
HOUSE BILL 2311

State of Washington

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By Representatives Franklin, Appelwick, Edmondson, Riley, Lisk, Ogden, Orr, R. Fisher, Tate, Kremen, Forner and Anderson

Read first time 01/14/92. Referred to Committee on Judiciary.

1 AN ACT Relating to increased penalties for controlled substances
2 offenses committed in certain areas; amending RCW 69.50.435; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 69.50.435 and 1991 c 32 s 4 are each amended to read
6 as follows:

7 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
8 selling, delivering, or possessing with the intent to manufacture,
9 sell, or deliver a controlled substance listed under that subsection or
10 who violates RCW 69.50.410 by selling for profit any controlled
11 substance or counterfeit substance classified in schedule I, RCW
12 69.50.204, except leaves and flowering tops of marihuana (~~to a person~~
13 ~~in a school or on a school bus or within one thousand feet of a school~~
14 ~~bus route stop designated by the school district or within one thousand~~

1 ~~feet of the perimeter of the school grounds, in a public park or on a~~
2 ~~public transit vehicle, or in a public transit stop shelter)), in any~~
3 ~~of the places identified in this subsection as protected areas, may be~~
4 ~~punished by a fine of up to twice the fine otherwise authorized by this~~
5 ~~chapter, but not including twice the fine authorized by RCW 69.50.406,~~
6 ~~or by imprisonment of up to twice the imprisonment otherwise authorized~~
7 ~~by this chapter, but not including twice the imprisonment authorized by~~
8 ~~RCW 69.50.406, or by both such fine and imprisonment. ((The provisions~~
9 ~~of this section shall not operate to more than double the fine or~~
10 ~~imprisonment otherwise authorized by this chapter for an offense.))~~

11 Protected areas are:

12 (1) On a school bus or public transit vehicle;

13 (2) In a public transit stop shelter;

14 (3) Within five hundred feet of a marked school bus stop or of a
15 place that the person knows or reasonably should know is a school bus
16 stop, at a time when minors are reasonably likely to be present;

17 (4) In a school or on the school's grounds or within one thousand
18 feet of the perimeter of the school's grounds; and

19 (5) In a public park, swimming pool, playground, youth center, or
20 civic center.

21 (b) Except with respect to an unmarked school bus stop, it is not
22 a defense to a prosecution for a violation of this section that the
23 person was unaware or could not reasonably have been expected to be
24 aware that the prohibited conduct took place while in a ((school or
25 school bus or within one thousand feet of the school or school bus
26 route stop, in a public park, on a public transit vehicle, or in a
27 public transit stop shelter)) protected area.

28 (c) Except with respect to a school bus stop, it is not a defense
29 to a prosecution for a violation of this section or to any other
30 prosecution under this chapter that persons under the age of eighteen

1 were not present or could not reasonably have been expected to be
2 present in the ((~~school, the school bus, the public park, or the public~~
3 ~~transit vehicle, or at the school bus route stop or the public transit~~
4 ~~vehicle stop shelter at the time of the offense~~)) protected area or
5 that school was not in session at the time the prohibited conduct took
6 place.

7 (d) It is an affirmative defense to a prosecution for a violation
8 of this section that the prohibited conduct took place entirely within
9 a private residence, that no person under eighteen years of age or
10 younger was present in such private residence at any time during the
11 commission of the offense, and that the prohibited conduct did not
12 involve delivering, manufacturing, selling, or possessing with the
13 intent to manufacture, sell, or deliver any controlled substance in RCW
14 69.50.401(a) for profit. The affirmative defense established in this
15 section shall be proved by the defendant by a preponderance of the
16 evidence. This section shall not be construed to establish an
17 affirmative defense with respect to a prosecution for an offense
18 defined in any other section of this chapter.

19 (e) ((~~In a prosecution under this section, a map produced or~~
20 ~~reproduced by any municipal, school district, county, or transit~~
21 ~~authority engineer for the purpose of depicting the location and~~
22 ~~boundaries of the area on or within one thousand feet of any property~~
23 ~~used for a school, school bus route stop, public park, or public~~
24 ~~transit vehicle stop shelter, or a true copy of such a map, shall under~~
25 ~~proper authentication, be admissible and shall constitute prima facie~~
26 ~~evidence of the location and boundaries of those areas if the governing~~
27 ~~body of the municipality, school district, county, or transit authority~~
28 ~~has adopted a resolution or ordinance approving the map as the official~~
29 ~~location and record of the location and boundaries of the area on or~~
30 ~~within one thousand feet of the school, school bus route stop, public~~

1 ~~park, or public transit vehicle stop shelter. Any map approved under~~
2 ~~this section or a true copy of the map shall be filed with the clerk of~~
3 ~~the municipality or county, and shall be maintained as an official~~
4 ~~record of the municipality or county. This section shall not be~~
5 ~~construed as precluding the prosecution from introducing or relying~~
6 ~~upon any other evidence or testimony to establish any element of the~~
7 ~~offense. This section shall not be construed as precluding the use or~~
8 ~~admissibility of any map or diagram other than the one which has been~~
9 ~~approved by the governing body of a municipality, school district,~~
10 ~~county, or transit authority if the map or diagram is otherwise~~
11 ~~admissible under court rule.)) The provisions of this section may not
12 be applied to more than double the fine or imprisonment otherwise
13 authorized by this chapter for an offense.~~

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

16 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
17 The term "school" also includes a private school approved under RCW
18 28A.195.010;

19 (2) "School bus" means a school bus as defined by the
20 superintendent of public instruction by rule which is owned and
21 operated by any school district and all school buses which are
22 privately owned and operated under contract or otherwise with any
23 school district in the state for the transportation of students. The
24 term does not include buses operated by common carriers in the urban
25 transportation of students such as transportation of students through
26 a municipal transportation system;

27 (3) (~~"School bus route stop" means a school bus stop as designated~~
28 ~~on maps submitted by school districts to the office of the~~
29 ~~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))~~ (4) "Public transit vehicle" means any motor vehicle,
5 street car, train, trolley vehicle, or any other device, vessel, or
6 vehicle which is owned or operated by a transit authority and which is
7 used for the purpose of carrying passengers on a regular schedule;

8 ~~((6))~~ (5) "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))~~ (6) "Stop shelter" means a passenger shelter designated by
13 a transit authority;

14 (7) "Playground" means any outdoor facility, including any
15 appurtenant parking lot, that is open to the public and that has three
16 or more separate pieces of equipment, including but not limited to,
17 sliding boards, swingsets, and teeterboards, that are intended for the
18 recreation of children;

19 (8) "Youth center" means any recreational facility or gymnasium,
20 including any appurtenant parking lot, that is open to the public, that
21 is intended primarily for use by persons under eighteen years of age,
22 and that regularly provides athletic, civic, or cultural activities;

23 (9) "Swimming pool" means any swimming facility, including any
24 appurtenant parking lot, that is open to the public.