S-0103.1

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**SENATE BILL 5035**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Padden, Fortunato, Short, J. Wilson, MacEwen, Boehnke, Schoesler, Warnick, Dozier, Wagoner, Holy, McCune, Torres, and L. Wilson

AN ACT Relating to possession of controlled substances; amending RCW 69.50.4011; repealing RCW 10.31.115; repealing 2021 c 311 ss 15 and 16; repealing 2021 c 311 s 29 (uncodified); and prescribing penalties.

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

**Sec.**  RCW 69.50.4011 and 2021 c 311 s 8 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for:

(a) Any person to create or deliver a counterfeit substance; or

(b) Any person to knowingly possess a counterfeit substance.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) A violation of subsection (1)(b) of this section is a ((~~misdemeanor~~)) class C felony. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services for a person's first two violations under this subsection.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 10.31.115 (Drug possession—Referral to assessment and services) and 2021 c 311 s 13;

(2) 2021 c 311 s 15;

(3) 2021 c 311 s 16; and

(4) 2021 c 311 s 29 (uncodified).

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