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HOUSE BILL 2901

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State of Washington

61st Legislature

2010 Regular Session

By Representative Goodman

Read first time 01/18/10. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to changing the perimeters and entities that are  
2 included in drug-free zones under the uniform controlled substances  
3 act; and amending RCW 69.50.435.

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

5 **Sec. 1.** RCW 69.50.435 and 2003 c 53 s 346 are each amended to read  
6 as follows:

7 (1) Any person who violates RCW 69.50.401 by manufacturing,  
8 selling, delivering, or possessing with the intent to manufacture,  
9 sell, or deliver a controlled substance listed under RCW 69.50.401 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 (a) In a school;

14 (b) On a school bus;

15 (c) Within (~~one thousand~~) five hundred feet of a school bus route  
16 stop designated by the school district;

17 (d) Within (~~one thousand~~) five hundred feet of the perimeter of  
18 the school grounds;

19 (e) In a public park;

1 (f) In a public housing project designated by a local governing  
2 authority as a drug-free zone;

3 (g) On a public transit vehicle;

4 (h) In a public transit stop shelter;

5 (i) Within five hundred feet of the perimeter of a county or city  
6 courthouse;

7 (j) At a civic center designated as a drug-free zone by the local  
8 governing authority; or

9 ((+j)) (k) Within ((one-thousand)) five hundred feet of the  
10 perimeter of a facility designated under ((+i)) (j) of this  
11 subsection, if the local governing authority specifically designates  
12 the ((one-thousand)) five hundred foot perimeter may be punished by a  
13 fine of up to twice the fine otherwise authorized by this chapter, but  
14 not including twice the fine authorized by RCW 69.50.406, or by  
15 imprisonment of up to twice the imprisonment otherwise authorized by  
16 this chapter, but not including twice the imprisonment authorized by  
17 RCW 69.50.406, or by both such fine and imprisonment. The provisions  
18 of this section shall not operate to more than double the fine or  
19 imprisonment otherwise authorized by this chapter for an offense.

20 (2) It is not a defense to a prosecution for a violation of this  
21 section that the person was unaware that the prohibited conduct took  
22 place while in a school or school bus or within ((one-thousand)) five  
23 hundred feet of the school or school bus route stop, in a public park,  
24 in a public housing project designated by a local governing authority  
25 as a drug-free zone, on a public transit vehicle, in a public transit  
26 stop shelter, at a civic center designated as a drug-free zone by the  
27 local governing authority, or within ((one-thousand)) five hundred feet  
28 of the perimeter of a facility designated under subsection (1)((+i))  
29 (j) of this section, if the local governing authority specifically  
30 designates the ((one-thousand)) five hundred foot perimeter.

31 (3) It is not a defense to a prosecution for a violation of this  
32 section or any other prosecution under this chapter that persons under  
33 the age of eighteen were not present in the school, the school bus, the  
34 public park, the public housing project designated by a local governing  
35 authority as a drug-free zone, or the public transit vehicle, or at the  
36 school bus route stop, the public transit vehicle stop shelter, at a  
37 civic center designated as a drug-free zone by the local governing  
38 authority, or within ((one-thousand)) five hundred feet of the

1 perimeter of a facility designated under subsection (1)((~~i~~)) (j) of  
2 this section, if the local governing authority specifically designates  
3 the (~~(one thousand)~~) five hundred foot perimeter at the time of the  
4 offense or that school was not in session.

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

17 (5) In a prosecution under this section, a map produced or  
18 reproduced by any municipality, school district, county, transit  
19 authority engineer, or public housing authority for the purpose of  
20 depicting the location and boundaries of the area on or within (~~(one~~  
21 ~~thousand)~~) five hundred feet of any property used for a school, school  
22 bus route stop, public park, public housing project designated by a  
23 local governing authority as a drug-free zone, public transit vehicle  
24 stop shelter, or a civic center designated as a drug-free zone by a  
25 local governing authority, or a true copy of such a map, shall under  
26 proper authentication, be admissible and shall constitute prima facie  
27 evidence of the location and boundaries of those areas if the governing  
28 body of the municipality, school district, county, or transit authority  
29 has adopted a resolution or ordinance approving the map as the official  
30 location and record of the location and boundaries of the area on or  
31 within (~~(one thousand)~~) five hundred feet of the school, school bus  
32 route stop, public park, public housing project designated by a local  
33 governing authority as a drug-free zone, public transit vehicle stop  
34 shelter, or civic center designated as a drug-free zone by a local  
35 governing authority. Any map approved under this section or a true  
36 copy of the map shall be filed with the clerk of the municipality or  
37 county, and shall be maintained as an official record of the  
38 municipality or county. This section shall not be construed as

1 precluding the prosecution from introducing or relying upon any other  
2 evidence or testimony to establish any element of the offense. This  
3 section shall not be construed as precluding the use or admissibility  
4 of any map or diagram other than the one which has been approved by the  
5 governing body of a municipality, school district, county, transit  
6 authority, or public housing authority if the map or diagram is  
7 otherwise admissible under court rule.

8 (6) As used in this section the following terms have the meanings  
9 indicated unless the context clearly requires otherwise:

10 (a) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.  
11 The term "school" also includes a private school approved under RCW  
12 28A.195.010;

13 (b) "School bus" means a school bus as defined by the  
14 superintendent of public instruction by rule which is owned and  
15 operated by any school district and all school buses which are  
16 privately owned and operated under contract or otherwise with any  
17 school district in the state for the transportation of students. The  
18 term does not include buses operated by common carriers in the urban  
19 transportation of students such as transportation of students through  
20 a municipal transportation system;

21 (c) "School bus route stop" means a school bus stop as designated  
22 by a school district;

23 (d) "Public park" means land, including any facilities or  
24 improvements on the land, that is operated as a park by the state or a  
25 local government;

26 (e) "Public transit vehicle" means any motor vehicle, streetcar,  
27 train, trolley vehicle, or any other device, vessel, or vehicle which  
28 is owned or operated by a transit authority and which is used for the  
29 purpose of carrying passengers on a regular schedule;

30 (f) "Transit authority" means a city, county, or state  
31 transportation system, transportation authority, public transportation  
32 benefit area, public transit authority, or metropolitan municipal  
33 corporation within the state that operates public transit vehicles;

34 (g) "Stop shelter" means a passenger shelter designated by a  
35 transit authority;

36 (h) "Civic center" means a publicly owned or publicly operated  
37 place or facility used for recreational, educational, or cultural  
38 activities;

1           (i) "Public housing project" means the same as "housing project" as  
2 defined in RCW 35.82.020.

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