
SUBSTITUTE SENATE BILL 5540

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Roach, C. Anderson, Schow, Franklin, Kohl and Winsley)

Read first time 02/21/95.

1 AN ACT Relating to drug-free zones in public housing projects;
2 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 housing projects.
6 The legislature also finds that this activity places the families and
7 children residing in these housing projects at risk for drug-related
8 crimes and increases the general level of fear among the residents of
9 the housing project and the areas surrounding these projects. The
10 intent of the legislature is to allow local governments to designate
11 public housing projects as drug-free zones.

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

14 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
15 selling, delivering, or possessing with the intent to manufacture,
16 sell, or deliver a controlled substance listed under that subsection or
17 who violates RCW 69.50.410 by selling for profit any controlled

1 substance or counterfeit substance classified in schedule I, RCW
2 69.50.204, except leaves and flowering tops of marihuana to a person:

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

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

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

7 (4) Within one thousand feet of the perimeter of the school
8 grounds((~~r~~))i

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

10 (6) In a public housing project designated by a local governing
11 authority as a drug-free zone;

12 (7) On a public transit vehicle((~~r~~))i or

13 (8) In a public transit stop shelter may be punished by a fine of
14 up to twice the fine otherwise authorized by this chapter, but not
15 including twice the fine authorized by RCW 69.50.406, or by
16 imprisonment of up to twice the imprisonment otherwise authorized by
17 this chapter, but not including twice the imprisonment authorized by
18 RCW 69.50.406, or by both such fine and imprisonment. The provisions
19 of this section shall not operate to more than double the fine or
20 imprisonment otherwise authorized by this chapter for an offense.

21 (b) It is not a defense to a prosecution for a violation of this
22 section that the person was unaware that the prohibited conduct took
23 place while in a school or school bus or within one thousand feet of
24 the school or school bus route stop, in a public park, on a public
25 transit vehicle, ((~~or~~)) in a public transit stop shelter, or in a
26 public housing project designated by a local governing authority as a
27 drug-free zone.

28 (c) It is not a defense to a prosecution for a violation of this
29 section or any other prosecution under this chapter that persons under
30 the age of eighteen were not present in the school, the school bus, the
31 public park, or the public transit vehicle, or at the school bus route
32 stop or the public transit vehicle stop shelter, or in a public housing
33 project designated by a local governing authority as a drug-free zone
34 at the time of the offense or that school was not in session.

35 (d) It is an affirmative defense to a prosecution for a violation
36 of this section that the prohibited conduct took place entirely within
37 a private residence, that no person under eighteen years of age or
38 younger was present in such private residence at any time during the
39 commission of the offense, and that the prohibited conduct did not

1 involve delivering, manufacturing, selling, or possessing with the
2 intent to manufacture, sell, or deliver any controlled substance in RCW
3 69.50.401(a) for profit. The affirmative defense established in this
4 section shall be proved by the defendant by a preponderance of the
5 evidence. This section shall not be construed to establish an
6 affirmative defense with respect to a prosecution for an offense
7 defined in any other section of this chapter.

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

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

37 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
38 The term "school" also includes a private school approved under RCW
39 28A.195.010;

1 (2) "School bus" means a school bus as defined by the
2 superintendent of public instruction by rule which is owned and
3 operated by any school district and all school buses which are
4 privately owned and operated under contract or otherwise with any
5 school district in the state for the transportation of students. The
6 term does not include buses operated by common carriers in the urban
7 transportation of students such as transportation of students through
8 a municipal transportation system;

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

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

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

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

23 (7) "Stop shelter" means a passenger shelter designated by a
24 transit authority;

25 (8) "Public housing project" means the same as defined in RCW
26 35.82.020(9).

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