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SENATE BILL 5140

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State of Washington

54th Legislature

1995 Regular Session

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 01/12/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to drug-free zones in public places used primarily  
2 for recreation; amending RCW 69.50.435; and creating a new section.

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

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

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

17 (a) Any person who violates RCW 69.50.401(a) by manufacturing,  
18 selling, delivering, or possessing with the intent to manufacture,

1 sell, or deliver a controlled substance listed under that subsection or  
2 who violates RCW 69.50.410 by selling for profit any controlled  
3 substance or counterfeit substance classified in schedule I, RCW  
4 69.50.204, except leaves and flowering tops of marihuana to a person in  
5 a school or on a school bus or within one thousand feet of a school bus  
6 route stop designated by the school district or within one thousand  
7 feet of the perimeter of the school grounds, in a public park, or  
8 within one thousand feet of a public park if designated by a local  
9 governing authority, or on a public transit vehicle, or in a public  
10 transit stop shelter may be punished by a fine of up to twice the fine  
11 otherwise authorized by this chapter, but not including twice the fine  
12 authorized by RCW 69.50.406, or by imprisonment of up to twice the  
13 imprisonment otherwise authorized by this chapter, but not including  
14 twice the imprisonment authorized by RCW 69.50.406, or by both such  
15 fine and imprisonment. The provisions of this section shall not  
16 operate to more than double the fine or imprisonment otherwise  
17 authorized by this chapter for an offense.

18 (b) It is not a defense to a prosecution for a violation of this  
19 section that the person was unaware that the prohibited conduct took  
20 place while in a school or school bus or within one thousand feet of  
21 the school or school bus route stop, in a public park, on a public  
22 transit vehicle, or in a public transit stop shelter.

23 (c) It is not a defense to a prosecution for a violation of this  
24 section or any other prosecution under this chapter that persons under  
25 the age of eighteen were not present in the school, the school bus, the  
26 public park, or the public transit vehicle, or at the school bus route  
27 stop or the public transit vehicle stop shelter at the time of the  
28 offense or that school was not in session.

29 (d) It is an affirmative defense to a prosecution for a violation  
30 of this section that the prohibited conduct took place entirely within  
31 a private residence, that no person under eighteen years of age or  
32 younger was present in such private residence at any time during the  
33 commission of the offense, and that the prohibited conduct did not  
34 involve delivering, manufacturing, selling, or possessing with the  
35 intent to manufacture, sell, or deliver any controlled substance in RCW  
36 69.50.401(a) for profit. The affirmative defense established in this  
37 section shall be proved by the defendant by a preponderance of the  
38 evidence. This section shall not be construed to establish an

1 affirmative defense with respect to a prosecution for an offense  
2 defined in any other section of this chapter.

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

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

28 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.  
29 The term "school" also includes a private school approved under RCW  
30 28A.195.010;

31 (2) "School bus" means a school bus as defined by the  
32 superintendent of public instruction by rule which is owned and  
33 operated by any school district and all school buses which are  
34 privately owned and operated under contract or otherwise with any  
35 school district in the state for the transportation of students. The  
36 term does not include buses operated by common carriers in the urban  
37 transportation of students such as transportation of students through  
38 a municipal transportation system;

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

4 (4) "Public park" means land, including any facilities or  
5 improvements on the land, that is operated as a park by the state or a  
6 local government or any public place used primarily for recreation and  
7 education;

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

12 (6) "Transit authority" means a city, county, or state  
13 transportation system, transportation authority, public transportation  
14 benefit area, public transit authority, or metropolitan municipal  
15 corporation within the state that operates public transit vehicles;

16 (7) "Stop shelter" means a passenger shelter designated by a  
17 transit authority.

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