

SB 6133 - H COMM AMD

By Committee on Community Safety

NOT CONSIDERED 03/07/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50
4 RCW to read as follows:

5 (1) Each retail outlet must report any attempt or incident of
6 robbery in the first or second degree at the retail outlet to the
7 board within 10 days of the attempt or incident.

8 (2) The board's chief enforcement officer must regularly consult
9 with the Washington state patrol to provide details of attempts or
10 incidents of robbery in the first or second degree of a retail outlet
11 and to discuss any evidence that indicates a pattern of, or
12 coordinated effort by, a criminal enterprise.

13 **Sec. 2.** RCW 9.94A.832 and 2013 c 270 s 1 are each amended to
14 read as follows:

15 In a criminal case where(~~+~~

16 ~~(1)The~~) the defendant has been convicted of robbery in the
17 first degree or robbery in the second degree(~~+~~) and

18 (~~(2)There~~) there has been a special allegation pleaded and
19 proven beyond a reasonable doubt that the defendant committed a
20 robbery of (~~a~~):

21 (1) A pharmacy as defined in RCW 18.64.011(~~(+21)~~); or

22 (2) A cannabis retail outlet, licensed under chapter 69.50 RCW,
23 and the defendant committed the robbery by using a vehicle to damage
24 or gain access to the retail outlet; the court shall make a finding
25 of fact of the special allegation, or if a jury is had, the jury
26 shall, if it finds the defendant guilty, also find a special verdict
27 as to the special allegation.

28 **Sec. 3.** RCW 9.94A.533 and 2020 c 330 s 1 and 2020 c 141 s 1 are
29 each reenacted and amended to read as follows:

1 (1) The provisions of this section apply to the standard sentence
2 ranges determined by RCW 9.94A.510 or 9.94A.517.

3 (2) For persons convicted of the anticipatory offenses of
4 criminal attempt, solicitation, or conspiracy under chapter 9A.28
5 RCW, the standard sentence range is determined by locating the
6 sentencing grid sentence range defined by the appropriate offender
7 score and the seriousness level of the completed crime, and
8 multiplying the range by seventy-five percent.

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

26 (a) Five years for any felony defined under any law as a class A
27 felony or with a statutory maximum sentence of at least twenty years,
28 or both, and not covered under (f) of this subsection;

29 (b) Three years for any felony defined under any law as a class B
30 felony or with a statutory maximum sentence of ten years, or both,
31 and not covered under (f) of this subsection;

32 (c) Eighteen months for any felony defined under any law as a
33 class C felony or with a statutory maximum sentence of five years, or
34 both, and not covered under (f) of this subsection;

35 (d) If the offender is being sentenced for any firearm
36 enhancements under (a), (b), and/or (c) of this subsection and the
37 offender has previously been sentenced for any deadly weapon
38 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
39 subsection or subsection (4) (a), (b), and/or (c) of this section, or

1 both, all firearm enhancements under this subsection shall be twice
2 the amount of the enhancement listed;

3 (e) Notwithstanding any other provision of law, all firearm
4 enhancements under this section are mandatory, shall be served in
5 total confinement, and shall run consecutively to all other
6 sentencing provisions, including other firearm or deadly weapon
7 enhancements, for all offenses sentenced under this chapter. However,
8 whether or not a mandatory minimum term has expired, an offender
9 serving a sentence under this subsection may be:

10 (i) Granted an extraordinary medical placement when authorized
11 under RCW 9.94A.728(1)(c); or

12 (ii) Released under the provisions of RCW 9.94A.730;

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

19 (g) If the standard sentence range under this section exceeds the
20 statutory maximum sentence for the offense, the statutory maximum
21 sentence shall be the presumptive sentence unless the offender is a
22 persistent offender. If the addition of a firearm enhancement
23 increases the sentence so that it would exceed the statutory maximum
24 for the offense, the portion of the sentence representing the
25 enhancement may not be reduced.

26 (4) The following additional times shall be added to the standard
27 sentence range for felony crimes committed after July 23, 1995, if
28 the offender or an accomplice was armed with a deadly weapon other
29 than a firearm as defined in RCW 9.41.010 and the offender is being
30 sentenced for one of the crimes listed in this subsection as eligible
31 for any deadly weapon enhancements based on the classification of the
32 completed felony crime. If the offender is being sentenced for more
33 than one offense, the deadly weapon enhancement or enhancements must
34 be added to the total period of confinement for all offenses,
35 regardless of which underlying offense is subject to a deadly weapon
36 enhancement. If the offender or an accomplice was armed with a deadly
37 weapon other than a firearm as defined in RCW 9.41.010 and the
38 offender is being sentenced for an anticipatory offense under chapter
39 9A.28 RCW to commit one of the crimes listed in this subsection as
40 eligible for any deadly weapon enhancements, the following additional

1 times shall be added to the standard sentence range determined under
2 subsection (2) of this section based on the felony crime of
3 conviction as classified under RCW 9A.28.020:

4 (a) Two years for any felony defined under any law as a class A
5 felony or with a statutory maximum sentence of at least twenty years,
6 or both, and not covered under (f) of this subsection;

7 (b) One year for any felony defined under any law as a class B
8 felony or with a statutory maximum sentence of ten years, or both,
9 and not covered under (f) of this subsection;

10 (c) Six months for any felony defined under any law as a class C
11 felony or with a statutory maximum sentence of five years, or both,
12 and not covered under (f) of this subsection;

13 (d) If the offender is being sentenced under (a), (b), and/or (c)
14 of this subsection for any deadly weapon enhancements and the
15 offender has previously been sentenced for any deadly weapon
16 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
17 subsection or subsection (3)(a), (b), and/or (c) of this section, or
18 both, all deadly weapon enhancements under this subsection shall be
19 twice the amount of the enhancement listed;

20 (e) Notwithstanding any other provision of law, all deadly weapon
21 enhancements under this section are mandatory, shall be served in
22 total confinement, and shall run consecutively to all other
23 sentencing provisions, including other firearm or deadly weapon
24 enhancements, for all offenses sentenced under this chapter. However,
25 whether or not a mandatory minimum term has expired, an offender
26 serving a sentence under this subsection may be:

27 (i) Granted an extraordinary medical placement when authorized
28 under RCW 9.94A.728(1)(c); or

29 (ii) Released under the provisions of RCW 9.94A.730;

30 (f) The deadly weapon enhancements in this section shall apply to
31 all felony crimes except the following: Possession of a machine gun
32 or bump-fire stock, possessing a stolen firearm, drive-by shooting,
33 theft of a firearm, unlawful possession of a firearm in the first and
34 second degree, and use of a machine gun or bump-fire stock in a
35 felony;

36 (g) If the standard sentence range under this section exceeds the
37 statutory maximum sentence for the offense, the statutory maximum
38 sentence shall be the presumptive sentence unless the offender is a
39 persistent offender. If the addition of a deadly weapon enhancement
40 increases the sentence so that it would exceed the statutory maximum

1 for the offense, the portion of the sentence representing the
2 enhancement may not be reduced.

3 (5) The following additional times shall be added to the standard
4 sentence range if the offender or an accomplice committed the offense
5 while in a county jail or state correctional facility and the
6 offender is being sentenced for one of the crimes listed in this
7 subsection. If the offender or an accomplice committed one of the
8 crimes listed in this subsection while in a county jail or state
9 correctional facility, and the offender is being sentenced for an
10 anticipatory offense under chapter 9A.28 RCW to commit one of the
11 crimes listed in this subsection, the following additional times
12 shall be added to the standard sentence range determined under
13 subsection (2) of this section:

14 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
15 (a) or (b) or 69.50.410;

16 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
17 (c), (d), or (e);

18 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

22 (6) An additional twenty-four months shall be added to the
23 standard sentence range for any ranked offense involving a violation
24 of chapter 69.50 RCW if the offense was also a violation of RCW
25 69.50.435 or 9.94A.827. All enhancements under this subsection shall
26 run consecutively to all other sentencing provisions, for all
27 offenses sentenced under this chapter.

28 (7) An additional two years shall be added to the standard
29 sentence range for vehicular homicide committed while under the
30 influence of intoxicating liquor or any drug as defined by RCW
31 46.61.502 for each prior offense as defined in RCW 46.61.5055.

32 Notwithstanding any other provision of law, all impaired driving
33 enhancements under this subsection are mandatory, shall be served in
34 total confinement, and shall run consecutively to all other
35 sentencing provisions, including other impaired driving enhancements,
36 for all offenses sentenced under this chapter.

37 An offender serving a sentence under this subsection may be
38 granted an extraordinary medical placement when authorized under RCW
39 9.94A.728(1)(c).

1 (8)(a) The following additional times shall be added to the
2 standard sentence range for felony crimes committed on or after July
3 1, 2006, if the offense was committed with sexual motivation, as that
4 term is defined in RCW 9.94A.030. If the offender is being sentenced
5 for more than one offense, the sexual motivation enhancement must be
6 added to the total period of total confinement for all offenses,
7 regardless of which underlying offense is subject to a sexual
8 motivation enhancement. If the offender committed the offense with
9 sexual motivation and the offender is being sentenced for an
10 anticipatory offense under chapter 9A.28 RCW, the following
11 additional times shall be added to the standard sentence range
12 determined under subsection (2) of this section based on the felony
13 crime of conviction as classified under RCW 9A.28.020:

14 (i) Two years for any felony defined under the law as a class A
15 felony or with a statutory maximum sentence of at least twenty years,
16 or both;

17 (ii) Eighteen months for any felony defined under any law as a
18 class B felony or with a statutory maximum sentence of ten years, or
19 both;

20 (iii) One year for any felony defined under any law as a class C
21 felony or with a statutory maximum sentence of five years, or both;

22 (iv) If the offender is being sentenced for any sexual motivation
23 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
24 the offender has previously been sentenced for any sexual motivation
25 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
26 (iii) of this subsection, all sexual motivation enhancements under
27 this subsection shall be twice the amount of the enhancement listed;

28 (b) Notwithstanding any other provision of law, all sexual
29 motivation enhancements under this subsection are mandatory, shall be
30 served in total confinement, and shall run consecutively to all other
31 sentencing provisions, including other sexual motivation
32 enhancements, for all offenses sentenced under this chapter. However,
33 whether or not a mandatory minimum term has expired, an offender
34 serving a sentence under this subsection may be:

35 (i) Granted an extraordinary medical placement when authorized
36 under RCW 9.94A.728(1)(c); or

37 (ii) Released under the provisions of RCW 9.94A.730;

38 (c) The sexual motivation enhancements in this subsection apply
39 to all felony crimes;

1 (d) If the standard sentence range under this subsection exceeds
2 the statutory maximum sentence for the offense, the statutory maximum
3 sentence shall be the presumptive sentence unless the offender is a
4 persistent offender. If the addition of a sexual motivation
5 enhancement increases the sentence so that it would exceed the
6 statutory maximum for the offense, the portion of the sentence
7 representing the enhancement may not be reduced;

8 (e) The portion of the total confinement sentence which the
9 offender must serve under this subsection shall be calculated before
10 any earned early release time is credited to the offender;

11 (f) Nothing in this subsection prevents a sentencing court from
12 imposing a sentence outside the standard sentence range pursuant to
13 RCW 9.94A.535.

14 (9) An additional one-year enhancement shall be added to the
15 standard sentence range for the felony crimes of RCW 9A.44.073,
16 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
17 or after July 22, 2007, if the offender engaged, agreed, or offered
18 to engage the victim in the sexual conduct in return for a fee. If
19 the offender is being sentenced for more than one offense, the
20 one-year enhancement must be added to the total period of total
21 confinement for all offenses, regardless of which underlying offense
22 is subject to the enhancement. If the offender is being sentenced for
23 an anticipatory offense for the felony crimes of RCW 9A.44.073,
24 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
25 offender attempted, solicited another, or conspired to engage, agree,
26 or offer to engage the victim in the sexual conduct in return for a
27 fee, an additional one-year enhancement shall be added to the
28 standard sentence range determined under subsection (2) of this
29 section. For purposes of this subsection, "sexual conduct" means
30 sexual intercourse or sexual contact, both as defined in chapter
31 9A.44 RCW.

32 (10)(a) For a person age eighteen or older convicted of any
33 criminal street gang-related felony offense for which the person
34 compensated, threatened, or solicited a minor in order to involve the
35 minor in the commission of the felony offense, the standard sentence
36 range is determined by locating the sentencing grid sentence range
37 defined by the appropriate offender score and the seriousness level
38 of the completed crime, and multiplying the range by one hundred
39 twenty-five percent. If the standard sentence range under this
40 subsection exceeds the statutory maximum sentence for the offense,

1 the statutory maximum sentence is the presumptive sentence unless the
2 offender is a persistent offender.

3 (b) This subsection does not apply to any criminal street gang-
4 related felony offense for which involving a minor in the commission
5 of the felony offense is an element of the offense.

6 (c) The increased penalty specified in (a) of this subsection is
7 unavailable in the event that the prosecution gives notice that it
8 will seek an exceptional sentence based on an aggravating factor
9 under RCW 9.94A.535.

10 (11) An additional twelve months and one day shall be added to
11 the standard sentence range for a conviction of attempting to elude a
12 police vehicle as defined by RCW 46.61.024, if the conviction
13 included a finding by special allegation of endangering one or more
14 persons under RCW 9.94A.834.

15 (12) An additional twelve months shall be added to the standard
16 sentence range for an offense that is also a violation of RCW
17 9.94A.831.

18 (13) An additional twelve months shall be added to the standard
19 sentence range for vehicular homicide committed while under the
20 influence of intoxicating liquor or any drug as defined by RCW
21 46.61.520 or for vehicular assault committed while under the
22 influence of intoxicating liquor or any drug as defined by RCW
23 46.61.522, or for any felony driving under the influence (RCW
24 46.61.502(6)) or felony physical control under the influence (RCW
25 46.61.504(6)) for each child passenger under the age of sixteen who
26 is an occupant in the defendant's vehicle. These enhancements shall
27 be mandatory, shall be served in total confinement, and shall run
28 consecutively to all other sentencing provisions, including other
29 minor child enhancements, for all offenses sentenced under this
30 chapter. If the addition of a minor child enhancement increases the
31 sentence so that it would exceed the statutory maximum for the
32 offense, the portion of the sentence representing the enhancement
33 shall be mandatory, shall be served in total confinement, and shall
34 run consecutively to all other sentencing provisions.

35 (14) (a) An additional (~~twelve~~) 12 months shall be added to the
36 standard sentence range for an offense that is also a violation of
37 RCW 9.94A.832(1).

38 (b) An additional 12 months may be added to the standard sentence
39 range for an offense that is also a violation of RCW 9.94A.832(2).

1 (15) Regardless of any provisions in this section, if a person is
2 being sentenced in adult court for a crime committed under age
3 eighteen, the court has full discretion to depart from mandatory
4 sentencing enhancements and to take the particular circumstances
5 surrounding the defendant's youth into account."

6 Correct the title.

EFFECT: Removes language establishing a special allegation for robbery in the first or second degree where the perpetrator commits a robbery of a licensed cannabis retail outlet in concert with another individual or individuals, but retains language establishing a special allegation for robbery in the first or second degree where the perpetrator commits a robbery of a licensed cannabis retail outlet by using a vehicle to damage or gain access to the retail outlet.

Makes discretionary the 12-month sentencing enhancement for the special allegation for robbery in the first or second degree of a licensed cannabis retail outlet.

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