

# HOUSE BILL REPORT

## EHB 1209

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**As Passed House:**

March 7, 2023

**Title:** An act relating to restricting the possession, purchase, delivery, and sale of certain equipment used to illegally process controlled substances.

**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 History:**

**Committee Activity:**

Community Safety, Justice, & Reentry: 1/17/23, 1/26/23 [DP].

**Floor Activity:**

Passed House: 3/7/23, 95-0.

**Brief Summary of Engrossed 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.

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### HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

**Majority Report:** Do pass. Signed by 8 members: Representatives Goodman, Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

**Staff:** Michelle Rusk (786-7153).

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*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.*

**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 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>
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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 Engrossed 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.
- "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.

This act is known as the Tyler Lee Yates Act.

**Appropriation:** None.

**Fiscal Note:** Available.

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

bill is passed.

**Staff Summary of Public Testimony:**

(In support) We have seen our communities ravaged and lives cut short by illegal drugs. Fentanyl in particular is often mixed in fatal amounts with other drugs, and these pills look like Adderall or oxycodone. Just a tiny bit of fentanyl in these pills can cause death. According to the Department of Health, these impacts are being felt disproportionately amongst youth and people of color.

Equipment like tableting and encapsulating machines can be used to produce illegal drugs and counterfeit pills that are sold on the street cheaply and yield a significant return for drug traffickers. These machines can make up to 3,000 pills per hour. These presses are already illegal at the federal level and passing this law at the state level will provide greater resources to conduct state and local law enforcement operations and investigations into pill pressing operations that are growing. There is really no valid reason to have a pill press for these nefarious reasons, and this bill does not target people who use herbal remedies or otherwise use them to manage their legal pills.

(Opposed) None.

**Persons Testifying:** Representative Mari Leavitt, prime sponsor; Representative Dan Griffey; Dave Hayes, Washington State Narcotics Investigators; and Aaron Torrance.

**Persons Signed In To Testify But Not Testifying:** None.