
SENATE BILL 5258

State of Washington 59th Legislature 2005 Regular Session

By Senators Kline, Mulliken, Stevens, Rasmussen, Delvin and Kohl-Welles

Read first time 01/19/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to controlled substance violations near schools;
2 and amending RCW 69.50.435.

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

4 **Sec. 1.** RCW 69.50.435 and 2003 c 53 s 346 are each amended to read
5 as follows:

6 (1) Any person who violates RCW 69.50.401 by manufacturing,
7 selling, delivering, or possessing with the intent to manufacture,
8 sell, or deliver a controlled substance listed under RCW 69.50.401 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:

12 (a) In a school;

13 (b) On a school bus;

14 (c) Within (~~one thousand~~) two hundred feet of a school bus route
15 stop designated by the school district during the period of time when
16 students are waiting for a school bus or being discharged from a school
17 bus;

18 (d) Within (~~one thousand~~) two hundred feet of the perimeter of
19 the school grounds during regular school hours;

1 (e) In a public park;

2 (f) In a public housing project designated by a local governing
3 authority as a drug-free zone;

4 (g) On a public transit vehicle;

5 (h) In a public transit stop shelter;

6 (i) At a civic center designated as a drug-free zone by the local
7 governing authority; or

8 (j) Within one thousand feet of the perimeter of a facility
9 designated under (i) of this subsection, if the local governing
10 authority specifically designates the one thousand foot perimeter
11 may be punished by a fine of up to twice the fine otherwise authorized
12 by this chapter, but not including twice the fine authorized by RCW
13 69.50.406, or by imprisonment of up to twice the imprisonment otherwise
14 authorized by this chapter, but not including twice the imprisonment
15 authorized by RCW 69.50.406, or by both such fine and imprisonment.
16 The provisions of this section shall not operate to more than double
17 the fine or imprisonment otherwise authorized by this chapter for an
18 offense.

19 (2) It is not a defense to a prosecution for a violation of this
20 section that the person was unaware that the prohibited conduct took
21 place while in a school or school bus or within (~~one thousand~~) two
22 hundred feet of the school or school bus route stop during the
23 restricted times, in a public park, in a public housing project
24 designated by a local governing authority as a drug-free zone, on a
25 public transit vehicle, in a public transit stop shelter, at a civic
26 center designated as a drug-free zone by the local governing authority,
27 or within one thousand feet of the perimeter of a facility designated
28 under subsection (1)(i) of this section, if the local governing
29 authority specifically designates the one thousand foot perimeter.

30 (3) It is not a defense to a prosecution for a violation of this
31 section or any other prosecution under this chapter that persons under
32 the age of eighteen were not present in the school, the school bus, the
33 public park, the public housing project designated by a local governing
34 authority as a drug-free zone, or the public transit vehicle, or at the
35 school bus route stop, the public transit vehicle stop shelter, at a
36 civic center designated as a drug-free zone by the local governing
37 authority, or within one thousand feet of the perimeter of a facility
38 designated under subsection (1)(i) of this section, if the local

1 governing authority specifically designates the one thousand foot
2 perimeter at the time of the offense or, for violation of subsection
3 (1)(a) or (b) of this section, that school was not in session.

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

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

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

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

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

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

22 (c) "School bus route stop" means a school bus stop as designated
23 by a school district, not including areas along a school bus route
24 further than two hundred feet from a school bus route stop;

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

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

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

36 (g) "Stop shelter" means a passenger shelter designated by a
37 transit authority;

1 (h) "Civic center" means a publicly owned or publicly operated
2 place or facility used for recreational, educational, or cultural
3 activities;

4 (i) "Public housing project" means the same as "housing project" as
5 defined in RCW 35.82.020.

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