
HOUSE BILL 2772

State of Washington

55th Legislature

1998 Regular Session

By Representatives McDonald and Kastama

Read first time 01/20/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to drug paraphernalia; amending RCW 69.50.412;
2 reenacting and amending RCW 69.50.435; and prescribing penalties.

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

4 **Sec. 1.** RCW 69.50.412 and 1981 c 48 s 2 are each amended to read
5 as follows:

6 (1) It is unlawful for any person to use drug paraphernalia to
7 plant, propagate, cultivate, grow, harvest, manufacture, compound,
8 convert, produce, process, prepare, test, analyze, pack, repack, store,
9 contain, conceal, inject, ingest, inhale, or otherwise introduce into
10 the human body a controlled substance. Any person who violates this
11 subsection is guilty of a misdemeanor.

12 (2) It is unlawful for any person to deliver, possess with intent
13 to deliver, or manufacture with intent to deliver drug paraphernalia(~~(7~~
14 ~~knowing, or under circumstances where one reasonably should know, that~~
15 ~~it will be used to plant, propagate, cultivate, grow, harvest,~~
16 ~~manufacture, compound, convert, produce, process, prepare, test,~~
17 ~~analyze, pack, repack, store, contain, conceal, inject, ingest, inhale,~~
18 ~~or otherwise introduce into the human body a controlled substance)) as~~

1 defined in RCW 69.50.102. Any person who violates this subsection is
2 guilty of a gross misdemeanor.

3 (3) Any person eighteen years of age or over who violates
4 subsection (2) of this section by delivering drug paraphernalia to a
5 person under eighteen years of age who is at least three years his or
6 her junior is guilty of a gross misdemeanor.

7 (4) It is unlawful for any person to place in any newspaper,
8 magazine, handbill, or other publication any advertisement, knowing, or
9 under circumstances where one reasonably should know, that the purpose
10 of the advertisement, in whole or in part, is to promote the sale of
11 objects designed or intended for use as drug paraphernalia. Any person
12 who violates this subsection is guilty of a misdemeanor.

13 **Sec. 2.** RCW 69.50.435 and 1997 c 30 s 2 and 1997 c 23 s 1 are each
14 reenacted and amended to read as follows:

15 (a) Any person who (i) violates RCW 69.50.412, or (ii) violates RCW
16 69.50.401(a) by manufacturing, selling, delivering, or possessing with
17 the intent to manufacture, sell, or deliver a controlled substance
18 listed under that subsection or who violates RCW 69.50.410 by selling
19 for profit any controlled substance or counterfeit substance classified
20 in schedule I, RCW 69.50.204, except leaves and flowering tops of
21 marihuana to a person:

22 (1) In a school;

23 (2) On a school bus;

24 (3) Within one thousand feet of a school bus route stop designated
25 by the school district;

26 (4) Within one thousand feet of the perimeter of the school
27 grounds;

28 (5) In a public park;

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

31 (7) On a public transit vehicle;

32 (8) In a public transit stop shelter;

33 (9) At a civic center designated as a drug-free zone by the local
34 governing authority; or

35 (10) Within one thousand feet of the perimeter of a facility
36 designated under (9) of this subsection, if the local governing
37 authority specifically designates the one thousand foot perimeter

1 may be punished by a fine of up to twice the fine otherwise authorized
2 by this chapter, but not including twice the fine authorized by RCW
3 69.50.406, or by imprisonment of up to twice the imprisonment otherwise
4 authorized by this chapter, but not including twice the imprisonment
5 authorized by RCW 69.50.406, or by both such fine and imprisonment.
6 The provisions of this section shall not operate to more than double
7 the fine or imprisonment otherwise authorized by this chapter for an
8 offense.

9 (b) It is not a defense to a prosecution for a violation of this
10 section that the person was unaware that the prohibited conduct took
11 place while in a school or school bus or within one thousand feet of
12 the school or school bus route stop, in a public park, in a public
13 housing project designated by a local governing authority as a drug-
14 free zone, on a public transit vehicle, in a public transit stop
15 shelter, at a civic center designated as a drug-free zone by the local
16 governing authority, or within one thousand feet of the perimeter of a
17 facility designated under subsection (a)(9) of this section, if the
18 local governing authority specifically designates the one thousand foot
19 perimeter.

20 (c) It is not a defense to a prosecution for a violation of this
21 section or any other prosecution under this chapter that persons under
22 the age of eighteen were not present in the school, the school bus, the
23 public park, the public housing project designated by a local governing
24 authority as a drug-free zone, or the public transit vehicle, or at the
25 school bus route stop, the public transit vehicle stop shelter, at a
26 civic center designated as a drug-free zone by the local governing
27 authority, or within one thousand feet of the perimeter of a facility
28 designated under subsection (a)(9) of this section, if the local
29 governing authority specifically designates the one thousand foot
30 perimeter at the time of the offense or that school was not in session.

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

1 evidence. This section shall not be construed to establish an
2 affirmative defense with respect to a prosecution for an offense
3 defined in any other section of this chapter.

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

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

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

38 (2) "School bus" means a school bus as defined by the
39 superintendent of public instruction by rule which is owned and

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

7 (3) "School bus route stop" means a school bus stop as designated
8 by a school district;

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;

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

--- END ---