CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2002**

68th Legislature

2024 Regular Session

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| Passed by the House February 1, 2024Yeas 0 Nays 0**Speaker of the House of Representatives**Passed by the Senate February 1, 2024Yeas 0 Nays 0**President of the Senate** | CERTIFICATEI, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2002** as passed by the House of Representatives and the Senate on the dates hereon set forth.Chief Clerk |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**HOUSE BILL 2002**

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Passed Legislature - 2024 Regular Session

**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Low, Cheney, Couture, Schmidt, Waters, Sandlin, Christian, McClintock, Barkis, Barnard, Graham, Harris, Hutchins, and Caldier

AN ACT Relating to criminal penalties for the knowing or intentional use of fentanyl or methamphetamine in a public space with another person; amending RCW 69.50.4013 and 9.94A.518; adding a new section to chapter 69.50 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  A new section is added to chapter 69.50 RCW to read as follows:

(1) It is unlawful for any person to knowingly or intentionally combust or exhale the smoke of a substance:

(a) The person knows or reasonably should know contains or is contaminated with fentanyl or methamphetamine, or their isomers, esters, ethers, salts, or salts of isomers, esters, or ethers; and

(b) While in a public space and within 10 feet of another person, or while inside an enclosed public space with another person.

(2) Except as provided in subsection (3) of this section, any person who violates this section is guilty of a gross misdemeanor.

(3) Any person who violates this section while in a public space and within 10 feet of another person under age 13, or while inside an enclosed public space with another person under age 13, is guilty of a class C felony.

(4) For the purposes of this section, "public space" includes, but is not limited to, a public conveyance, park, transit stop, hospital or other health care setting, or any other place open to the public.

**Sec.**  RCW 69.50.4013 and 2023 sp.s. c 1 s 2 are each amended to read as follows:

(1) Except as otherwise authorized by this chapter, it is unlawful for any person to:

(a) Knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice; or

(b) Knowingly use a controlled substance in a public place, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(2)(a) Except as provided in RCW 69.50.4014 ((~~or~~)), 69.50.445, or section 1 of this act, a violation of subsection (1)(a) or (b) of this section is a gross misdemeanor punishable by imprisonment of up to 180 days in jail, or by a fine of not more than $1,000, or by both such imprisonment and fine, however, if the defendant has two or more prior convictions under subsection (1)(a) or (b) of this section occurring after July 1, 2023, a violation of subsection (1)(a) or (b) of this section is punishable by imprisonment for up to 364 days, or by a fine of not more than $1,000, or by both such imprisonment and fine. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(b) No person may be charged under both subsection (1)(a) and (b) of this section relating to the same course of conduct.

(c) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(3)(a) The possession, by a person 21 years of age or older, of useable cannabis, cannabis concentrates, or cannabis-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4)(a) The delivery by a person 21 years of age or older to one or more persons 21 years of age or older, during a single 24 hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following cannabis products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable cannabis;

(ii) Eight ounces of cannabis-infused product in solid form;

(iii) 36 ounces of cannabis-infused product in liquid form; or

(iv) Three and one-half grams of cannabis concentrates.

(b) The act of delivering cannabis or a cannabis product as authorized under this subsection (4) must meet one of the following requirements:

(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or

(ii) The cannabis or cannabis product must be in the original packaging as purchased from the cannabis retailer.

(5) No person under 21 years of age may manufacture, sell, distribute, or knowingly possess cannabis, cannabis-infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(6) The possession by a qualifying patient or designated provider of cannabis concentrates, useable cannabis, cannabis-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

(7) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(8) For the purposes of this section, "use a controlled substance" means to introduce the substance into the human body by injection, inhalation, ingestion, or any other means.

**Sec.**  RCW 9.94A.518 and 2023 c 66 s 2 are each amended to read as follows:

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|  | TABLE 4 |  |
|  | DRUG OFFENSESINCLUDED WITHIN EACH SERIOUSNESS LEVEL |  |
| III | Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.825 |  |
|  | Controlled Substance Homicide (RCW 69.50.415) |  |
|  | Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2)) |  |
|  | Involving a minor in drug dealing (RCW 69.50.4015) |  |
|  | Manufacture of methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406) |  |
|  | Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) |  |
|  | Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440) |  |
|  | Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410) |  |
| II | Combust or exhale fentanyl or methamphetamine in a public space with another person under age 13 (section 1(3) of this act) |  |
|  | Create or deliver a counterfeit controlled substance (RCW 69.50.4011(1)(a)) |  |
|  | Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Delivery of a material in lieu of a controlled substance (RCW 69.50.4012) |  |
|  | Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f)) |  |
|  | Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except cannabis as defined in RCW 69.50.101, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e)) |  |
|  | Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1)) |  |
|  | Possess, purchase, deliver, sell, or possess with intent to sell a tableting machine or encapsulating machine (RCW 69.50.418) |  |
| I | Forged Prescription (RCW 69.41.020) |  |
|  | Forged Prescription for a Controlled Substance (RCW 69.50.403) |  |
|  | Manufacture, deliver, or possess with intent to deliver cannabis as defined in RCW 69.50.101 (RCW 69.50.401(2)(c)) |  |
|  | Unlawful Use of Building for Drug Purposes (RCW 69.53.010) |  |

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