

2 **HB 1725** - S AMD 304
3 By Senators A. Smith and Roach

4 ADOPTED 4/7/95

5 On page 4, after line 5, insert the following:

6 "Sec. 3. RCW 69.50.435 and 1991 c 32 s 4 are each amended to read
7 as follows:

8 (a) Any person who violates RCW 69.50.401(a) by manufacturing,
9 selling, delivering, or possessing with the intent to manufacture,
10 sell, or deliver a controlled substance listed under that subsection or
11 who violates RCW 69.50.410 by selling for profit any controlled
12 substance or counterfeit substance classified in schedule I, RCW
13 69.50.204, except leaves and flowering tops of marihuana to a person:

14 (1) In a school ((~~or~~))i

15 (2) On a school bus ((~~or~~))i

16 (3) Within one thousand feet of a school bus route stop designated
17 by the school district ((~~or~~))i

18 (4) Within one thousand feet of the perimeter of the school
19 grounds((~~r~~))i

20 (5) In a public park ((~~or~~))i

21 (6) In a public housing project designated by a local governing
22 authority as a drug-free zone;

23 (7) On a public transit vehicle((~~r~~))i or

24 (8) In a public transit stop shelter may be punished by a fine of
25 up to twice the fine otherwise authorized by this chapter, but not
26 including twice the fine authorized by RCW 69.50.406, or by
27 imprisonment of up to twice the imprisonment otherwise authorized by
28 this chapter, but not including twice the imprisonment authorized by
29 RCW 69.50.406, or by both such fine and imprisonment. The provisions
30 of this section shall not operate to more than double the fine or
31 imprisonment otherwise authorized by this chapter for an offense.

32 (b) It is not a defense to a prosecution for a violation of this
33 section that the person was unaware that the prohibited conduct took
34 place while in a school or school bus or within one thousand feet of
35 the school or school bus route stop, in a public park, on a public
36 transit vehicle, ((~~or~~)) in a public transit stop shelter, or in a

1 public housing project designated by a local governing authority as a
2 drug-free zone.

3 (c) It is not a defense to a prosecution for a violation of this
4 section or any other prosecution under this chapter that persons under
5 the age of eighteen were not present in the school, the school bus, the
6 public park, or the public transit vehicle, or at the school bus route
7 stop or the public transit vehicle stop shelter, or in a public housing
8 project designated by a local governing authority as a drug-free zone
9 at the time of the offense or that school was not in session.

10 (d) It is an affirmative defense to a prosecution for a violation
11 of this section that the prohibited conduct took place entirely within
12 a private residence, that no person under eighteen years of age or
13 younger was present in such private residence at any time during the
14 commission of the offense, and that the prohibited conduct did not
15 involve delivering, manufacturing, selling, or possessing with the
16 intent to manufacture, sell, or deliver any controlled substance in RCW
17 69.50.401(a) for profit. The affirmative defense established in this
18 section shall be proved by the defendant by a preponderance of the
19 evidence. This section shall not be construed to establish an
20 affirmative defense with respect to a prosecution for an offense
21 defined in any other section of this chapter.

22 (e) In a prosecution under this section, a map produced or
23 reproduced by any (~~municipal~~) municipality, school district, county,
24 (~~or~~) transit authority engineer, or public housing authority for the
25 purpose of depicting the location and boundaries of the area on or
26 within one thousand feet of any property used for a school, school bus
27 route stop, public park, (~~or~~) public transit vehicle stop shelter, or
28 public housing project designated by a local governing authority as a
29 drug-free zone, or a true copy of such a map, shall under proper
30 authentication, be admissible and shall constitute prima facie evidence
31 of the location and boundaries of those areas if the governing body of
32 the municipality, school district, county, or transit authority has
33 adopted a resolution or ordinance approving the map as the official
34 location and record of the location and boundaries of the area on or
35 within one thousand feet of the school, school bus route stop, public
36 park, (~~or~~) public transit vehicle stop shelter, or public housing
37 project designated by a local governing authority as a drug-free zone.
38 Any map approved under this section or a true copy of the map shall be
39 filed with the clerk of the municipality or county, and shall be

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

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

12 (1) "School" has the meaning under RCW 28A.150.010 or 28A.150.020.
13 The term "school" also includes a private school approved under RCW
14 28A.195.010;

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

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

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

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

33 (6) "Transit authority" means a city, county, or state
34 transportation system, transportation authority, public transportation
35 benefit area, public transit authority, or metropolitan municipal
36 corporation within the state that operates public transit vehicles;

37 (7) "Stop shelter" means a passenger shelter designated by a
38 transit authority;

1 (8) "Public housing project" means the same as defined in RCW
2 35.82.020(9)."

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6 On page 1, line 2 of the title, strike "and 35.82 130" and insert
7 ", 35.82.130, and 69.50.435"

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