
SUBSTITUTE SENATE BILL 5140

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Kohl, Smith, Winsley, Pelz, Roach, Prentice, Schow, Heavey, McAuliffe, C. Anderson, Fairley, Sheldon, Prince, West, Haugen, Bauer, Oke and Palmer)

Read first time 02/02/95.

1 AN ACT Relating to drug-free zones in publicly owned or publicly
2 operated civic centers; amending RCW 69.50.435; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a large number of
6 illegal drug transactions occur in or near publicly owned places used
7 for recreational, educational, and cultural purposes. The legislature
8 also finds that this activity places the people using these facilities
9 at risk for drug-related crimes, discourages the use of recreational,
10 educational, and cultural facilities, blights the economic development
11 around these facilities, and increases the general level of fear among
12 the residents of the areas surrounding these facilities. The intent of
13 the legislature is to allow local governments to designate a perimeter
14 of one thousand feet around publicly owned places used primarily for
15 recreation, education, and cultural activities as drug-free zones.

16 **Sec. 2.** RCW 69.50.435 and 1991 c 32 s 4 are each amended to read
17 as follows:

1 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
2 selling, delivering, or possessing with the intent to manufacture,
3 sell, or deliver a controlled substance listed under that subsection or
4 who violates RCW 69.50.410 by selling for profit any controlled
5 substance or counterfeit substance classified in schedule I, RCW
6 69.50.204, except leaves and flowering tops of marihuana to a person:

7 (1) In a school ((~~or~~))i

8 (2) On a school bus ((~~or~~))i

9 (3) Within one thousand feet of a school bus route stop designated
10 by the school district ((~~or~~))i

11 (4) Within one thousand feet of the perimeter of the school
12 grounds((~~r~~))i

13 (5) In a public park ((~~or~~))i

14 (6) On a public transit vehicle((~~r~~,~~or~~))i

15 (7) In a public transit stop shelteri

16 (8) At a civic center designated as a drug-free zone by the local
17 governing authority; or

18 (9) Within one thousand feet of the perimeter of a facility
19 designated under (8) of this subsection, if the local governing
20 authority specifically designates the one thousand foot perimeter
21 may be punished by a fine of up to twice the fine otherwise authorized
22 by this chapter, but not including twice the fine authorized by RCW
23 69.50.406, or by imprisonment of up to twice the imprisonment otherwise
24 authorized by this chapter, but not including twice the imprisonment
25 authorized by RCW 69.50.406, or by both such fine and imprisonment.
26 The provisions of this section shall not operate to more than double
27 the fine or imprisonment otherwise authorized by this chapter for an
28 offense.

29 (b) It is not a defense to a prosecution for a violation of this
30 section that the person was unaware that the prohibited conduct took
31 place while in a school or school bus or within one thousand feet of
32 the school or school bus route stop, in a public park, on a public
33 transit vehicle, ((~~or~~)) in a public transit stop shelter, at a civic
34 center designated as a drug-free zone by the local governing authority,
35 or within one thousand feet of the perimeter of a facility designated
36 under subsection (a)(8) of this section, if the local governing
37 authority specifically designates the one thousand foot perimeter.

38 (c) It is not a defense to a prosecution for a violation of this
39 section or any other prosecution under this chapter that persons under

1 the age of eighteen were not present in the school, the school bus, the
2 public park, or the public transit vehicle, or at the school bus route
3 stop ((~~or~~)), the public transit vehicle stop shelter, at a civic center
4 designated as a drug-free zone by the local governing authority, or
5 within one thousand feet of the perimeter of a facility designated
6 under subsection (a)(8) of this section, if the local governing
7 authority specifically designates the one thousand foot perimeter at
8 the time of the offense or that school was not in session.

9 (d) It is an affirmative defense to a prosecution for a violation
10 of this section that the prohibited conduct took place entirely within
11 a private residence, that no person under eighteen years of age or
12 younger was present in such private residence at any time during the
13 commission of the offense, and that the prohibited conduct did not
14 involve delivering, manufacturing, selling, or possessing with the
15 intent to manufacture, sell, or deliver any controlled substance in RCW
16 69.50.401(a) for profit. The affirmative defense established in this
17 section shall be proved by the defendant by a preponderance of the
18 evidence. This section shall not be construed to establish an
19 affirmative defense with respect to a prosecution for an offense
20 defined in any other section of this chapter.

21 (e) In a prosecution under this section, a map produced or
22 reproduced by any municipal, school district, county, or transit
23 authority engineer for the purpose of depicting the location and
24 boundaries of the area on or within one thousand feet of any property
25 used for a school, school bus route stop, public park, ((~~or~~)) public
26 transit vehicle stop shelter, or a civic center designated as a drug-
27 free zone by a local governing authority, or a true copy of such a map,
28 shall under proper authentication, be admissible and shall constitute
29 prima facie evidence of the location and boundaries of those areas if
30 the governing body of the municipality, school district, county, or
31 transit authority has adopted a resolution or ordinance approving the
32 map as the official location and record of the location and boundaries
33 of the area on or within one thousand feet of the school, school bus
34 route stop, public park, ((~~or~~)) public transit vehicle stop shelter, or
35 civic center designated as a drug-free zone by a local governing
36 authority. Any map approved under this section or a true copy of the
37 map shall be filed with the clerk of the municipality or county, and
38 shall be maintained as an official record of the municipality or
39 county. This section shall not be construed as precluding the

1 prosecution from introducing or relying upon any other evidence or
2 testimony to establish any element of the offense. This section shall
3 not be construed as precluding the use or admissibility of any map or
4 diagram other than the one which has been approved by the governing
5 body of a municipality, school district, county, or transit authority
6 if the map or diagram is otherwise admissible under court rule.

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

9 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
10 The term "school" also includes a private school approved under RCW
11 28A.195.010;

12 (2) "School bus" means a school bus as defined by the
13 superintendent of public instruction by rule which is owned and
14 operated by any school district and all school buses which are
15 privately owned and operated under contract or otherwise with any
16 school district in the state for the transportation of students. The
17 term does not include buses operated by common carriers in the urban
18 transportation of students such as transportation of students through
19 a municipal transportation system;

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

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

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

30 (6) "Transit authority" means a city, county, or state
31 transportation system, transportation authority, public transportation
32 benefit area, public transit authority, or metropolitan municipal
33 corporation within the state that operates public transit vehicles;

34 (7) "Stop shelter" means a passenger shelter designated by a
35 transit authority;

1 (8) "Civic center" means a publicly owned or publicly operated
2 place or facility used for recreational, educational, or cultural
3 activities.

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