
HOUSE BILL 2148

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Phillips, Vance, Chandler, D. Sommers, Forner, Winsley, Morton and Anderson.

Read first time March 1, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to the sale of controlled substances on or near a
2 preschool facility; reenacting and amending RCW 69.50.435; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 69.50.435 and 1990 c 244 s 1 and 1990 c 33 s 588 are
6 each reenacted and amended to read as follows:

7 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
8 selling, delivering, or possessing with the intent to manufacture,
9 sell, or deliver a controlled substance listed under that subsection to
10 a person in a preschool or school or on a school bus or within one
11 thousand feet of a school bus route stop designated by the school
12 district or within one thousand feet of the perimeter of the preschool
13 or school grounds, in a public park or on a public transit vehicle, or
14 in a public transit stop shelter may be punished by a fine of up to
15 twice the fine otherwise authorized by this chapter, but not including

1 twice the fine authorized by RCW 69.50.406, or by imprisonment of up to
2 twice the imprisonment otherwise authorized by this chapter, but not
3 including twice the imprisonment authorized by RCW 69.50.406, or by
4 both such fine and imprisonment. The provisions of this section shall
5 not operate to more than double the fine or imprisonment otherwise
6 authorized by this chapter for an offense.

7 (b) It is not a defense to a prosecution for a violation of this
8 section that the person was unaware that the prohibited conduct took
9 place while in a preschool or school or school bus or within one
10 thousand feet of the preschool, school, or school bus route stop, in a
11 public park, on a public transit vehicle, or in a public transit stop
12 shelter.

13 (c) It is not a defense to a prosecution for a violation of this
14 section or any other prosecution under this chapter that persons under
15 the age of eighteen were not present in the preschool, the school, the
16 school bus, the public park, or the public transit vehicle, or at the
17 school bus route stop or the public transit vehicle stop shelter at the
18 time of the offense or that school was not in session.

19 (d) It is an affirmative defense to a prosecution for a violation
20 of this section that the prohibited conduct took place entirely within
21 a private residence, that no person under eighteen years of age or
22 younger was present in such private residence at any time during the
23 commission of the offense, and that the prohibited conduct did not
24 involve delivering, manufacturing, selling, or possessing with the
25 intent to manufacture, sell, or deliver any controlled substance in RCW
26 69.50.401(a) for profit. The affirmative defense established in this
27 section shall be proved by the defendant by a preponderance of the
28 evidence. This section shall not be construed to establish an
29 affirmative defense with respect to a prosecution for an offense
30 defined in any other section of this chapter.

1 (e) In a prosecution under this section, a map produced or
2 reproduced by any municipal, school district, county, or transit
3 authority engineer for the purpose of depicting the location and
4 boundaries of the area on or within one thousand feet of any property
5 used for a preschool, school, school bus route stop, public park, or
6 public transit vehicle stop shelter, or a true copy of such a map,
7 shall under proper authentication, be admissible and shall constitute
8 prima facie evidence of the location and boundaries of those areas if
9 the governing body of the municipality, school district, county, or
10 transit authority has adopted a resolution or ordinance approving the
11 map as the official location and record of the location and boundaries
12 of the area on or within one thousand feet of the school, school bus
13 route stop, public park, or public transit vehicle stop shelter. Any
14 map approved under this section or a true copy of the map shall be
15 filed with the clerk of the municipality or county, and shall be
16 maintained as an official record of the municipality or county. This
17 section shall not be construed as precluding the prosecution from
18 introducing or relying upon any other evidence or testimony to
19 establish any element of the offense. This section shall not be
20 construed as precluding the use or admissibility of any map or diagram
21 other than the one which has been approved by the governing body of a
22 municipality, school district, county, or transit authority if the map
23 or diagram is otherwise admissible under court rule.

24 (f) As used in this section the following terms have the meanings
25 indicated unless the context clearly requires otherwise:

26 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
27 The term "school" also includes a private school approved under RCW
28 28A.195.010;

29 (2) "School bus" means a school bus as defined by the
30 superintendent of public instruction by rule which is owned and

1 operated by any school district and all school buses which are
2 privately owned and operated under contract or otherwise with any
3 school district in the state for the transportation of students. The
4 term does not include buses operated by common carriers in the urban
5 transportation of students such as transportation of students through
6 a municipal transportation system;

7 (3) "School bus route stop" means a school bus stop as designated
8 on maps submitted by school districts to the office of the
9 superintendent of public instruction;

10 (4) "Public park" means land, including any facilities or
11 improvements on the land, that is operated as a park by the state or a
12 local government;

13 (5) "Public transit vehicle" means any motor vehicle, street car,
14 train, trolley vehicle, or any other device, vessel, or vehicle which
15 is owned or operated by a transit authority and which is used for the
16 purpose of carrying passengers on a regular schedule;

17 (6) "Transit authority" means a city, county, or state
18 transportation system, transportation authority, public transportation
19 benefit area, public transit authority, or metropolitan municipal
20 corporation within the state that operates public transit vehicles;

21 (7) "Stop shelter" means a passenger shelter designated by a
22 transit authority;

23 (8) "Preschool" has the meaning provided in RCW 28A.215.310 and
24 includes public and nonpublic schools.

25 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and shall take
28 effect immediately.