S-3258.1

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**SENATE BILL 5524**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Honeyford, Wagoner, and L. Wilson

AN ACT Relating to imposing a sentence of life in prison for controlled substances homicide for fentanyl-laced drugs; amending RCW 9.94A.540, 69.50.415, 9.94A.518, and 9.94A.518; prescribing penalties; providing an effective date; and providing an expiration date.

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

**Sec.**  RCW 9.94A.540 and 2014 c 130 s 2 are each amended to read as follows:

(1) Except to the extent provided in subsection (3) of this section, the following minimum terms of total confinement are mandatory and shall not be varied or modified under RCW 9.94A.535:

(a) An offender convicted of the crime of murder in the first degree or controlled substances homicide under RCW 69.50.415(2)(b) shall be sentenced to a term of total confinement not less than twenty years.

(b) An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years.

(c) An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years.

(d) An offender convicted of the crime of sexually violent predator escape shall be sentenced to a minimum term of total confinement not less than sixty months.

(e) An offender convicted of the crime of aggravated first degree murder for a murder that was committed prior to the offender's eighteenth birthday shall be sentenced to a term of total confinement not less than twenty-five years.

(2) During such minimum terms of total confinement, no offender subject to the provisions of this section is eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (a) In the case of an offender in need of emergency medical treatment; (b) for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree; or (c) for an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c).

(3)(a) Subsection (1)(a) through (d) of this section shall not be applied in sentencing of juveniles tried as adults pursuant to RCW 13.04.030(1)(e)(i).

(b) This subsection (3) applies only to crimes committed on or after July 24, 2005.

**Sec.**  RCW 69.50.415 and 2003 c 53 s 343 are each amended to read as follows:

(1) A person who unlawfully delivers a controlled substance in violation of RCW 69.50.401(2) (a), (b), or (c) which controlled substance is subsequently used by the person to whom it was delivered, resulting in the death of the user, is guilty of controlled substances homicide.

(2) ((~~Controlled~~)) (a) Unless otherwise stated, controlled substances homicide is a class B felony punishable according to chapter 9A.20 RCW.

(b) Controlled substances homicide is a class A felony punishable according to chapter 9A.20 RCW if the controlled substance used by the person to whom it was delivered recklessly contains fentanyl.

**Sec.**  RCW 9.94A.518 and 2021 c 311 s 15 are each amended to read as follows:

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|  | TABLE 4 |  |
|  | DRUG OFFENSES  INCLUDED WITHIN EACH SERIOUSNESS LEVEL |  |
| III | Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.825 |  |
|  | Controlled Substance Homicide (RCW 69.50.415) (except as provided by RCW 69.50.415(2)(b)) |  |
|  | Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2)) |  |
|  | Involving a minor in drug dealing (RCW 69.50.4015) |  |
|  | Manufacture of methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406) |  |
|  | Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) |  |
|  | Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440) |  |
|  | Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410) |  |
| II | Create or deliver a counterfeit controlled substance (RCW 69.50.4011(1)(a)) |  |
|  | Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Delivery of a material in lieu of a controlled substance (RCW 69.50.4012) |  |
|  | Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f)) |  |
|  | Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e)) |  |
|  | Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1)) |  |
| I | Forged Prescription (RCW 69.41.020) |  |
|  | Forged Prescription for a Controlled Substance (RCW 69.50.403) |  |
|  | Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(2)(c)) |  |
|  | Unlawful Use of Building for Drug Purposes (RCW 69.53.010) |  |

**Sec.**  RCW 9.94A.518 and 2003 c 53 s 57 are each amended to read as follows:

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|  | TABLE 4 |  |
|  | DRUG OFFENSES  INCLUDED WITHIN EACH SERIOUSNESS LEVEL |  |
| III | Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW ((~~9.94A.602~~)) 9.94A.825 |  |
|  | Controlled Substance Homicide (RCW 69.50.415) (except as provided by RCW 69.50.415(2)(b)) |  |
|  | Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2)) |  |
|  | Involving a minor in drug dealing (RCW 69.50.4015) |  |
|  | Manufacture of methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406) |  |
|  | Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) |  |
|  | Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440) |  |
|  | Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410) |  |
| II | Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.4011) |  |
|  | Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Delivery of a material in lieu of a controlled substance (RCW 69.50.4012) |  |
|  | Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f)) |  |
|  | Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e)) |  |
|  | Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1)) |  |
| I | Forged Prescription (RCW 69.41.020) |  |
|  | Forged Prescription for a Controlled Substance (RCW 69.50.403) |  |
|  | Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(2)(c)) |  |
|  | Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V (RCW 69.50.4013) |  |
|  | Possession of Controlled Substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.4013) |  |
|  | Unlawful Use of Building for Drug Purposes (RCW 69.53.010) |  |

NEW SECTION. **Sec.**  Section 3 of this act expires July 1, 2023.

NEW SECTION. **Sec.**  Section 4 of this act takes effect July 1, 2023.

**--- END ---**