
**Community Safety, Justice, & Reentry
Committee**

HB 1209

Brief Description: Restricting the possession, purchase, delivery, and sale of certain equipment used to illegally process controlled substances.

Sponsors: Representatives Leavitt, Griffey, Fey, Bronoske and Davis.

Brief Summary of Bill

- Makes it a felony offense to possess, purchase, deliver, sell, or possess with intent to sell a tableting machine or encapsulating machine knowing or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance, other than cannabis, in violation of the Uniform Controlled Substances Act.

Hearing Date: 1/17/23

Staff: Michelle Rusk (786-7153).

Background:

State Law Pertaining to Controlled Substances.

Uniform Controlled Substances Act.

Under the Washington Uniform Controlled Substances Act (UCSA), a "controlled substance" means a drug, substance, or immediate precursor included in schedules I through V, with some exceptions. The Pharmacy Quality Assurance Commission may modify the schedule for any given substance based on: its potential for abuse; whether there is a currently accepted medical use in treatment; and the safety of the substance and risk for dependence. Substances in schedule

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

I are the most tightly controlled, while those in schedule V are the least tightly controlled.

It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance; and until July 1, 2023, it is unlawful for any person to knowingly possess a controlled substance unless:

- the substance was dispensed directly by an authorized practitioner;
- the substance was obtained pursuant to a valid prescription;
- the person is a common or contract carrier or warehouseman acting in the usual course of business; or
- the person is registered to manufacture or distribute controlled substances, or employed by a registrant, and acting in the usual course of business.

In addition, the UCSA makes it unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. The term "drug paraphernalia" includes several types of materials. This includes for example: blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances; and capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

The criminal penalties for violating the UCSA depend upon the nature of the violation and the type of substance. Most violations are classified as felony offenses with some exceptions.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Drug offenses are sentenced under a

specialized sentencing grid and have seriousness level designations ranging from I to III. Offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

Summary of Bill:

A new crime pertaining to tableting and encapsulating machines is created.

It is a criminal offense for any person to possess, purchase, deliver, sell, or possess with intent to sell a tableting or encapsulating machine knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance, other than cannabis, in violation of the UCSA.

The offense is a class C felony and seriousness level II drug offense.

The following definitions are created:

- "Encapsulating machine" means manual, semiautomatic, or fully automatic equipment that can be used to fill shells or capsules with powdered or granular solids or semisolid material to produce coherent solid contents; and
- "Tableting machine" means manual, semiautomatic, or fully automatic equipment that can be used to compact, compress, or mold powdered or granular solids or semisolid material to produce fused coherent solid tablets.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.