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ENGROSSED SENATE BILL 6139

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State of Washington                      55th Legislature                      1998 Regular Session

By Senators Oke, Swecker, T. Sheldon, Goings, Rasmussen and Benton

Read first time 01/12/98. Referred to Committee on Law & Justice.

1            AN ACT Relating to amphetamine; amending RCW 69.50.401; reenacting  
2 and amending RCW 9.94A.320; and prescribing penalties.

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

4            **Sec. 1.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c  
5 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each  
6 reenacted and amended to read as follows:

7                                      TABLE 2

8                                      CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

9	XV	Aggravated Murder 1 (RCW 10.95.020)
10	XIV	Murder 1 (RCW 9A.32.030)
11		Homicide by abuse (RCW 9A.32.055)
12		Malicious explosion 1 (RCW 70.74.280(1))
13	XIII	Murder 2 (RCW 9A.32.050)
14		Malicious explosion 2 (RCW 70.74.280(2))
15		Malicious placement of an explosive 1 (RCW
16		70.74.270(1))

1 XII Assault 1 (RCW 9A.36.011)  
 2 Assault of a Child 1 (RCW 9A.36.120)  
 3 Rape 1 (RCW 9A.44.040)  
 4 Rape of a Child 1 (RCW 9A.44.073)  
 5 Malicious placement of an imitation device  
 6 1 (RCW 70.74.272(1)(a))  
 7 XI Rape 2 (RCW 9A.44.050)  
 8 Rape of a Child 2 (RCW 9A.44.076)  
 9 Manslaughter 1 (RCW 9A.32.060)  
 10 X Kidnapping 1 (RCW 9A.40.020)  
 11 Child Molestation 1 (RCW 9A.44.083)  
 12 Malicious explosion 3 (RCW 70.74.280(3))  
 13 Over 18 and deliver heroin or narcotic from  
 14 Schedule I or II to someone under 18  
 15 (RCW 69.50.406)  
 16 Leading Organized Crime (RCW  
 17 9A.82.060(1)(a))  
 18 Indecent Liberties (with forcible  
 19 compulsion) (RCW 9A.44.100(1)(a))  
 20 IX Assault of a Child 2 (RCW 9A.36.130)  
 21 Robbery 1 (RCW 9A.56.200)  
 22 Explosive devices prohibited (RCW  
 23 70.74.180)  
 24 Malicious placement of an explosive 2 (RCW  
 25 70.74.270(2))  
 26 Over 18 and deliver narcotic from Schedule  
 27 III, IV, or V or a nonnarcotic from  
 28 Schedule I-V to someone under 18 and 3  
 29 years junior (RCW 69.50.406)  
 30 Controlled Substance Homicide (RCW  
 31 69.50.415)  
 32 Sexual Exploitation (RCW 9.68A.040)  
 33 Inciting Criminal Profiteering (RCW  
 34 9A.82.060(1)(b))  
 35 Vehicular Homicide, by being under the  
 36 influence of intoxicating liquor or  
 37 any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)  
2 Promoting Prostitution 1 (RCW 9A.88.070)  
3 Selling for profit (controlled or  
4 counterfeit) any controlled substance  
5 (RCW 69.50.410)  
6 Manufacture, deliver, or possess with  
7 intent to deliver heroin or cocaine  
8 (RCW 69.50.401(a)(1)(i))  
9 Manufacture, deliver, or possess with  
10 intent to deliver methamphetamine (RCW  
11 69.50.401(a)(1)(ii))  
12 Manufacture, deliver, or possess with  
13 intent to deliver amphetamine (RCW  
14 69.50.401(a)(1)(ii))  
15 Possession of ephedrine or pseudoephedrine  
16 with intent to manufacture  
17 methamphetamine (RCW 69.50.440)  
18 Vehicular Homicide, by the operation of any  
19 vehicle in a reckless manner (RCW  
20 46.61.520)  
21 Manslaughter 2 (RCW 9A.32.070)

22 VII Burglary 1 (RCW 9A.52.020)  
23 Vehicular Homicide, by disregard for the  
24 safety of others (RCW 46.61.520)  
25 Introducing Contraband 1 (RCW 9A.76.140)  
26 Indecent Liberties (without forcible  
27 compulsion) (RCW 9A.44.100(1) (b) and  
28 (c))  
29 Child Molestation 2 (RCW 9A.44.086)  
30 Dealing in depictions of minor engaged in  
31 sexually explicit conduct (RCW  
32 9.68A.050)  
33 Sending, bringing into state depictions of  
34 minor engaged in sexually explicit  
35 conduct (RCW 9.68A.060)  
36 Involving a minor in drug dealing (RCW  
37 69.50.401(f))  
38 Drive-by Shooting (RCW 9A.36.045)

1 Unlawful Possession of a Firearm in the  
2 first degree (RCW 9.41.040(1)(a))  
3 Malicious placement of an explosive 3 (RCW  
4 70.74.270(3))

5 VI Bribery (RCW 9A.68.010)  
6 Rape of a Child 3 (RCW 9A.44.079)  
7 Intimidating a Juror/Witness (RCW  
8 9A.72.110, 9A.72.130)  
9 Malicious placement of an imitation device  
10 2 (RCW 70.74.272(1)(b))  
11 Incest 1 (RCW 9A.64.020(1))  
12 Manufacture, deliver, or possess with  
13 intent to deliver narcotics from  
14 Schedule I or II (except heroin or  
15 cocaine) (RCW 69.50.401(a)(1)(i))  
16 Intimidating a Judge (RCW 9A.72.160)  
17 Bail Jumping with Murder 1 (RCW  
18 9A.76.170(2)(a))  
19 Theft of a Firearm (RCW 9A.56.300)

20 V Persistent prison misbehavior (RCW  
21 9.94.070)  
22 Criminal Mistreatment 1 (RCW 9A.42.020)  
23 Abandonment of dependent person 1 (RCW  
24 9A.42.060)  
25 Rape 3 (RCW 9A.44.060)  
26 Sexual Misconduct with a Minor 1 (RCW  
27 9A.44.093)  
28 Child Molestation 3 (RCW 9A.44.089)  
29 Kidnapping 2 (RCW 9A.40.030)  
30 Extortion 1 (RCW 9A.56.120)  
31 Incest 2 (RCW 9A.64.020(2))  
32 Perjury 1 (RCW 9A.72.020)  
33 Extortionate Extension of Credit (RCW  
34 9A.82.020)  
35 Advancing money or property for  
36 extortionate extension of credit (RCW  
37 9A.82.030)

1 Extortionate Means to Collect Extensions of  
2 Credit (RCW 9A.82.040)  
3 Rendering Criminal Assistance 1 (RCW  
4 9A.76.070)  
5 Bail Jumping with class A Felony (RCW  
6 9A.76.170(2)(b))  
7 Sexually Violating Human Remains (RCW  
8 9A.44.105)  
9 Delivery of imitation controlled substance  
10 by person eighteen or over to person  
11 under eighteen (RCW 69.52.030(2))  
12 Possession of a Stolen Firearm (RCW  
13 9A.56.310)

14 IV Residential Burglary (RCW 9A.52.025)  
15 Theft of Livestock 1 (RCW 9A.56.080)  
16 Robbery 2 (RCW 9A.56.210)  
17 Assault 2 (RCW 9A.36.021)  
18 Escape 1 (RCW 9A.76.110)  
19 Arson 2 (RCW 9A.48.030)  
20 Commercial Bribery (RCW 9A.68.060)  
21 Bribing a Witness/Bribe Received by Witness  
22 (RCW 9A.72.090, 9A.72.100)  
23 Malicious Harassment (RCW 9A.36.080)  
24 Threats to Bomb (RCW 9.61.160)  
25 Willful Failure to Return from Furlough  
26 (RCW 72.66.060)  
27 Hit and Run--Injury Accident (RCW  
28 46.52.020(4))  
29 Hit and Run with Vessel--Injury Accident  
30 (RCW 88.12.155(3))  
31 Vehicular Assault (RCW 46.61.522)  
32 Manufacture, deliver, or possess with  
33 intent to deliver narcotics from  
34 Schedule III, IV, or V or nonnarcotics  
35 from Schedule I-V (except marijuana,  
36 amphetamine, or methamphetamines) (RCW  
37 69.50.401(a)(1) (iii) through (v))  
38 Influencing Outcome of Sporting Event (RCW  
39 9A.82.070)

1 Use of Proceeds of Criminal Profiteering  
2 (RCW 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property  
4 (RCW 9A.82.050(2))  
5 III Criminal Gang Intimidation (RCW 9A.46.120)  
6 Criminal Mistreatment 2 (RCW 9A.42.030)  
7 Abandonment of dependent person 2 (RCW  
8 9A.42.070)  
9 Extortion 2 (RCW 9A.56.130)  
10 Unlawful Imprisonment (RCW 9A.40.040)  
11 Assault 3 (RCW 9A.36.031)  
12 Assault of a Child 3 (RCW 9A.36.140)  
13 Custodial Assault (RCW 9A.36.100)  
14 Unlawful possession of firearm in the  
15 second degree (RCW 9.41.040(1)(b))  
16 Harassment (RCW 9A.46.020)  
17 Promoting Prostitution 2 (RCW 9A.88.080)  
18 Willful Failure to Return from Work Release  
19 (RCW 72.65.070)  
20 Burglary 2 (RCW 9A.52.030)  
21 Introducing Contraband 2 (RCW 9A.76.150)  
22 Communication with a Minor for Immoral  
23 Purposes (RCW 9.68A.090)  
24 Patronizing a Juvenile Prostitute (RCW  
25 9.68A.100)  
26 Escape 2 (RCW 9A.76.120)  
27 Perjury 2 (RCW 9A.72.030)  
28 Bail Jumping with class B or C Felony (RCW  
29 9A.76.170(2)(c))  
30 Intimidating a Public Servant (RCW  
31 9A.76.180)  
32 Tampering with a Witness (RCW 9A.72.120)  
33 Manufacture, deliver, or possess with  
34 intent to deliver marijuana (RCW  
35 69.50.401(a)(1)(iii))  
36 Delivery of a material in lieu of a  
37 controlled substance (RCW  
38 69.50.401(c))

1 Manufacture, distribute, or possess with  
2 intent to distribute an imitation  
3 controlled substance (RCW  
4 69.52.030(1))  
5 Recklessly Trafficking in Stolen Property  
6 (RCW 9A.82.050(1))  
7 Theft of livestock 2 (RCW 9A.56.080)  
8 Securities Act violation (RCW 21.20.400)

9 II Unlawful Practice of Law (RCW 2.48.180)  
10 Malicious Mischief 1 (RCW 9A.48.070)  
11 Possession of Stolen Property 1 (RCW  
12 9A.56.150)  
13 Theft 1 (RCW 9A.56.030)  
14 Class B Felony Theft of Rental, Leased, or  
15 Lease-purchased Property (RCW  
16 9A.56.096(4))  
17 Trafficking in Insurance Claims (RCW  
18 48.30A.015)  
19 Unlicensed Practice of a Profession or  
20 Business (RCW 18.130.190(7))  
21 Health Care False Claims (RCW 48.80.030)  
22 Possession of controlled substance that is  
23 either heroin or narcotics from  
24 Schedule I or II (RCW 69.50.401(d))  
25 Possession of phencyclidine (PCP) (RCW  
26 69.50.401(d))  
27 Create, deliver, or possess a counterfeit  
28 controlled substance (RCW  
29 69.50.401(b))  
30 Computer Trespass 1 (RCW 9A.52.110)  
31 Escape from Community Custody (RCW  
32 72.09.310)

33 I Theft 2 (RCW 9A.56.040)  
34 Class C Felony Theft of Rental, Leased, or  
35 Lease-purchased Property (RCW  
36 9A.56.096(4))  
37 Possession of Stolen Property 2 (RCW  
38 9A.56.160)

1           Forgery (RCW 9A.60.020)  
2           Taking Motor Vehicle Without Permission  
3                   (RCW 9A.56.070)  
4           Vehicle Prowl 1 (RCW 9A.52.095)  
5           Attempting to Elude a Pursuing Police  
6                   Vehicle (RCW 46.61.024)  
7           Malicious Mischief 2 (RCW 9A.48.080)  
8           Reckless Burning 1 (RCW 9A.48.040)  
9           Unlawful Issuance of Checks or Drafts (RCW  
10                   9A.56.060)  
11           Unlawful Use of Food Stamps (RCW 9.91.140  
12                   (2) and (3))  
13           False Verification for Welfare (RCW  
14                   74.08.055)  
15           Forged Prescription (RCW 69.41.020)  
16           Forged Prescription for a Controlled  
17                   Substance (RCW 69.50.403)  
18           Possess Controlled Substance that is a  
19                   Narcotic from Schedule III, IV, or V  
20                   or Non-narcotic from Schedule I-V  
21                   (except phencyclidine) (RCW  
22                   69.50.401(d))

23           **Sec. 2.** RCW 69.50.401 and 1997 c 71 s 2 are each amended to read  
24 as follows:

25           (a) Except as authorized by this chapter, it is unlawful for any  
26 person to manufacture, deliver, or possess with intent to manufacture  
27 or deliver, a controlled substance.

28           (1) Any person who violates this subsection with respect to:

29           (i) a controlled substance classified in Schedule I or II which is  
30 a narcotic drug, is guilty of a crime and upon conviction may be  
31 imprisoned for not more than ten years, or (A) fined not more than  
32 twenty-five thousand dollars if the crime involved less than two  
33 kilograms of the drug, or both such imprisonment and fine; or (B) if  
34 the crime involved two or more kilograms of the drug, then fined not  
35 more than one hundred thousand dollars for the first two kilograms and  
36 not more than fifty dollars for each gram in excess of two kilograms,  
37 or both such imprisonment and fine;



1 (ii) amphetamine or methamphetamine, is guilty of a crime and upon  
2 conviction may be imprisoned for not more than ten years, or (A) fined  
3 not more than twenty-five thousand dollars if the crime involved less  
4 than two kilograms of the drug, or both such imprisonment and fine; or  
5 (B) if the crime involved two or more kilograms of the drug, then fined  
6 not more than one hundred thousand dollars for the first two kilograms  
7 and not more than fifty dollars for each gram in excess of two  
8 kilograms, or both such imprisonment and fine. Three thousand dollars  
9 of the fine may not be suspended. As collected, the first three  
10 thousand dollars of the fine must be deposited with the law enforcement  
11 agency having responsibility for cleanup of laboratories, sites, or  
12 substances used in the manufacture of the methamphetamine. The fine  
13 moneys deposited with that law enforcement agency must be used for such  
14 clean-up cost;

15 (iii) any other controlled substance classified in Schedule I, II,  
16 or III, is guilty of a crime and upon conviction may be imprisoned for  
17 not more than five years, fined not more than ten thousand dollars, or  
18 both;

19 (iv) a substance classified in Schedule IV, is guilty of a crime  
20 and upon conviction may be imprisoned for not more than five years,  
21 fined not more than ten thousand dollars, or both;

22 (v) a substance classified in Schedule V, is guilty of a crime and  
23 upon conviction may be imprisoned for not more than five years, fined  
24 not more than ten thousand dollars, or both.

25 (b) Except as authorized by this chapter, it is unlawful for any  
26 person to create, deliver, or possess a counterfeit substance.

27 (1) Any person who violates this subsection with respect to:

28 (i) a counterfeit substance classified in Schedule I or II which is  
29 a narcotic drug, is guilty of a crime and upon conviction may be  
30 imprisoned for not more than ten years, fined not more than twenty-five  
31 thousand dollars, or both;

32 (ii) a counterfeit substance which is methamphetamine, is guilty of  
33 a crime and upon conviction may be imprisoned for not more than ten  
34 years, fined not more than twenty-five thousand dollars, or both;

35 (iii) any other counterfeit substance classified in Schedule I, II,  
36 or III, is guilty of a crime and upon conviction may be imprisoned for  
37 not more than five years, fined not more than ten thousand dollars, or  
38 both;

1 (iv) a counterfeit substance classified in Schedule IV, is guilty  
2 of a crime and upon conviction may be imprisoned for not more than five  
3 years, fined not more than ten thousand dollars, or both;

4 (v) a counterfeit substance classified in Schedule V, is guilty of  
5 a crime and upon conviction may be imprisoned for not more than five  
6 years, fined not more than ten thousand dollars, or both.

7 (c) It is unlawful, except as authorized in this chapter and  
8 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for  
9 the sale, gift, delivery, dispensing, distribution, or administration  
10 of a controlled substance to any person and then sell, give, deliver,  
11 dispense, distribute, or administer to that person any other liquid,  
12 substance, or material in lieu of such controlled substance. Any  
13 person who violates this subsection is guilty of a crime and upon  
14 conviction may be imprisoned for not more than five years, fined not  
15 more than ten thousand dollars, or both.

16 (d) It is unlawful for any person to possess a controlled substance  
17 unless the substance was obtained directly from, or pursuant to, a  
18 valid prescription or order of a practitioner while acting in the  
19 course of his or her professional practice, or except as otherwise  
20 authorized by this chapter. Any person who violates this subsection is  
21 guilty of a crime, and upon conviction may be imprisoned for not more  
22 than five years, fined not more than ten thousand dollars, or both,  
23 except as provided for in subsection (e) of this section.

24 (e) Except as provided for in subsection (a)(1)(iii) of this  
25 section any person found guilty of possession of forty grams or less of  
26 marihuana shall be guilty of a misdemeanor.

27 (f) It is unlawful to compensate, threaten, solicit, or in any  
28 other manner involve a person under the age of eighteen years in a  
29 transaction unlawfully to manufacture, sell, or deliver a controlled  
30 substance. A violation of this subsection shall be punished as a class  
31 C felony punishable in accordance with RCW 9A.20.021.

32 This section shall not apply to offenses defined and punishable  
33 under the provisions of RCW 69.50.410.

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