

AN ACT Relating to establishing a Washington state cannabis commission; amending RCW 42.56.380, 43.23.033, 41.06.070, and 82.04.270; and adding a new chapter to Title 15 RCW.

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

NEW SECTION. **Sec. 1.** The history, economy, culture, and the future of Washington state, to a large degree, involve the cultivation of crops. In order to develop Washington's cultivated products as part of the existing comprehensive scheme to regulate commodities, the legislature declares:

(1) The Washington State Cannabis Commission exists primarily for the benefit of the people of the state of Washington and its economy;

(2) The production of cannabis in the state is a new and important segment of Washington industries, which has potential for greater contribution to the economy of the state if it undergoes safe and healthy development;

(3) The general welfare of the people of the state will be served by the development of the safe growing and processing activities of cannabis. The industry is therefore affected with the public interest;

(4) Creation of a Washington state cannabis commission for the public purpose of administering the revenue of the commission for the enhancement of the safe production of cannabis will materially advance the industries of growing and processing cannabis and thereby the interests of the citizens of the state; and

(5) The commerce of cannabis grown, produced, and processed in the state will contribute substantial benefits to the economy of the state, provide a large number of jobs, sizeable tax

revenues, and have an important stabilizing effect on prices received by cannabis producers. The sale and distribution are therefore affected with the public interest.

NEW SECTION. **Sec. 2.** The economy, culture, and future of Washington state's agriculture involves the cannabis industry. In order to develop cannabis and cannabis products as part of an existing comprehensive scheme to regulate those products the legislature declares:

(1) That cannabis producers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the cannabis growers' and cannabis producers' ability to compete against the unregulated market;

(2) That it is in the overriding public interest that support of the legal cannabis industry be clearly expressed; that adequate protection be given to cannabis commodities, uses, activities, and operations; and that cannabis and cannabis product education be fostered individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's overall agriculture industry;

(b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of cannabis and cannabis products;

(c) Support and engage in programs or activities that benefit the safe production, handling, processing, and uses of cannabis and cannabis products;

(3) This chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state; and

(4) That the production of cannabis is a highly regulated industry and that the provisions of this chapter and the rules adopted under it are only one aspect of the regulated industry.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this act unless the context clearly requires otherwise.

(1) "Cannabis" is synonymous with the term "marijuana" as defined by RCW 69.50.101.

(2) "Commission" and "Washington state cannabis commission" are synonymous and mean the commission established by this chapter.

(3) "Commodity" has the meaning provided in RCW 15.65.020(4).

(4) "Cooperative" means a cooperative as defined under WAC 314-55-410.

(5) "Department" means the department of agriculture.

(6) "Director" means the director of the department of agriculture or the director's designee.

(7) "District" means each of the geographical divisions of the state of Washington established under commission rule.

(8) "Fiscal year" means the twelve-month period beginning July 1st of any year and ending June 30th.

(9) "Interested parties" means governmental departments, agencies, and bodies at the federal, state, or local levels, as well as universities, national and international associations, and other public and private sector organizations with an interest in cannabis related matters.

(10) "Intermediate products" has the same meaning as defined in WAC 246.70.030

(11) "Processor" means any person or legal entity holding in its name a cannabis processor license issued by state liquor and cannabis board.

(12) "Producer" means any person or legal entity holding in its name a cannabis producer license issued by the state liquor and cannabis board, regardless of whether the same holder has been issued a processor license by state liquor and cannabis board.

(13) "Propagation material" means live cannabis plant matter in the form of clones, live plants, tissue cultures, cuttings, seeds, or other genetic material used and intended for the propagation of the cannabis plant.

(14) "Retailer" means any person or legal entity holding in its name a license to retail cannabis and cannabis products.

(15) "Testing laboratory" means any laboratory accredited to conduct cannabis-related analysis.

(16) "Tier" means any of the production licensing categories established under WAC 314-55-075(6).

**NEW SECTION. Sec. 4.** The Washington state cannabis commission is established to:

(1) Establish plans and conduct programs for cannabis-related matters;

(2) Provide for conducting research as provided in commission rules;

(3) Cooperate with and act in an advisory capacity to local, state, and federal agencies or other interested parties with respect to cannabis-related matters within the scope of the powers and purposes of the commission and as described in commission rules;

(4) Cooperate with other interested parties toward standardizing methods by which to identify and determine the genetics, strains, cultivars, phenotypes, standards, and grades of cannabis and advise on packaging and labeling requirements with respect to the same;

(5) Conduct reviews, surveys, and inquiries regarding market metrics and analytics, including trends, revenues, profitability, projections, production, business practices, and other economic drivers of the industry;

(6) Inform and advise producers in all matters regarding cannabis, including but not limited to educational information on its cultivation, usage, risks, and related technical and scientific developments;

(7) Provide cannabis-related education and training to producers, processors, retailers, and researchers and their employees, including health and safety information;

(8) Provide information and services for meeting resource conservation objectives of producers;

(9) Assist and cooperate with local, state, or federal government agencies in the investigation and control of pests, diseases, and other factors that could adversely affect the cultivation, quality, or safety of Washington produced cannabis;

(10) Advance knowledge and practice of the production of cannabis in this state through the research and testing of methods to improve pest management, worker protection and safety training, energy efficiency, and environmental protection;

(11) Foster economic conditions favorable to investment in the production of Washington cannabis in keeping with state and federal laws;

(12) Limit youth access and youth exposure to cannabis;

(13) Encourage favorable legislative and regulatory treatment of Washington cannabis; and

(14) Enable cannabis producers of this state, with the aid of the state to:

- (a) Develop and engage in research; including but not limited to discovering better and more efficient production, irrigation, odor mitigation, processing, transportation, handling, packaging and utilization of cannabis commodities;
- (b) Provide for uniform grading and proper preparation of cannabis commodities for market;
- (c) Protect the interest of consumers and the state by advising on the overall production of cannabis to assure a balanced, sufficient, and wholesome supply of cannabis commodities of good quality at all seasons and times;
- (d) Discover and develop new and improved cultivars for the reliable and economical production of cannabis in the state; and
- (e) Advance knowledge and the practices of processing cannabis in the state.

**NEW SECTION. Sec. 5.** The commission may:

- (1) Elect a chair and other officers by a majority vote of the commission or as contained in bylaws adopted by the commission;
- (2) Adopt, rescind, and amend bylaws and other internal rules of governance necessary for the administration and operation of the commission and for carrying out its duties under this chapter;
- (3) Administer, enforce, direct, and control the provisions of this chapter;
- (4) Employ and discharge at its discretion such administrators, staff, professional consultants and service providers, and other persons and firms that it may deem appropriate;
- (5) Designate a public records officer, rules coordinator, and other representatives required by the laws governing state agencies and commodity commissions;
- (6) Comply with all other laws applicable to state agencies and commodity commissions;

- (7) Acquire personal property and purchase or lease office space and other necessary real property and transfer and convey the same;
- (8) Institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction, or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out this chapter;
- (9) Keep accurate records of all its receipts and disbursements, which records must be open to inspection and audit by the state auditor or private auditor designated by the state auditor at least every five years and at any time by a duly appointed internal auditor upon a majority vote of the commission;
- (10) Make necessary disbursements for routine operating expenses;
- (11) Expend funds for all activities, projects, and undertakings of the commission permitted under this chapter, including but not limited to cannabis-related education and training programs for producers, processors, retailers, and researchers or their employees;
- (12) Cooperate with other interested parties for the purposes of this chapter;
- (13) Serve as liaison with the state liquor and cannabis board and all other interested parties on behalf of the commission and not for any individual cannabis producer;
- (14) Enter into contracts or cooperative agreements for research as provided in this chapter;
- (15) Enter into contracts or interagency agreements with any other interested parties to carry out this chapter in accordance with applicable provisions of Title 39 RCW;
- (16) Solicit, accept, and expend or retain any gifts, bequests, contributions, or grants from private persons or public agencies to carry out this chapter;

(17) Retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission, provided that the retention of a private attorney is subject to the appointment or approval by the office of the state attorney general;

(18) Engage in appropriate activities and events for the purpose of supporting activities of the commission authorized by this chapter;

(19) Participate in international, federal, state and local hearings, meetings, and other proceedings in all matters relating to cannabis, including without limitation the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of cannabis including activities authorized under RCW 42.17A.635, and the reporting of those activities to the public disclosure commission;

(20) Obtain from the state liquor and cannabis board a list of the names and addresses of producers, processors, and retailers, and such other available data from the state as requested by the commission to be used to disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly, or by arrangement with trade associations or other instrumentalities;

(21) Acquire, create, develop, and own intellectual property rights, licenses, and patents and to collect royalties resulting from the sale or licensing of commission-funded research, provided all results and recommendations from research conducted or funded by the commission must be available to all producers without charge, except for reasonable out-of-pocket costs as the commission may determine;

(22) Speak on behalf of the Washington state government with regard to cannabis producers and producer/processors, subject to oversight of the director;

(23) Possess cannabis products for the limited purposes of section 4 of this act; and

(24) Exercise other powers and duties necessary to carry out this chapter.



NEW SECTION. **Sec. 6.** (1) There is created a commodity commission to be known as the Washington state cannabis commission.

(2)(a) The commission consists of thirteen voting members, including eight producer members from the districts, one statewide at-large producer member, one statewide tier 1 or equally small producer member, one statewide tier 2 or equally medium producer member, one statewide tier 3 or equally large producer member, and the director.

(b) An advisory council must assist the commission. Upon nomination by state liquor and cannabis board or the commission, the director appoints a state liquor and cannabis board representative. Upon nomination by the commission, the director must appoint a processor only member, a retailer member, and a testing laboratory member to serve as a nonvoting advisory council to the commission.

(3) Each member of the commission other than the director and the state liquor and cannabis board representative must:

(a) Be twenty-one years of age or older;

(b) Be a citizen of the United States of America and a resident of this state;

(c) Directly hold or be a named owner in whole or in majority part of an entity holding the relevant business license issued by the state liquor and cannabis board. This license must not be suspended at the time of nomination, election, or appointment;

(d) Be engaged in the production of cannabis within the state of Washington for a period of three years and have, during that period, derived a substantial portion of their income therefrom. Any assignee by a licensee must be and have been, either individually or as an officer or employee of a corporation, firm, partnership, association, or cooperative, actually engaged in producing the commodity within the state of Washington for a period of three years and have, during that period, derived a substantial portion of their income therefrom; and

(e) Continue to meet all membership qualifications throughout the member's term.

(4) Producer members in voting positions must be producers with production facilities in the district in which they are nominated and elected. Producer members elected to at-large positions may be from any district.

(a) District 1, positions 1 and 2, comprises the counties of Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and Whatcom.

(b) District 2, positions 3 and 4, comprises the counties of Chelan, Douglas, Ferry, Grand, Kittitas, Okanogan, Pend Oreille, and Stevens.

(c) District 3, positions 5 and 6, comprises the counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Lincoln, Spokane, Walla Walla, Whitman, and Yakima.

(d) District 4, positions 7 and 8, comprises the counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

(5) Commission members shall serve three-year terms. Of the initial members, four must be appointed by the director for a one-year term starting July 1st, four must be appointed by the director for a two-year term starting July 1st, and four must be appointed by the director for a three-year term starting July 1st. Thereafter, commission members other than the director must be elected by a vote of active producers in each district for three-year terms. The initial members must be considered from a pool of self-nominated active producers from each district under this section.

(6) In the event of a vacancy on the board the commission will provide a nomination to the director who will immediately appoint a replacement.

(7)(a) Each member or employee of the commission may be reimbursed for expenses incurred in carrying out this chapter under RCW 43.03.230.

(b) Each member or employee of the commission may be reimbursed for actual expenses incurred in carrying out this chapter under RCW 43.03.050.

(8) Within sixty days after this section takes effect, the director must appoint the initial members of the commission.

**NEW SECTION.** **Sec. 7.** (1) The commission, before the beginning of its fiscal year, must prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget for that fiscal year.

(2) The director must review and approve or disapprove all submissions described in this section in a timely manner.

(3) The commission must develop and submit to the director for approval any plans, programs, and projects concerning, but not limited to, the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the education of the affected commodities; and

(b) The establishment and effectuation of research projects, market development projects, or both to the end that the affected commodities may be encouraged, expanded, improved, or made more efficient in keeping with state and federal laws.

(4) The director shall review the commission's education program to ensure that no false claims are being made concerning the affected commodities and that they are in keeping with state and federal laws.

**NEW SECTION.** **Sec. 8.** A new section is added to chapter 82.04 to read as follows:

(1) Beginning October 1, 2021, in addition to the tax imposed under RCW 82.04.270, a surcharge is imposed on persons engaging within this state in the business of making wholesale sales of marijuana or marijuana products. The surcharge is equal to:

(a) 0.290 percent of the gross proceeds of sales at wholesale of marijuana including mature marijuana plants, immature marijuana plants or clones, marijuana plant tissue culture, and marijuana seeds; and

(b) 0.145 percent of the gross proceeds of sales at wholesale of marijuana products ready for consumer.

(2) All receipts from the surcharge under this section must be deposited into the [INSERT NAME OF ACCOUNT] account created in section 9 of this act.

(3) For purposes of this section, the terms “marijuana” and “marijuana products” have the same meaning as in RCW 69.50.101; however, the term “marijuana” must be construed to exclude “marijuana products.”

(4) Any penalties or interest collected on taxes due under this section must be deposited in the ACCOUNT NAME as described in section 9 of this act.

(5) The provisions of chapter 82.32 RCW apply to this section.

**NEW SECTION.** **Sec. 9.** (1) All monies paid under the provisions of this chapter shall be placed in the [INSERT NAME OF ACCOUNT] account in the state treasury. All expenditures and disbursements made from the account under this chapter may be made without appropriation. RCW 43.01.050 does not apply to this account or to the money received, collected, or expended as provided in this chapter.

(2) Funds collected under section 8 must be disbursed quarterly to the Washington state cannabis commission as requested by the WA State Liquor and Cannabis Board for use in carrying out the purposes of Chapter 15.--- (the new chapter created in section 18 of this act).

**NEW SECTION.** **Sec. 10.** The surcharge levied under section 8 of this act constitutes a personal debt of every person charged or who otherwise owes the surcharge, and the surcharge is due and payable on behalf of the commission.

**NEW SECTION.** **Sec. 11.** (1) Under RCW 42.56.380, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure. However, financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving this chapter.

(2) This section does not prohibit:

(a) The issuance of general statements based upon the reports of cannabis producers subject to this chapter as long as the statements do not identify a specific cannabis producer or licensee; or

(b) The publication by the director or the commission of the name of a cannabis producer violating this chapter and a statement of the manner of the violation by that cannabis producer.

**NEW SECTION.** **Sec. 12.** (1) Every rule or order made by the commission shall be filed with the director and made public within ten days after it is adopted, and is effective as set forth under RCW 34.05.380.

(2) Rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310, the provisions of chapter 19.85 RCW, the regulatory fairness act, and the provisions of RCW 43.135.055 when adoption of the rule is determined by a referendum vote of the affected parties.

**NEW SECTION.** **Sec. 13.** Obligations incurred by the commission and any other liabilities or claims against the commission must be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, employee, or agent of the commission or the state of Washington in the person's individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This section confirms that commission members have been, and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW.

**NEW SECTION.** **Sec. 14.** All costs incurred by the department, including the adoption of rules and other actions necessary to carry out this chapter, must be reimbursed by the commission under RCW 43.23.033. The commission must provide funds to the department according to the rules adopted by the director.

**Sec. 15.** RCW 42.56.380 and 2019 c 337 s 3 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment or surcharge levels and actual assessment payments or actual surcharge payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, 15.--- (the new chapter created in section 18 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, 15.--- (the new chapter created in section 18 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer, except for providing reports to the United States fish and wildlife service under RCW 15.19.080;

- (7) Information collected regarding packers and shippers of fruits and vegetables for the issuance of certificates of compliance under RCW 15.17.140(2) and 15.17.143;
- (8) Financial statements obtained under RCW 16.65.030(1)(d) for the purposes of determining whether or not the applicant meets the minimum net worth requirements to construct or operate a public livestock market;
- (9) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person, or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete;
- (10) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or his or her designee that can be identified to a particular business or individual;
- (11) Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552;
- (12) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552;



(13) Information obtained from the federal government or others under contract with the federal government or records obtained by the department of agriculture, in accordance with RCW 15.135.100;

(14) Hop grower lot numbers and laboratory results associated with the hop grower lot numbers where this information is used by the department of agriculture to issue export documents; and

(15) Information or records obtained pursuant to a food and drug administration contract or commissioning agreement, in accordance with RCW 15.130.150.

**Sec. 16.** RCW 43.23.033 and 2009 c 33 s 38 are each amended to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section, RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, 15.89.150, section 14 of this act, and 16.67.190, and chapter 15.115 RCW shall be limited to one-half full-time equivalent employee for all commodity boards and commissions.

**Sec. 17.** RCW 41.06.070 and 2019 c 146 s 3 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, and temporary employees, and part-time professional consultants, as defined by the director;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

(o) Officers and employees of the Washington state dairy products commission;

(p) Officers and employees of the Washington tree fruit research commission;

(q) Officers and employees of the Washington state beef commission;

(r) Officers and employees of the Washington grain commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(u) Officers and employees of the Washington state cannabis commission under chapter 15.---  
RCW (the new chapter created in section 18 of this act);

(v) Officers and employees of the Washington state wine commission under chapter 15.88  
RCW;

(w) Officers and employees of the Washington state beer commission under chapter 15.89

RCW:

(x) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

~~((v))~~ (y) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~((w))~~ (z) Staff employed by the department of commerce to administer energy policy functions;

~~((x))~~ (aa) The manager of the energy facility site evaluation council;

~~((y))~~ (bb) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (v) of this subsection;

~~((z))~~ (cc) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

~~((aa))~~ (dd) Officers and employees of the consolidated technology services agency created in RCW 43.105.006 that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security;

~~((bb))~~ (ee) The executive director of the Washington statewide reentry council.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate

elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

(4) The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through ~~((†))~~ (w) and (2) of this section, shall be determined by the director. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

(5)(a) Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(b) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(c) A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**Sec. 17.** RCW 82.04.270 and 2004 c 24 s 5 are each amended to read as follows:

Upon every person engaging within this state in the business of making sales at wholesale, except persons taxable as wholesalers under other provisions of this chapter; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of 0.484 percent.

Upon every person engaging within this state in the business of making sales at wholesale, including persons subject to the surcharge under section 8 of this act, except persons otherwise taxable as wholesalers under other provisions of this chapter; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of 0.484 percent.

NEW SECTION. **Sec. 19.** Sections 1 through 7 and Sections 9 through 14 of this act constitute a new chapter in Title 15 RCW.

--- END ---

---