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SENATE BILL 6260

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State of Washington                      56th Legislature                      2000 Regular Session

By Senators Rasmussen, Heavey, Haugen, Goings, Oke and Gardner

Read first time 01/12/2000. Referred to Committee on Judiciary.

1            AN ACT Relating to manufacture of a controlled substance with  
2 children present; reenacting and amending RCW 9.94A.310; adding a new  
3 section to chapter 9.94A RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 9.94A RCW  
6 to read as follows:

7            In a criminal case where:

8            (1) The defendant has been convicted of (a) manufacture of a  
9 controlled substance under RCW 69.50.401(a); (b) possession of  
10 ephedrine or pseudoephedrine with intent to manufacture  
11 methamphetamine, as defined in RCW 69.50.440; or (c) an attempt to  
12 commit or a conspiracy to commit a crime under (a) or (b) of this  
13 subsection; and

14            (2) There has been a special allegation pleaded and proven beyond  
15 a reasonable doubt that the defendant committed the crime when a person  
16 under the age of eighteen was present in or at the site or location of  
17 manufacture;

1 the court shall make a finding of fact of the special allegation, or if  
 2 a jury trial is had, the jury shall, if it finds the defendant guilty,  
 3 also find a special verdict as to the special allegation.

4 **Sec. 2.** RCW 9.94A.310 and 1999 c 352 s 2 and 1999 c 324 s 3 are  
 5 each reenacted and amended to read as follows:

6 (1) TABLE 1

7 Sentencing Grid

8 SERIOUSNESS

9 LEVEL

OFFENDER SCORE

10  
 11 0 1 2 3 4 5 6 7 8 9 or  
 12 more

13 XVI Life Sentence without Parole/Death Penalty

14  
 15 XV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m36y 40y  
 16 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-  
 17 320 333 347 361 374 388 416 450 493 548

18  
 19 XIV 14y4m 15y4m 16y2m 17y 17y11m18y9m 20y5m 22y2m 25y7m 29y  
 20 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
 21 220 234 244 254 265 275 295 316 357 397

22  
 23 XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y  
 24 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
 25 164 178 192 205 219 233 260 288 342 397

26  
 27 XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
 28 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
 29 123 136 147 160 171 184 216 236 277 318

30  
 31 XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m  
 32 78- 86- 95- 102- 111- 120- 146- 159- 185- 210-  
 33 102 114 125 136 147 158 194 211 245 280

34  
 35 X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m  
 36 51- 57- 62- 67- 72- 77- 98- 108- 129- 149-  
 37 68 75 82 89 96 102 130 144 171 198

1											
2	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
3		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
4		41	48	54	61	68	75	102	116	144	171
5											
6	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
7		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
8		27	34	41	48	54	61	89	102	116	144
9											
10	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
11		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
12		20	27	34	41	48	54	75	89	102	116
13											
14	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
15		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
16		14	20	27	34	41	48	61	75	89	102
17											
18	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
19		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
20		12	14	17	20	29	43	54	68	82	96
21											
22	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
23		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
24		9	12	14	17	20	29	43	57	70	84
25											
26	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
27		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
28		3	8	12	12	16	22	29	43	57	68
29											
30	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
31		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
32		Days	6	9	12	14	18	22	29	43	57
33											
34	I			3m	4m	5m	8m	13m	16m	20m	2y2m
35		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
36		Days	Days	5	6	8	12	14	18	22	29
37											

1 NOTE: Numbers in the first horizontal row of each seriousness category  
2 represent sentencing midpoints in years(y) and months(m). Numbers in  
3 the second and third rows represent presumptive sentencing ranges in  
4 months, or in days if so designated. 12+ equals one year and one day.

5 (2) For persons convicted of the anticipatory offenses of criminal  
6 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
7 presumptive sentence is determined by locating the sentencing grid  
8 sentence range defined by the appropriate offender score and the  
9 seriousness level of the completed crime, and multiplying the range by  
10 75 percent.

11 (3) The following additional times shall be added to the  
12 presumptive sentence for felony crimes committed after July 23, 1995,  
13 if the offender or an accomplice was armed with a firearm as defined in  
14 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
15 listed in this subsection as eligible for any firearm enhancements  
16 based on the classification of the completed felony crime. If the  
17 offender is being sentenced for more than one offense, the firearm  
18 enhancement or enhancements must be added to the total period of  
19 confinement for all offenses, regardless of which underlying offense is  
20 subject to a firearm enhancement. If the offender or an accomplice was  
21 armed with a firearm as defined in RCW 9.41.010 and the offender is  
22 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
23 commit one of the crimes listed in this subsection as eligible for any  
24 firearm enhancements, the following additional times shall be added to  
25 the presumptive sentence determined under subsection (2) of this  
26 section based on the felony crime of conviction as classified under RCW  
27 9A.28.020:

28 (a) Five years for any felony defined under any law as a class A  
29 felony or with a maximum sentence of at least twenty years, or both,  
30 and not covered under (f) of this subsection.

31 (b) Three years for any felony defined under any law as a class B  
32 felony or with a maximum sentence of ten years, or both, and not  
33 covered under (f) of this subsection.

34 (c) Eighteen months for any felony defined under any law as a class  
35 C felony or with a maximum sentence of five years, or both, and not  
36 covered under (f) of this subsection.

37 (d) If the offender is being sentenced for any firearm enhancements  
38 under (a), (b), and/or (c) of this subsection and the offender has  
39 previously been sentenced for any deadly weapon enhancements after July

1 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
2 (4)(a), (b), and/or (c) of this section, or both, any and all firearm  
3 enhancements under this subsection shall be twice the amount of the  
4 enhancement listed.

5 (e) Notwithstanding any other provision of law, any and all firearm  
6 enhancements under this section are mandatory, shall be served in total  
7 confinement, and shall run consecutively to all other sentencing  
8 provisions, including other firearm or deadly weapon enhancements, for  
9 all offenses sentenced under this chapter. However, whether or not a  
10 mandatory minimum term has expired, an offender serving a sentence  
11 under this subsection may be granted an extraordinary medical placement  
12 when authorized under RCW 9.94A.150(4).

13 (f) The firearm enhancements in this section shall apply to all  
14 felony crimes except the following: Possession of a machine gun,  
15 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
16 unlawful possession of a firearm in the first and second degree, and  
17 use of a machine gun in a felony.

18 (g) If the presumptive sentence under this section exceeds the  
19 statutory maximum for the offense, the statutory maximum sentence shall  
20 be the presumptive sentence unless the offender is a persistent  
21 offender as defined in RCW 9.94A.030. If the addition of a firearm  
22 enhancement increases the sentence so that it would exceed the  
23 statutory maximum for the offense, the portion of the sentence  
24 representing the enhancement may not be reduced.

25 (4) The following additional times shall be added to the  
26 presumptive sentence for felony crimes committed after July 23, 1995,  
27 if the offender or an accomplice was armed with a deadly weapon as  
28 defined in this chapter other than a firearm as defined in RCW 9.41.010  
29 and the offender is being sentenced for one of the crimes listed in  
30 this subsection as eligible for any deadly weapon enhancements based on  
31 the classification of the completed felony crime. If the offender is  
32 being sentenced for more than one offense, the deadly weapon  
33 enhancement or enhancements must be added to the total period of  
34 confinement for all offenses, regardless of which underlying offense is  
35 subject to a deadly weapon enhancement. If the offender or an  
36 accomplice was armed with a deadly weapon other than a firearm as  
37 defined in RCW 9.41.010 and the offender is being sentenced for an  
38 anticipatory offense under chapter 9A.28 RCW to commit one of the  
39 crimes listed in this subsection as eligible for any deadly weapon

1 enhancements, the following additional times shall be added to the  
2 presumptive sentence determined under subsection (2) of this section  
3 based on the felony crime of conviction as classified under RCW  
4 9A.28.020:

5 (a) Two years for any felony defined under any law as a class A  
6 felony or with a maximum sentence of at least twenty years, or both,  
7 and not covered under (f) of this subsection.

8 (b) One year for any felony defined under any law as a class B  
9 felony or with a maximum sentence of ten years, or both, and not  
10 covered under (f) of this subsection.

11 (c) Six months for any felony defined under any law as a class C  
12 felony or with a maximum sentence of five years, or both, and not  
13 covered under (f) of this subsection.

14 (d) If the offender is being sentenced under (a), (b), and/or (c)  
15 of this subsection for any deadly weapon enhancements and the offender  
16 has previously been sentenced for any deadly weapon enhancements after  
17 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
18 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
19 all deadly weapon enhancements under this subsection shall be twice the  
20 amount of the enhancement listed.

21 (e) Notwithstanding any other provision of law, any and all deadly  
22 weapon enhancements under this section are mandatory, shall be served  
23 in total confinement, and shall run consecutively to all other  
24 sentencing provisions, including other firearm or deadly weapon  
25 enhancements, for all offenses sentenced under this chapter. However,  
26 whether or not a mandatory minimum term has expired, an offender  
27 serving a sentence under this subsection may be granted an  
28 extraordinary medical placement when authorized under RCW 9.94A.150(4).

29 (f) The deadly weapon enhancements in this section shall apply to  
30 all felony crimes except the following: Possession of a machine gun,  
31 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
32 unlawful possession of a firearm in the first and second degree, and  
33 use of a machine gun in a felony.

34 (g) If the presumptive sentence under this section exceeds the  
35 statutory maximum for the offense, the statutory maximum sentence shall  
36 be the presumptive sentence unless the offender is a persistent  
37 offender as defined in RCW 9.94A.030. If the addition of a deadly  
38 weapon enhancement increases the sentence so that it would exceed the

1 statutory maximum for the offense, the portion of the sentence  
2 representing the enhancement may not be reduced.

3 (5) The following additional times shall be added to the  
4 presumptive sentence if the offender or an accomplice committed the  
5 offense while in a county jail or state correctional facility as that  
6 term is defined in this chapter and the offender is being sentenced for  
7 one of the crimes listed in this subsection. If the offender or an  
8 accomplice committed one of the crimes listed in this subsection while  
9 in a county jail or state correctional facility as that term is defined  
10 in this chapter, and the offender is being sentenced for an  
11 anticipatory offense under chapter 9A.28 RCW to commit one of the  
12 crimes listed in this subsection, the following additional times shall  
13 be added to the presumptive sentence determined under subsection (2) of  
14 this section:

15 (a) Eighteen months for offenses committed under RCW  
16 69.50.401(a)(1) (i) or (ii) or 69.50.410;

17 (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)  
18 (iii), (iv), and (v);

19 (c) Twelve months for offenses committed under RCW 69.50.401(d).

20 For the purposes of this subsection, all of the real property of a  
21 state correctional facility or county jail shall be deemed to be part  
22 of that facility or county jail.

23 (6) An additional twenty-four months shall be added to the  
24 presumptive sentence for any ranked offense involving a violation of  
25 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435  
26 or section 1 of this act.

27 (7) An additional two years shall be added to the presumptive  
28 sentence for vehicular homicide committed while under the influence of  
29 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
30 prior offense as defined in RCW 46.61.5055.

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