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HOUSE BILL 1051

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State of Washington                      55th Legislature                      1997 Regular Session  
By Representatives Pennington, Mielke, Carlson, McMorris, Delvin and  
Keiser

Read first time 01/13/97. Referred to Committee on Education.

1            AN ACT Relating to school bus route stops as drug-free zones; and  
2 amending RCW 69.50.435.

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

4            **Sec. 1.** RCW 69.50.435 and 1996 c 14 s 2 are each amended to read  
5 as follows:

6            (a) Any person who violates RCW 69.50.401(a) by manufacturing,  
7 selling, delivering, or possessing with the intent to manufacture,  
8 sell, or deliver a controlled substance listed under that subsection or  
9 who violates RCW 69.50.410 by selling for profit any controlled  
10 substance or counterfeit substance classified in schedule I, RCW  
11 69.50.204, except leaves and flowering tops of marihuana to a person:

- 12            (1) In a school;
- 13            (2) On a school bus;
- 14            (3) Within one thousand feet of a school bus route stop designated  
15 by the school district;
- 16            (4) Within one thousand feet of the perimeter of the school  
17 grounds;
- 18            (5) In a public park;
- 19            (6) On a public transit vehicle;

1 (7) In a public transit stop shelter;

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

4 (9) Within one thousand feet of the perimeter of a facility  
5 designated under (8) of this subsection, if the local governing  
6 authority specifically designates the one thousand foot perimeter  
7 may be punished by a fine of up to twice the fine otherwise authorized  
8 by this chapter, but not including twice the fine authorized by RCW  
9 69.50.406, or by imprisonment of up to twice the imprisonment otherwise  
10 authorized by this chapter, but not including twice the imprisonment  
11 authorized by RCW 69.50.406, or by both such fine and imprisonment.  
12 The provisions of this section shall not operate to more than double  
13 the fine or imprisonment otherwise authorized by this chapter for an  
14 offense.

15 (b) It is not a defense to a prosecution for a violation of this  
16 section that the person was unaware that the prohibited conduct took  
17 place while in a school or school bus or within one thousand feet of  
18 the school or school bus route stop, in a public park, on a public  
19 transit vehicle, in a public transit stop shelter, at a civic center  
20 designated as a drug-free zone by the local governing authority, or  
21 within one thousand feet of the perimeter of a facility designated  
22 under subsection (a)(8) of this section, if the local governing  
23 authority specifically designates the one thousand foot perimeter.

24 (c) It is not a defense to a prosecution for a violation of this  
25 section or any other prosecution under this chapter that persons under  
26 the age of eighteen were not present in the school, the school bus, the  
27 public park, or the public transit vehicle, or at the school bus route  
28 stop, the public transit vehicle stop shelter, at a civic center  
29 designated as a drug-free zone by the local governing authority, or  
30 within one thousand feet of the perimeter of a facility designated  
31 under subsection (a)(8) of this section, if the local governing  
32 authority specifically designates the one thousand foot perimeter at  
33 the time of the offense or that school was not in session.

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

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

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

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

34 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.  
35 The term "school" also includes a private school approved under RCW  
36 28A.195.010;

37 (2) "School bus" means a school bus as defined by the  
38 superintendent of public instruction by rule which is owned and  
39 operated by any school district and all school buses which are

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

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

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

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

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

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

22 (8) "Civic center" means a publicly owned or publicly operated  
23 place or facility used for recreational, educational, or cultural  
24 activities.

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