
HOUSE BILL 1698

State of Washington 52nd Legislature 1991 Regular Session

By Representatives R. Meyers, Wilson, Zellinsky and Riley.

Read first time February 6, 1991. Referred to Committee on Judiciary.

1 AN ACT Relating to the sentencing of marihuana growers and dealers;
2 amending RCW 9.94A.320 and 69.50.401; creating a new section;
3 prescribing penalties; providing an effective date; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the growing
7 and selling of marihuana is one of the most profitable criminal
8 enterprises available in the state, and that current first offense
9 sentences are woefully inadequate. It is the legislature's intent to
10 make the penalties for marihuana growers and sellers stronger in order
11 to have a deterrent effect on the offenders.

12 **Sec. 2.** RCW 9.94A.320 and 1990 c 3 s 702 are each amended to read
13 as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6	XIII	Murder 2 (RCW 9A.32.050)
7	XII	Assault 1 (RCW 9A.36.011)
8	XI	Rape 1 (RCW 9A.44.040)
9		Rape of a Child 1 (RCW 9A.44.073)
10	X	Kidnapping 1 (RCW 9A.40.020)
11		Rape 2 (RCW 9A.44.050)
12		Rape of a Child 2 (RCW 9A.44.076)
13		Child Molestation 1 (RCW 9A.44.083)
14		Damaging building, etc., by explosion with threat to human
15		being (RCW 70.74.280(1))
16		Over 18 and deliver heroin or narcotic from Schedule I or
17		II to someone under 18 (RCW 69.50.406)
18		Leading Organized Crime (RCW 9A.82.060(1)(a))
19	IX	Robbery 1 (RCW 9A.56.200)
20		Manslaughter 1 (RCW 9A.32.060)
21		Explosive devices prohibited (RCW 70.74.180)

1 Indecent Liberties (with forcible compulsion) (RCW
2 9A.44.100(1)(a))
3 Endangering life and property by explosives with threat to
4 human being (RCW 70.74.270)
5 Over 18 and deliver narcotic from Schedule III, IV, or V
6 or a nonnarcotic from Schedule I-V to someone under 18 and
7 3 years junior (RCW 69.50.406)
8 Controlled Substance Homicide (RCW 69.50.415)
9 Sexual Exploitation (RCW 9.68A.040)
10 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

11 VIII Arson 1 (RCW 9A.48.020)
12 Promoting Prostitution 1 (RCW 9A.88.070)
13 Selling heroin for profit (RCW 69.50.410)
14 Manufacture, deliver, or possess with intent to deliver
15 heroin or cocaine (RCW 69.50.401(a)(1)(i))

16 Manufacture, deliver, or possess with intent to deliver
17 methamphetamine (RCW 69.50.401(a)(1)(ii))
18 Vehicular Homicide, by being under the influence of
19 intoxicating liquor or any drug or by the operation
20 of any vehicle in a reckless manner (RCW 46.61.520)

21 VII Burglary 1 (RCW 9A.52.020)
22 Vehicular Homicide, by disregard for the safety of
23 others (RCW 46.61.520)
24 Introducing Contraband 1 (RCW 9A.76.140)
25 Indecent Liberties (without forcible compulsion) (RCW
26 9A.44.100(1) (b) and (c))
27 Child Molestation 2 (RCW 9A.44.086)

1 Dealing in depictions of minor engaged in sexually
2 explicit conduct (RCW 9.68A.050)
3 Sending, bringing into state depictions of minor
4 engaged in sexually explicit conduct (RCW 9.68A.060)
5 Involving a minor in drug dealing (RCW 69.50.401(f))

6 VI Bribery (RCW 9A.68.010)
7 Manslaughter 2 (RCW 9A.32.070)
8 Rape of a Child 3 (RCW 9A.44.079)
9 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
10 Damaging building, etc., by explosion with no threat to
11 human being (RCW 70.74.280(2))
12 Endangering life and property by explosives with no threat
13 to human being (RCW 70.74.270)
14 Incest 1 (RCW 9A.64.020(1))
15 Selling for profit (controlled or counterfeit) any
16 controlled substance (except heroin) (RCW 69.50.410)
17 Manufacture, deliver, or possess with intent to deliver
18 narcotics from Schedule I or II (except heroin or cocaine)
19 (RCW 69.50.401(a)(1)(i))
20 Manufacture marihuana greater than twenty-five plants (RCW
21 69.50.401(g))
22 Deliver or possess with intent to deliver four ounces or
23 more of marihuana (RCW 69.50.401(h))
24 Intimidating a Judge (RCW 9A.72.160)
25 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))

26 V Criminal Mistreatment 1 (RCW 9A.42.020)
27 Rape 3 (RCW 9A.44.060)
28 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

1 Child Molestation 3 (RCW 9A.44.089)
2 Kidnapping 2 (RCW 9A.40.030)
3 Extortion 1 (RCW 9A.56.120)
4 Incest 2 (RCW 9A.64.020(2))
5 Perjury 1 (RCW 9A.72.020)
6 Extortionate Extension of Credit (RCW 9A.82.020)
7 Advancing money or property for extortionate extension of
8 credit (RCW 9A.82.030)
9 Extortionate Means to Collect Extensions of Credit (RCW
10 9A.82.040)
11 Rendering Criminal Assistance 1 (RCW 9A.76.070)
12 Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
13 Delivery of imitation controlled substance by person
14 eighteen or over to person under eighteen (RCW
15 69.52.030(2))

16 IV Residential Burglary (RCW 9A.52.025)
17 Theft of Livestock 1 (RCW 9A.56.080)
18 Robbery 2 (RCW 9A.56.210)
19 Assault 2 (RCW 9A.36.021)
20 Escape 1 (RCW 9A.76.110)
21 Arson 2 (RCW 9A.48.030)
22 Bribing a Witness/Bribe Received by Witness (RCW
23 9A.72.090, 9A.72.100)
24 Malicious Harassment (RCW 9A.36.080)
25 Threats to Bomb (RCW 9.61.160)
26 Willful Failure to Return from Furlough (RCW 72.66.060)
27 Hit and Run -- Injury Accident (RCW 46.52.020(4))
28 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with intent to deliver
2 narcotics from Schedule III, IV, or V or nonnarcotics from
3 Schedule I-V (except marihuana or
4 methamphetamines) (RCW 69.50.401(a)(1)(ii) through
5 (iv))

6 Influencing Outcome of Sporting Event (RCW 9A.82.070)

7 Use of Proceeds of Criminal Profiteering (RCW 9A.82.080
8 (1) and (2))

9 Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))

10 III Criminal mistreatment 2 (RCW 9A.42.030)

11 Extortion 2 (RCW 9A.56.130)

12 Unlawful Imprisonment (RCW 9A.40.040)

13 Assault 3 (RCW 9A.36.031)

14 Custodial Assault (RCW 9A.36.100)

15 Unlawful possession of firearm or pistol by felon (RCW
16 9.41.040)

17 Harassment (RCW 9A.46.020)

18 Promoting Prostitution 2 (RCW 9A.88.080)

19 Willful Failure to Return from Work Release (RCW
20 72.65.070)

21 Burglary 2 (RCW 9A.52.030)

22 Introducing Contraband 2 (RCW 9A.76.150)

23 Communication with a Minor for Immoral Purposes (RCW
24 9.68A.090)

25 Patronizing a Juvenile Prostitute (RCW 9.68A.100)

26 Escape 2 (RCW 9A.76.120)

27 Perjury 2 (RCW 9A.72.030)

28 Bail Jumping with class B or C Felony (RCW
29 9A.76.170(2)(c))

1 Intimidating a Public Servant (RCW 9A.76.180)
2 Tampering with a Witness (RCW 9A.72.120)
3 Manufacture, deliver, or possess with intent to deliver
4 marihuana (RCW 69.50.401(a)(1)(ii))
5 Delivery of a material in lieu of a controlled
6 substance (RCW 69.50.401(c))
7 Manufacture, distribute, or possess with intent to
8 distribute an imitation controlled substance (RCW
9 69.52.030(1))
10 Recklessly Trafficking in Stolen Property (RCW
11 9A.82.050(1))
12 Theft of livestock 2 (RCW 9A.56.080)
13 Securities Act violation (RCW 21.20.400)

14 II Malicious Mischief 1 (RCW 9A.48.070)
15 Possession of Stolen Property 1 (RCW 9A.56.150)
16 Theft 1 (RCW 9A.56.030)
17 Possession of controlled substance that is either
18 heroin or narcotics from Schedule I or II (RCW
19 69.50.401(d))
20 Possession of phencyclidine (PCP) (RCW 69.50.401(d))
21 Create, deliver, or possess a counterfeit controlled
22 substance (RCW 69.50.401(b))
23 Computer Trespass 1 (RCW 9A.52.110)
24 Reckless Endangerment 1 (RCW 9A.36.045)

25 I Theft 2 (RCW 9A.56.040)
26 Possession of Stolen Property 2 (RCW 9A.56.160)
27 Forgery (RCW 9A.60.020)
28 Taking Motor Vehicle Without Permission (RCW 9A.56.070)

1 Vehicle Prowl 1 (RCW 9A.52.095)
2 Attempting to Elude a Pursuing Police Vehicle (RCW
3 46.61.024)
4 Malicious Mischief 2 (RCW 9A.48.080)
5 Reckless Burning 1 (RCW 9A.48.040)
6 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
7 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
8 False Verification for Welfare (RCW 74.08.055)
9 Forged Prescription (RCW 69.41.020)
10 Forged Prescription for a Controlled Substance (RCW
11 69.50.403)
12 Possess Controlled Substance that is a Narcotic from
13 Schedule III, IV, or V or Non-narcotic from Schedule
14 I-V (except phencyclidine) (RCW 69.50.401(d))

15 **Sec. 3.** RCW 69.50.401 and 1989 c 271 s 104 are each amended to
16 read as follows:

17 (a) Except as authorized by this chapter, it is unlawful for any
18 person to manufacture, deliver, or possess with intent to manufacture
19 or deliver, a controlled substance.

20 (1) Any person who violates this subsection with respect to:

21 (i) a controlled substance classified in Schedule I or II which is
22 a narcotic drug, is guilty of a crime and upon conviction may be
23 imprisoned for not more than ten years, or (A) fined not more than
24 twenty-five thousand dollars if the crime involved less than two
25 kilograms of the drug, or both such imprisonment and fine; or (B) if
26 the crime involved two or more kilograms of the drug, then fined not
27 more than one hundred thousand dollars for the first two kilograms and
28 not more than fifty dollars for each gram in excess of two kilograms,
29 or both such imprisonment and fine;

1 (ii) any other controlled substance classified in Schedule I, II,
2 or III, is guilty of a crime and upon conviction may be imprisoned for
3 not more than five years, fined not more than ten thousand dollars, or
4 both;

5 (iii) a substance classified in Schedule IV, is guilty of a crime
6 and upon conviction may be imprisoned for not more than five years,
7 fined not more than ten thousand dollars, or both;

8 (iv) a substance classified in Schedule V, is guilty of a crime and
9 upon conviction may be imprisoned for not more than five years, fined
10 not more than ten thousand dollars, or both.

11 (b) Except as authorized by this chapter, it is unlawful for any
12 person to create, deliver, or possess a counterfeit substance.

13 (1) Any person who violates this subsection with respect to:

14 (i) a counterfeit substance classified in Schedule I or II which is
15 a narcotic drug, is guilty of a crime and upon conviction may be
16 imprisoned for not more than ten years, fined not more than twenty-five
17 thousand dollars, or both;

18 (ii) any other counterfeit substance classified in Schedule I, II,
19 or III, is guilty of a crime and upon conviction may be imprisoned for
20 not more than five years, fined not more than ten thousand dollars, or
21 both;

22 (iii) a counterfeit substance classified in Schedule IV, is guilty
23 of a crime and upon conviction may be imprisoned for not more than five
24 years, fined not more than ten thousand dollars, or both;

25 (iv) a counterfeit substance classified in Schedule V, is guilty of
26 a crime and upon conviction may be imprisoned for not more than five
27 years, fined not more than ten thousand dollars, or both.

28 (c) It is unlawful, except as authorized in this chapter and
29 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for
30 the sale, gift, delivery, dispensing, distribution, or administration

1 of a controlled substance to any person and then sell, give, deliver,
2 dispense, distribute, or administer to that person any other liquid,
3 substance, or material in lieu of such controlled substance. Any
4 person who violates this subsection is guilty of a crime and upon
5 conviction may be imprisoned for not more than five years, fined not
6 more than ten thousand dollars, or both.

7 (d) It is unlawful for any person to possess a controlled substance
8 unless the substance was obtained directly from, or pursuant to, a
9 valid prescription or order of a practitioner while acting in the
10 course of his professional practice, or except as otherwise authorized
11 by this chapter. Any person who violates this subsection is guilty of
12 a crime, and upon conviction may be imprisoned for not more than five
13 years, fined not more than ten thousand dollars, or both, except as
14 provided for in subsection (e) of this section.

15 (e) Except as provided for in subsections (a)(1)(ii), (g), and (h)
16 of this section any person found guilty of possession of forty grams or
17 less of marihuana shall be guilty of a misdemeanor.

18 (f) It is unlawful to compensate, threaten, solicit, or in any
19 other manner involve a person under the age of eighteen years in a
20 transaction unlawfully to manufacture, sell, or deliver a controlled
21 substance. A violation of this subsection shall be punished as a class
22 C felony punishable in accordance with RCW 9A.20.021.

23 (g) It is unlawful for any person to manufacture marihuana, as
24 regulated in RCW 69.50.204(d)(21). If the manufacture of marihuana
25 involves more than twenty-five plants it is a violation of this
26 subsection and the offender may be imprisoned for not more than ten
27 years, fined not more than twenty-five thousand dollars, or both.

28 (h) It is unlawful for any person to deliver or possess with intent
29 to deliver marihuana, as regulated in RCW 69.50.204(d)(21). The
30 delivery or possession with intent to deliver four ounces or more of

1 marihuana is a violation of this subsection and the offender may be
2 imprisoned for not more than ten years, fined not more than twenty-five
3 thousand dollars, or both.

4 This section shall not apply to offenses defined and punishable
5 under the provisions of RCW 69.50.410.

6 NEW SECTION. Sec. 4. (1) This act is necessary for the
7 immediate preservation of the public peace, health, or safety, or
8 support of the state government and its existing public institutions,
9 and shall take effect July 1, 1991.

10 (2) This act applies prospectively to crimes committed on or after
11 July 1, 1991.