

2 **SSB 5049** - S AMD - 001
3 By Senators Heavey and McCaslin

4 ADOPTED 1/28/00

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
8 to read as follows:

9 In a criminal case where: (1) The defendant has been convicted of
10 (a) manufacture of methamphetamine as defined in RCW
11 69.50.401(a)(1)(ii); (b) possession of ephedrine or pseudoephedrine
12 with intent to manufacture methamphetamine, as defined in RCW
13 69.50.440; or (c) an attempt to commit or a conspiracy to commit a
14 crime under (a) or (b) of this subsection; and

15 (2) There has been a special allegation pleaded and proven beyond
16 a reasonable doubt that the defendant committed the crime:

17 (a) Inside a motor vehicle as defined in RCW 46.04.320, or a
18 trailer as defined in RCW 46.04.620, or a vessel as defined in RCW
19 88.02.010;

20 (b) Inside a house, apartment, mobile home, hotel, motel, or any
21 other dwelling or residence;

22 (c) In an area within one thousand feet of a child; or

23 (d) In an area within one mile of a school;

24 the court shall make a finding of fact of the special allegation, or if
25 a jury trial is had, the jury shall, if it finds the defendant guilty,
26 also find a special verdict as to the special allegation.

27 **Sec. 2.** RCW 9.94A.310 and 1999 c 352 s 2 and 1999 c 324 s 3 are
28 each reenacted and amended to read as follows:

29 (1) TABLE 1

30 Sentencing Grid

31 SERIOUSNESS

32 LEVEL OFFENDER SCORE

33 9 or
34 0 1 2 3 4 5 6 7 8 more

1											
2	XVI	Life Sentence without Parole/Death Penalty									
3											
4	XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
5		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
6		320	333	347	361	374	388	416	450	493	548
7											
8	XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
9		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
10		220	234	244	254	265	275	295	316	357	397
11											
12	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
13		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
14		164	178	192	205	219	233	260	288	342	397
15											
16	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
17		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
18		123	136	147	160	171	184	216	236	277	318
19											
20	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
21		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
22		102	114	125	136	147	158	194	211	245	280
23											
24	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
25		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
26		68	75	82	89	96	102	130	144	171	198
27											
28	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
29		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
30		41	48	54	61	68	75	102	116	144	171
31											
32	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
33		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
34		27	34	41	48	54	61	89	102	116	144
35											
36	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
37		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
38		20	27	34	41	48	54	75	89	102	116
39											

1	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
2		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
3		14	20	27	34	41	48	61	75	89	102
4											
5	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
6		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
7		12	14	17	20	29	43	54	68	82	96
8											
9	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
10		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
11		9	12	14	17	20	29	43	57	70	84
12											
13	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
14		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
15		3	8	12	12	16	22	29	43	57	68
16											
17	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
18		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
19		Days	6	9	12	14	18	22	29	43	57
20											
21	I			3m	4m	5m	8m	13m	16m	20m	2y2m
22		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
23		Days	Days	5	6	8	12	14	18	22	29
24											

25 NOTE: Numbers in the first horizontal row of each seriousness category
26 represent sentencing midpoints in years(y) and months(m). Numbers in
27 the second and third rows represent presumptive sentencing ranges in
28 months, or in days if so designated. 12+ equals one year and one day.

29 (2) For persons convicted of the anticipatory offenses of criminal
30 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
31 presumptive sentence is determined by locating the sentencing grid
32 sentence range defined by the appropriate offender score and the
33 seriousness level of the completed crime, and multiplying the range by
34 75 percent.

35 (3) The following additional times shall be added to the
36 presumptive sentence for felony crimes committed after July 23, 1995,
37 if the offender or an accomplice was armed with a firearm as defined in
38 RCW 9.41.010 and the offender is being sentenced for one of the crimes
39 listed in this subsection as eligible for any firearm enhancements

1 based on the classification of the completed felony crime. If the
2 offender is being sentenced for more than one offense, the firearm
3 enhancement or enhancements must be added to the total period of
4 confinement for all offenses, regardless of which underlying offense is
5 subject to a firearm enhancement. If the offender or an accomplice was
6 armed with a firearm as defined in RCW 9.41.010 and the offender is
7 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
8 commit one of the crimes listed in this subsection as eligible for any
9 firearm enhancements, the following additional times shall be added to
10 the presumptive sentence determined under subsection (2) of this
11 section based on the felony crime of conviction as classified under RCW
12 9A.28.020:

13 (a) Five years for any felony defined under any law as a class A
14 felony or with a maximum sentence of at least twenty years, or both,
15 and not covered under (f) of this subsection.

16 (b) Three years for any felony defined under any law as a class B
17 felony or with a maximum sentence of ten years, or both, and not
18 covered under (f) of this subsection.

19 (c) Eighteen months for any felony defined under any law as a class
20 C felony or with a maximum sentence of five years, or both, and not
21 covered under (f) of this subsection.

22 (d) If the offender is being sentenced for any firearm enhancements
23 under (a), (b), and/or (c) of this subsection and the offender has
24 previously been sentenced for any deadly weapon enhancements after July
25 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
26 (4)(a), (b), and/or (c) of this section, or both, any and all firearm
27 enhancements under this subsection shall be twice the amount of the
28 enhancement listed.

29 (e) Notwithstanding any other provision of law, any and all firearm
30 enhancements under this section are mandatory, shall be served in total
31 confinement, and shall run consecutively to all other sentencing
32 provisions, including other firearm or deadly weapon enhancements, for
33 all offenses sentenced under this chapter. However, whether or not a
34 mandatory minimum term has expired, an offender serving a sentence
35 under this subsection may be granted an extraordinary medical placement
36 when authorized under RCW 9.94A.150(4).

37 (f) The firearm enhancements in this section shall apply to all
38 felony crimes except the following: Possession of a machine gun,
39 possessing a stolen firearm, drive-by shooting, theft of a firearm,

1 unlawful possession of a firearm in the first and second degree, and
2 use of a machine gun in a felony.

3 (g) If the presumptive sentence under this section exceeds the
4 statutory maximum for the offense, the statutory maximum sentence shall
5 be the presumptive sentence unless the offender is a persistent
6 offender as defined in RCW 9.94A.030. If the addition of a firearm
7 enhancement increases the sentence so that it would exceed the
8 statutory maximum for the offense, the portion of the sentence
9 representing the enhancement may not be reduced.

10 (4) The following additional times shall be added to the
11 presumptive sentence for felony crimes committed after July 23, 1995,
12 if the offender or an accomplice was armed with a deadly weapon as
13 defined in this chapter other than a firearm as defined in RCW 9.41.010
14 and the offender is being sentenced for one of the crimes listed in
15 this subsection as eligible for any deadly weapon enhancements based on
16 the classification of the completed felony crime. If the offender is
17 being sentenced for more than one offense, the deadly weapon
18 enhancement or enhancements must be added to the total period of
19 confinement for all offenses, regardless of which underlying offense is
20 subject to a deadly weapon enhancement. If the offender or an
21 accomplice was armed with a deadly weapon other than a firearm as
22 defined in RCW 9.41.010 and the offender is being sentenced for an
23 anticipatory offense under chapter 9A.28 RCW to commit one of the
24 crimes listed in this subsection as eligible for any deadly weapon
25 enhancements, the following additional times shall be added to the
26 presumptive sentence determined under subsection (2) of this section
27 based on the felony crime of conviction as classified under RCW
28 9A.28.020:

29 (a) Two years for any felony defined under any law as a class A
30 felony or with a maximum sentence of at least twenty years, or both,
31 and not covered under (f) of this subsection.

32 (b) One year for any felony defined under any law as a class B
33 felony or with a maximum sentence of ten years, or both, and not
34 covered under (f) of this subsection.

35 (c) Six months for any felony defined under any law as a class C
36 felony or with a maximum sentence of five years, or both, and not
37 covered under (f) of this subsection.

38 (d) If the offender is being sentenced under (a), (b), and/or (c)
39 of this subsection for any deadly weapon enhancements and the offender

1 has previously been sentenced for any deadly weapon enhancements after
2 July 23, 1995, under (a), (b), and/or (c) of this subsection or
3 subsection (3)(a), (b), and/or (c) of this section, or both, any and
4 all deadly weapon enhancements under this subsection shall be twice the
5 amount of the enhancement listed.

6 (e) Notwithstanding any other provision of law, any and all deadly
7 weapon enhancements under this section are mandatory, shall be served
8 in total confinement, and shall run consecutively to all other
9 sentencing provisions, including other firearm or deadly weapon
10 enhancements, for all offenses sentenced under this chapter. However,
11 whether or not a mandatory minimum term has expired, an offender
12 serving a sentence under this subsection may be granted an
13 extraordinary medical placement when authorized under RCW 9.94A.150(4).

14 (f) The deadly weapon enhancements in this section shall apply to
15 all felony crimes except the following: Possession of a machine gun,
16 possessing a stolen firearm, drive-by shooting, theft of a firearm,
17 unlawful possession of a firearm in the first and second degree, and
18 use of a machine gun in a felony.

19 (g) If the presumptive sentence under this section exceeds the
20 statutory maximum for the offense, the statutory maximum sentence shall
21 be the presumptive sentence unless the offender is a persistent
22 offender as defined in RCW 9.94A.030. If the addition of a deadly
23 weapon enhancement increases the sentence so that it would exceed the
24 statutory maximum for the offense, the portion of the sentence
25 representing the enhancement may not be reduced.

26 (5) The following additional times shall be added to the
27 presumptive sentence if the offender or an accomplice committed the
28 offense while in a county jail or state correctional facility as that
29 term is defined in this chapter and the offender is being sentenced for
30 one of the crimes listed in this subsection. If the offender or an
31 accomplice committed one of the crimes listed in this subsection while
32 in a county jail or state correctional facility as that term is defined
33 in this chapter, and the offender is being sentenced for an
34 anticipatory offense under chapter 9A.28 RCW to commit one of the
35 crimes listed in this subsection, the following additional times shall
36 be added to the presumptive sentence determined under subsection (2) of
37 this section:

38 (a) Eighteen months for offenses committed under RCW
39 69.50.401(a)(1) (i) or (ii) or 69.50.410;

1 (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)
2 (iii), (iv), and (v);

3 (c) Twelve months for offenses committed under RCW 69.50.401(d).

4 For the purposes of this subsection, all of the real property of a
5 state correctional facility or county jail shall be deemed to be part
6 of that facility or county jail.

7 (6) An additional twenty-four months shall be added to the
8 presumptive sentence for any ranked offense involving a violation of
9 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435
10 or section 1 of this act.

11 (7) An additional two years shall be added to the presumptive
12 sentence for vehicular homicide committed while under the influence of
13 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
14 prior offense as defined in RCW 46.61.5055."

15 **SSB 5049** - S AMD - 001

16 By Senators Heavey and McCaslin

17 ADOPTED 1/28/00

18 On page 1, line 1 of the title, after "manufacture;" strike the
19 remainder of the title and insert "reenacting and amending RCW
20 9.94A.310; adding a new section to chapter 9.94A RCW; and prescribing
21 penalties."

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