
HOUSE BILL 2794

State of Washington

65th Legislature

2018 Regular Session

By Representatives McCabe, Lovick, Dye, Pettigrew, Klippert, Irwin, Dent, Haler, and Jenkin

Read first time 01/16/18. Referred to Committee on Public Safety.

1 AN ACT Relating to drug-free zone perimeters designated under the
2 uniform controlled substances act; amending RCW 69.50.435; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 69.50.435 and 2015 c 265 s 37 are each amended to
6 read as follows:

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

13 (a) In a school;

14 (b) On a school bus;

15 (c) Within ~~((one))~~ two thousand feet of a school bus route stop
16 designated by the school district;

17 (d) Within ~~((one))~~ two thousand feet of the perimeter of the
18 school grounds;

19 (e) In a public park;

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

1 (g) On a public transit vehicle;

2 (h) In a public transit stop shelter;

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

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

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

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

39 (4) It is an affirmative defense to a prosecution for a violation
40 of this section that the prohibited conduct took place entirely

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

11 (5) In a prosecution under this section, a map produced or
12 reproduced by any municipality, school district, county, transit
13 authority engineer, or public housing authority for the purpose of
14 depicting the location and boundaries of the area on or within
15 ((~~one~~)) two thousand feet of any property used for a school, school
16 bus route stop, public park, public housing project designated by a
17 local governing authority as a drug-free zone, public transit vehicle
18 stop shelter, or a civic center designated as a drug-free zone by a
19 local governing authority, or a true copy of such a map, shall under
20 proper authentication, be admissible and shall constitute prima facie
21 evidence of the location and boundaries of those areas if the
22 governing body of the municipality, school district, county, or
23 transit authority has adopted a resolution or ordinance approving the
24 map as the official location and record of the location and
25 boundaries of the area on or within ((~~one~~)) two thousand feet of the
26 school, school bus route stop, public park, public housing project
27 designated by a local governing authority as a drug-free zone, public
28 transit vehicle stop shelter, or civic center designated as a drug-
29 free zone by a local governing authority. Any map approved under this
30 section or a true copy of the map shall be filed with the clerk of
31 the municipality or county, and shall be maintained as an official
32 record of the municipality or county. This section shall not be
33 construed as precluding the prosecution from introducing or relying
34 upon any other evidence or testimony to establish any element of the
35 offense. This section shall not be construed as precluding the use or
36 admissibility of any map or diagram other than the one which has been
37 approved by the governing body of a municipality, school district,
38 county, transit authority, or public housing authority if the map or
39 diagram is otherwise admissible under court rule.

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

3 (a) "School" has the meaning under RCW 28A.150.010 or
4 28A.150.020. The term "school" also includes a private school
5 approved under RCW 28A.195.010;

6 (b) "School bus" means a school bus as defined by the
7 superintendent of public instruction by rule which is owned and
8 operated by any school district and all school buses which are
9 privately owned and operated under contract or otherwise with any
10 school district in the state for the transportation of students. The
11 term does not include buses operated by common carriers in the urban
12 transportation of students such as transportation of students through
13 a municipal transportation system;

14 (c) "School bus route stop" means a school bus stop as designated
15 by a school district;

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

19 (e) "Public transit vehicle" means any motor vehicle, streetcar,
20 train, trolley vehicle, or any other device, vessel, or vehicle which
21 is owned or operated by a transit authority and which is used for the
22 purpose of carrying passengers on a regular schedule;

23 (f) "Transit authority" means a city, county, or state
24 transportation system, transportation authority, public
25 transportation benefit area, public transit authority, or
26 metropolitan municipal corporation within the state that operates
27 public transit vehicles;

28 (g) "Stop shelter" means a passenger shelter designated by a
29 transit authority;

30 (h) "Civic center" means a publicly owned or publicly operated
31 place or facility used for recreational, educational, or cultural
32 activities;

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

35 (7) The fines imposed by this section apply to adult offenders
36 only.

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