

RCW 69.50.4011 Counterfeit substances—Penalties—Referral to assessment and services. (1) Except as authorized by this chapter, it is unlawful for any person to:

- (a) Create or deliver a counterfeit substance;
- (b) Knowingly possess a counterfeit substance; or
- (c) Knowingly use a counterfeit substance in a public place.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than 10 years, fined not more than \$25,000, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than 10 years, fined not more than \$25,000, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3)(a) A violation of subsection (1)(b) or (c) of this section is a gross misdemeanor punishable by imprisonment of up to 180 days, or by a fine of not more than \$1,000, or by both such imprisonment and fine, however, if the defendant has two or more prior convictions under subsection (1)(b) or (c) of this section occurring after July 1, 2023, a violation of subsection (1)(b) or (c) of this section is punishable by imprisonment for up to 364 days, or by a fine of not more than \$1,000, or by both such imprisonment and fine. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(b) No person may be charged under both subsection (1)(b) and (c) of this section relating to the same course of conduct.

(c) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(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.

(5) For the purposes of this section, "use a counterfeit substance" means to introduce the substance into the human body by injection, inhalation, ingestion, or any other means. [2023 sp.s. c 1 s 1; (2021 c 311 s 8 expired July 1, 2023); 2003 c 53 s 332.]

Effective date—2023 sp.s. c 1 ss 1-5, 7-11, and 41: "Sections 1 through 5, 7 through 11, and 41 of this act are necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and take effect July 1, 2023." [2023 sp.s. c 1 s 42.]

Expiration date—2023 sp.s. c 1; 2021 c 311 ss 8-10 and 12:

"Sections 8 through 10 and 12 of this act expire July 1, 2023." [2023 sp.s. c 1 s 41; 2021 c 311 s 29.]

Effective date—2021 c 311 ss 1-11 and 13-21: See note following RCW 71.24.115.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.