

HOUSE BILL REPORT

HB 2375

As Reported by House Committee On:
Public Safety

Title: An act relating to tableting and encapsulating machines and controlled substance imitation materials.

Brief Description: Concerning tableting and encapsulating machines and controlled substance imitation materials.

Sponsors: Representatives Leavitt, Irwin, Davis, Harris, Klippert and Walen.

Brief History:

Committee Activity:

Public Safety: 1/20/20, 1/30/20 [DPS].

Brief Summary of Substitute Bill

- Makes it a felony offense to possess, purchase, deliver, sell, or possess with intent to sell a tableting or encapsulating machine knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance, other than marijuana, in violation of the Uniform Controlled Substances Act.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Kelly Leonard (786-7147).

Background:

State Law Pertaining to Controlled Substances.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Uniform Controlled Substances Act. Under the Washington Uniform Controlled Substances Act (UCSA), a "controlled substance" means a drug, substance, or immediate precursor included in schedules I through V, with some exceptions. The Pharmacy Quality Assurance Commission may modify the schedule for any given substance based on: its potential for abuse; whether there is a currently accepted medical use in treatment; and the safety of the substance and risk for dependence. Substances in schedule I are the most tightly controlled, while those in schedule V are the least tightly controlled.

It is unlawful for any person to possess, manufacture, or distribute a controlled substance unless:

- the substance was dispensed directly by an authorized practitioner;
- the substance was obtained pursuant to a valid prescription;
- the person is a common or contract carrier or warehouseman acting in the usual course of business; or
- the person is registered to manufacture or distribute controlled substances, or employed by a registrant, and acting in the usual course of business.

In addition, the UCSA makes it unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. The term "drug paraphernalia" includes several types of materials. This includes for example: blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances; and capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

Classification of Crimes and Fines. Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Drug offenses are sentenced under a specialized sentencing grid and have seriousness level designations ranging from I to III. Offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

The criminal penalties for violating the UCSA depends upon the nature of the violation and the type of substance. Most violations are classified as felony offenses, except for using drug paraphernalia is a misdemeanor offense.

Federal Law on Tableting and Encapsulating Machines.

Certain transactions involving tableting machines and encapsulating machines are monitored and regulated by the federal government. A person who engages in a transaction involving a tableting machine or an encapsulating machine must keep certain records and report transactions. Further, it is against federal law to knowingly or intentionally possess, manufacture, distribute, export, or import any tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance or other listed chemical.

Summary of Substitute Bill:

A new crime pertaining to tableting and encapsulating machines is created.

It is a criminal offense for any person to possess, purchase, deliver, sell, or possess with intent to sell a tableting or encapsulating machine knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance, other than marijuana, in violation of the UCSA.

The offense is a class C felony and seriousness level II drug offense.

Substitute Bill Compared to Original Bill:

The provisions in the underlying bill are removed. Instead, a new crime is created within the UCSA pertaining to tableting and encapsulating machines.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Communities across the state are facing a public health and safety crisis arising from opiate abuse, and many of our friends, family members, and neighbors are dealing with

substance abuse disorders. The accessibility of pill presses are worsening this crisis. A pill press can be purchased on the Internet for less than \$500. By using a pill press, a person can quickly process illegally obtained fentanyl, heroin, and other substances into hundreds and thousands of pills that look like legally manufactured medications. Then people buy and consume those pills without knowing the dangers. People are dying because of quickly processed, cheaply made, counterfeit drugs. This bill is critical to stopping the flood of counterfeit drugs into our communities.

Prohibiting possession of pill presses will make it more difficult to mass produce dangerous counterfeit drugs, while also giving law enforcement more authority to seize these devices as contraband.

(Opposed) None.

(Other) The bill should be amended to exempt the Department of Ecology. The Department of Ecology is responsible for developing methods to decontaminate pill presses and also use them in training and for other purposes.

Persons Testifying: (In support) Representative Leavitt, prime sponsor; and Seth Dawson, Washington Association for Substance Abuse Prevention.

(Other) Jase Brooks, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.