
SENATE BILL 5540

State of Washington

54th Legislature

1995 Regular Session

By Senators Smith, Roach, C. Anderson, Schow, Franklin, Kohl and Winsley

Read first time 01/26/95. Referred to Committee on Law & Justice.

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
18 substance or counterfeit substance classified in schedule I, RCW

1 69.50.204, except leaves and flowering tops of marihuana to a person in
2 a school or on a school bus or within one thousand feet of a school bus
3 route stop designated by the school district or within one thousand
4 feet of the perimeter of the school grounds, in a public park, or in a
5 public housing project designated by a local governing authority, or on
6 a public transit vehicle, or in a public transit stop shelter may be
7 punished by a fine of up to twice the fine otherwise authorized by this
8 chapter, but not including twice the fine authorized by RCW 69.50.406,
9 or by imprisonment of up to twice the imprisonment otherwise authorized
10 by this chapter, but not including twice the imprisonment authorized by
11 RCW 69.50.406, or by both such fine and imprisonment. The provisions
12 of this section shall not operate to more than double the fine or
13 imprisonment otherwise authorized by this chapter for an offense.

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

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

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

37 (e) In a prosecution under this section, a map produced or
38 reproduced by any municipal, school district, county, or transit
39 authority engineer or public housing authority for the purpose of

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

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

24 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
25 The term "school" also includes a private school approved under RCW
26 28A.195.010;

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

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

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

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

8 (6) "Transit authority" means a city, county, or state
9 transportation system, transportation authority, public transportation
10 benefit area, public transit authority, or metropolitan municipal
11 corporation within the state that operates public transit vehicles;

12 (7) "Stop shelter" means a passenger shelter designated by a
13 transit authority;

14 (8) "Public housing project" means the same as defined in RCW
15 35.82.020(9).

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