined as a product meant to be ingested that contains no detectable THC. The definition of cannabis is amended to include all forms of THC when measuring THC content and concentration instead of limiting it to Delta-9 THC specifically. The sale, manufacture, or distribute synthetically derived or completely synthetic cannabinoids are outlawed, except for products approved by the FDA, or health and beauty aids.

Cannabis is defined as all parts of the cannabis plant with a THC concentration above 0.3%, but the bill states that it must be above that level during the growing cycle through harvest and in final, usable, form.

Prior law allowed CBD from outside of the regulated market to be used as an additive to cannabis products. The bill maintains that allowance for CBD, provided that it is not a cannabis product, and is not synthetically derived.

###