**5476 AMS HASE S3026.1 - NOT FOR FLOOR USE**

**SB 5476** - S AMD TO S AMD (S-2939.2/21) **899**

By Senator Hasegawa

**NOT ADOPTED 04/15/2021**

On page 1, beginning on line 16, strike all material through "compassion." on line 29

On page 2, beginning on line 28, after "(3)" strike all material through "treatment." on line 33 and insert "(a) A person 21 years of age or older who violates this section by knowingly possessing a counterfeit substance is guilty of a class 2 civil infraction under chapter 7.80 RCW. To the extent resources are available, the court shall refer the individual for diversion or treatment.

(b) A person under the age of 21 who violates this section by knowingly possessing a counterfeit substance is guilty of a class 3 civil infraction under chapter 7.80 RCW and is subject to the maximum fine as set out in that chapter, participation in up to four hours of community restitution, or both. The court may also require completion of a chemical dependency treatment evaluation."

On page 3, beginning on line 4, after "section" strike all material through "RCW" on line 5 and insert "((~~is guilty of a class C felony punishable under chapter 9A.20 RCW~~)):

(a) Who is 21 years of age or older is guilty of a class 2 civil infraction under chapter 7.80 RCW. To the extent resources are available, the court shall refer the individual for diversion or treatment; or

(b) Who is under the age of 21 is guilty of a class 3 civil infraction under chapter 7.80 RCW and is subject to the maximum fine as set out in that chapter, participation in up to four hours of community restitution, or both. The court may also require completion of a chemical dependency treatment evaluation"

On page 4, line 30, after "(3)" insert "It is unlawful for any person to use drug paraphernalia to test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana.

(a) Any person 21 years of age or older who violates this subsection is guilty of a class 2 civil infraction under chapter 7.80 RCW.

(b) Any person under the age of 21 who violates this subsection is guilty of a class 3 civil infraction under chapter 7.80 RCW.

(4)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 5, after line 3, insert the following:

"**Sec.**  RCW 69.50.445 and 2015 2nd sp.s. c 4 s 401 are each amended to read as follows:

(1) It is unlawful to open a package containing marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, or consume marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, in view of the general public or in a public place.

(2) It is unlawful to open a package containing an unauthorized controlled substance or consume an unauthorized controlled substance in view of the general public or in a public place.

(3) It is unlawful to throw, drop, deposit, discard, or otherwise dispose of drug paraphernalia in a public place.

(4) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

((~~(3)~~)) (5)(a) A person who violates subsection (1) of this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

(b) A person who violates subsection (2) of this section is guilty of a class 2 civil infraction under chapter 7.80 RCW.

(c) A person who violates subsection (3) of this section is guilty of a class 1 civil infraction under chapter 7.80 RCW."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 6, line 17, after "(b)" insert "(i)"

On page 6, beginning on line 17, after "possession" strike all material through "treatment." on line 22 and insert "((~~is a misdemeanor.~~)) by a person 21 years of age or older is a class 2 civil infraction under chapter 7.80 RCW. To the extent resources are available, the court shall refer the individual for diversion or treatment.

(ii) A violation of this section involving possession by a person under the age of 21 is a class 3 civil infraction under chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80 RCW, participation in up to four hours of community restitution, or both. The court may also require completion of a chemical dependency treatment evaluation."

On page 7, line 34, after "(b)" insert "(i)"

On page 7, beginning on line 34, after "possession" strike all material through "treatment." on line 39 and insert "((~~is a misdemeanor.~~)) by a person 21 years of age or older is a class 2 civil infraction under chapter 7.80 RCW. To the extent resources are available, the court shall refer the individual for diversion or treatment.

(ii) A violation of this section involving possession by a person under the age of 21 is a class 3 civil infraction under chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80 RCW, participation in up to four hours of community restitution, or both. The court may also require completion of a chemical dependency treatment evaluation."

Beginning on page 8, line 4, strike all material through "2023." on page 31, line 29 and insert the following:

"NEW SECTION. **Sec.**  (1) The department of health and the Washington state health care authority shall convene a work group to address appropriate responses to the possession of controlled substances in the wake of *State v. Blake*. The work group is directed to develop recommendations for reforming state laws, rules, and practices so that they align with the goal of treating substance use disorder as a disease, rather than a criminal behavior.

(2) The work group shall study and use reliable evidence and information to issue recommendations regarding laws, rules, and policies identified by the work group that need reform, including changes to criminal law and penalties, the social services law, and any other statutes that will help the state achieve the objective of addressing the use of drugs through a public health approach. In developing recommendations, the work group must consider:

(a) The quantity of drugs used by individuals with a substance use disorder;

(b) Policies and practices that will prioritize access to treatment and recovery for individuals wishing to address their use of controlled substances;

(c) Strategies to divert individuals who use drugs from the criminal justice system, including charges for selling drugs;

(d) How to reduce civil collateral consequences of drug convictions including effects on employment, housing, education, and licensing; and

(e) How to address racial disparities in enforcement.

(3) The work group shall include membership as follows:

(a) Two members each from the health care authority and the department of health;

(b) Two members from community-based organizations that specialize in substance abuse disorder services;

(c) One member representing a criminal defender association;

(d) One superior court judge;

(e) One drug court judge;

(f) One member from the administrative office of the courts;

(g) One member representing Washington cities;

(h) One member representing Washington counties;

(i) One member from the sentencing guidelines commission;

(j) One member representing law enforcement;

(k) One member of a federally recognized tribe;

(l) One member from an organization representing minority interests;

(m) One member who has successfully overcome substance abuse disorder and has experience with the criminal justice system;

(n) One member from the governor's office; and

(o) One member from the office of the attorney general.

(4) The work group shall additionally consult with professional associations and academic institutions with background and expertise in treating substance abuse disorders.

(5) The work group shall submit its recommendations to the appropriate committees of the legislature by November 1, 2022."

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

Beginning on page 36, line 13, strike all material through "RCW." on page 41, line 5

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 41, line 8, after "**Sec. 21.**" strike "Sections 5, 8, and 10 of this act expire" and insert "Section 5 of this act expires"

On page 41, line 10, after "**Sec. 22.**" strike "Sections 6, 9, and 11 of this act take" and insert "Section 6 of this act takes"

On page 41, beginning on line 12, after "**Sec. 23.**" strike all material through "committee." on line 28 and insert "Sections 1 through 4, 6, and 7 of this act expire July 1, 2023."

On page 41, beginning on line 29, after "**Sec. 24.**" strike all material through "are" on line 30 and insert "Except for section 6 of this act, this act is"

On page 41, line 32, after "institutions, and" strike "take" and insert "takes"

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On page 42, beginning on line 1, after "page 1," strike all material through "date;" on line 13 and insert "line 1 of the title, after "decision;" strike the remainder of the title and insert "amending RCW 69.50.4011, 69.50.4013, 69.50.412, 69.50.445, 69.41.030, 69.41.030, 2.24.010, 2.24.040, and 9.94A.728; creating new sections; prescribing penalties; providing an effective date; providing expiration dates;"

EFFECT: (1) Removes the definition of personal use amount.

(2) Makes possession of a controlled substance, counterfeit substance, or legend drug by a person 21 years of age or older a class 2 civil infraction. To the extent resources are available, the court must refer the individual for diversion or treatment.

(3) Makes possession of a controlled substance, counterfeit substance, or legend drug by a person under the age of 21 a class 3 civil infraction, subject to a fine or participation in four hours of community restitution or both. The court may also require chemical dependency treatment evaluation.

(4) Makes possession of drug paraphernalia for personal use a class 2 civil infraction for a person 21 years of age or older and a class 3 civil infraction for those under the age of 21.

(5) Creates a class 1 civil infraction for disposing of drug paraphernalia in a public place.

(6) Requires HCA and DOH convene a work group to develop recommendations for reforming laws and practices to align with the goal of treating substance use disorder as a disease rather than a criminal behavior.

(7) Expires provisions modifying drug possession penalties on June 1, 2023.