
HOUSE BILL 2141

State of Washington

53rd Legislature

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By Representatives Ogden, Wood, Van Luven, Dyer, Wineberry, Leonard, Thomas, Padden, L. Johnson, Jones and Anderson

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1 AN ACT Relating to public housing drug-free areas; and amending RCW
2 69.50.435.

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

4 **Sec. 1.** RCW 69.50.435 and 1991 c 32 s 4 are each amended to read
5 as follows:

6 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
7 selling, delivering, or possessing with the intent to manufacture,
8 sell, or deliver a controlled substance listed under that subsection or
9 who violates RCW 69.50.410 by selling for profit any controlled
10 substance or counterfeit substance classified in schedule I, RCW
11 69.50.204, except leaves and flowering tops of marihuana to a person in
12 a school or on a school bus or within one thousand feet of a school bus
13 route stop designated by the school district or within one thousand
14 feet of the perimeter of the school grounds, in a public park or on a
15 public transit vehicle, (~~or~~) in a public transit stop shelter, or in
16 a public housing area may be punished by a fine of up to twice the fine
17 otherwise authorized by this chapter, but not including twice the fine
18 authorized by RCW 69.50.406, or by imprisonment of up to twice the
19 imprisonment otherwise authorized by this chapter, but not including

1 twice the imprisonment authorized by RCW 69.50.406, or by both such
2 fine and imprisonment. The provisions of this section shall not
3 operate to more than double the fine or imprisonment otherwise
4 authorized by this chapter for an offense.

5 (b) It is not a defense to a prosecution for a violation of this
6 section that the person was unaware that the prohibited conduct took
7 place while in a school or school bus or within one thousand feet of
8 the school or school bus route stop, in a public park, on a public
9 transit vehicle, ~~((or))~~ in a public transit stop shelter, or in a
10 public housing area.

11 (c) It is not a defense to a prosecution for a violation of this
12 section or any other prosecution under this chapter that persons under
13 the age of eighteen were not present in the school, the school bus, the
14 public park, or the public transit vehicle, or at the school bus route
15 stop ~~((or))~~, the public transit vehicle stop shelter, or in a public
16 housing area at the time of the offense or that school was not in
17 session.

18 (d) It is an affirmative defense to a prosecution for a violation
19 of this section that the prohibited conduct took place entirely within
20 a private residence, that no person under eighteen years of age or
21 younger was present in such private residence at any time during the
22 commission of the offense, and that the prohibited conduct did not
23 involve delivering, manufacturing, selling, or possessing with the
24 intent to manufacture, sell, or deliver any controlled substance in RCW
25 69.50.401(a) for profit. The affirmative defense established in this
26 section shall be proved by the defendant by a preponderance of the
27 evidence. This section shall not be construed to establish an
28 affirmative defense with respect to a prosecution for an offense
29 defined in any other section of this chapter.

30 (e) In a prosecution under this section, a map produced or
31 reproduced by any municipal, school district, county, ~~((or))~~ transit
32 authority engineer, or housing authority for the purpose of depicting
33 the location and boundaries of the area on or within one thousand feet
34 of any property used for a school, school bus route stop, public park,
35 ~~((or))~~ public transit vehicle stop shelter, or public housing area, or
36 a true copy of such a map, shall under proper authentication, be
37 admissible and shall constitute prima facie evidence of the location
38 and boundaries of those areas if the governing body of the
39 municipality, school district, county, ~~((or))~~ transit authority, or

1 housing authority has adopted a resolution or ordinance approving the
2 map as the official location and record of the location and boundaries
3 of the area on or within one thousand feet of the school, school bus
4 route stop, public park, ~~((or))~~ public transit vehicle stop shelter, or
5 public housing area. Any map approved under this section or a true
6 copy of the map shall be filed with the clerk of the municipality or
7 county, and shall be maintained as an official record of the
8 municipality or county. This section shall not be construed as
9 precluding the prosecution from introducing or relying upon any other
10 evidence or testimony to establish any element of the offense. This
11 section shall not be construed as precluding the use or admissibility
12 of any map or diagram other than the one which has been approved by the
13 governing body of a municipality, school district, county, ~~((or))~~
14 transit authority, or housing authority if the map or diagram is
15 otherwise admissible under court rule.

16 (f) As used in this section the following terms have the meanings
17 indicated unless the context clearly requires otherwise:

18 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
19 The term "school" also includes a private school approved under RCW
20 28A.195.010;

21 (2) "School bus" means a school bus as defined by the
22 superintendent of public instruction by rule which is owned and
23 operated by any school district and all school buses which are
24 privately owned and operated under contract or otherwise with any
25 school district in the state for the transportation of students. The
26 term does not include buses operated by common carriers in the urban
27 transportation of students such as transportation of students through
28 a municipal transportation system;

29 (3) "School bus route stop" means a school bus stop as designated
30 on maps submitted by school districts to the office of the
31 superintendent of public instruction;

32 (4) "Public park" means land, including any facilities or
33 improvements on the land, that is operated as a park by the state or a
34 local government;

35 (5) "Public transit vehicle" means any motor vehicle, street car,
36 train, trolley vehicle, or any other device, vessel, or vehicle which
37 is owned or operated by a transit authority and which is used for the
38 purpose of carrying passengers on a regular schedule;

1 (6) "Transit authority" means a city, county, or state
2 transportation system, transportation authority, public transportation
3 benefit area, public transit authority, or metropolitan municipal
4 corporation within the state that operates public transit vehicles;

5 (7) "Stop shelter" means a passenger shelter designated by a
6 transit authority;

7 (8) "Public housing areas" mean any housing project, as defined in
8 RCW 35.82.020, administered by a public housing authority created under
9 RCW 35.82.030, plus the area within one thousand feet of the housing
10 project's boundary.

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