

SB 5476 - S AMD TO S AMD (S-2939.2/21) 899

By Senator Hasegawa

1 On page 1, beginning on line 16, strike all material through
2 "compassion." on line 29

3 On page 2, beginning on line 28, after "(3)" strike all material
4 through "treatment." on line 33 and insert "(a) A person 21 years of
5 age or older who violates this section by knowingly possessing a
6 counterfeit substance is guilty of a class 2 civil infraction under
7 chapter 7.80 RCW. To the extent resources are available, the court
8 shall refer the individual for diversion or treatment.

9 (b) A person under the age of 21 who violates this section by
10 knowingly possessing a counterfeit substance is guilty of a class 3
11 civil infraction under chapter 7.80 RCW and is subject to the maximum
12 fine as set out in that chapter, participation in up to four hours of
13 community restitution, or both. The court may also require completion
14 of a chemical dependency treatment evaluation."

15 On page 3, beginning on line 4, after "section" strike all
16 material through "RCW" on line 5 and insert "~~((is guilty of a class C~~
17 ~~felony punishable under chapter 9A.20 RCW))~~:"

18 (a) Who is 21 years of age or older is guilty of a class 2 civil
19 infraction under chapter 7.80 RCW. To the extent resources are
20 available, the court shall refer the individual for diversion or
21 treatment; or

22 (b) Who is under the age of 21 is guilty of a class 3 civil
23 infraction under chapter 7.80 RCW and is subject to the maximum fine
24 as set out in that chapter, participation in up to four hours of
25 community restitution, or both. The court may also require completion
26 of a chemical dependency treatment evaluation"

27 On page 4, line 30, after "(3)" insert "It is unlawful for any
28 person to use drug paraphernalia to test, analyze, pack, repack,
29 store, contain, conceal, inject, ingest, inhale, or otherwise
30 introduce into the human body a controlled substance other than
31 marijuana.

1 (a) Any person 21 years of age or older who violates this
2 subsection is guilty of a class 2 civil infraction under chapter 7.80
3 RCW.

4 (b) Any person under the age of 21 who violates this subsection
5 is guilty of a class 3 civil infraction under chapter 7.80 RCW.

6 (4)"

7 Renumber the remaining subsections consecutively and correct any
8 internal references accordingly.

9 On page 5, after line 3, insert the following:

10 **"Sec. 5.** RCW 69.50.445 and 2015 2nd sp.s. c 4 s 401 are each
11 amended to read as follows:

12 (1) It is unlawful to open a package containing marijuana,
13 useable marijuana, marijuana-infused products, or marijuana
14 concentrates, or consume marijuana, useable marijuana, marijuana-
15 infused products, or marijuana concentrates, in view of the general
16 public or in a public place.

17 (2) It is unlawful to open a package containing an unauthorized
18 controlled substance or consume an unauthorized controlled substance
19 in view of the general public or in a public place.

20 (3) It is unlawful to throw, drop, deposit, discard, or otherwise
21 dispose of drug paraphernalia in a public place.

22 (4) For the purposes of this section, "public place" has the same
23 meaning as defined in RCW 66.04.010, but the exclusions in RCW
24 66.04.011 do not apply.

25 ~~((+3))~~ (5)(a) A person who violates subsection (1) of this
26 section is guilty of a class 3 civil infraction under chapter 7.80
27 RCW.

28 (b) A person who violates subsection (2) of this section is
29 guilty of a class 2 civil infraction under chapter 7.80 RCW.

30 (c) A person who violates subsection (3) of this section is
31 guilty of a class 1 civil infraction under chapter 7.80 RCW."

32 Renumber the remaining sections consecutively and correct any
33 internal references accordingly.

34 On page 6, line 17, after "(b)" insert "(i)"

1 On page 6, beginning on line 17, after "possession" strike all
2 material through "treatment." on line 22 and insert "~~((is a~~
3 ~~misdemeanor.)) by a person 21 years of age or older is a class 2
4 civil infraction under chapter 7.80 RCW. To the extent resources are
5 available, the court shall refer the individual for diversion or
6 treatment."~~

7 (ii) A violation of this section involving possession by a person
8 under the age of 21 is a class 3 civil infraction under chapter 7.80
9 RCW and is subject to a fine as set out in chapter 7.80 RCW,
10 participation in up to four hours of community restitution, or both.
11 The court may also require completion of a chemical dependency
12 treatment evaluation."

13 On page 7, line 34, after "(b)" insert "(i)"

14 On page 7, beginning on line 34, after "possession" strike all
15 material through "treatment." on line 39 and insert "~~((is a~~
16 ~~misdemeanor.)) by a person 21 years of age or older is a class 2
17 civil infraction under chapter 7.80 RCW. To the extent resources are
18 available, the court shall refer the individual for diversion or
19 treatment."~~

20 (ii) A violation of this section involving possession by a person
21 under the age of 21 is a class 3 civil infraction under chapter 7.80
22 RCW and is subject to a fine as set out in chapter 7.80 RCW,
23 participation in up to four hours of community restitution, or both.
24 The court may also require completion of a chemical dependency
25 treatment evaluation."

26 Beginning on page 8, line 4, strike all material through "2023."
27 on page 31, line 29 and insert the following:

28 "NEW SECTION. Sec. 7. (1) The department of health and the
29 Washington state health care authority shall convene a work group to
30 address appropriate responses to the possession of controlled
31 substances in the wake of *State v. Blake*. The work group is directed
32 to develop recommendations for reforming state laws, rules, and
33 practices so that they align with the goal of treating substance use
34 disorder as a disease, rather than a criminal behavior.

35 (2) The work group shall study and use reliable evidence and
36 information to issue recommendations regarding laws, rules, and
37 policies identified by the work group that need reform, including

1 changes to criminal law and penalties, the social services law, and
2 any other statutes that will help the state achieve the objective of
3 addressing the use of drugs through a public health approach. In
4 developing recommendations, the work group must consider:

5 (a) The quantity of drugs used by individuals with a substance
6 use disorder;

7 (b) Policies and practices that will prioritize access to
8 treatment and recovery for individuals wishing to address their use
9 of controlled substances;

10 (c) Strategies to divert individuals who use drugs from the
11 criminal justice system, including charges for selling drugs;

12 (d) How to reduce civil collateral consequences of drug
13 convictions including effects on employment, housing, education, and
14 licensing; and

15 (e) How to address racial disparities in enforcement.

16 (3) The work group shall include membership as follows:

17 (a) Two members each from the health care authority and the
18 department of health;

19 (b) Two members from community-based organizations that
20 specialize in substance abuse disorder services;

21 (c) One member representing a criminal defender association;

22 (d) One superior court judge;

23 (e) One drug court judge;

24 (f) One member from the administrative office of the courts;

25 (g) One member representing Washington cities;

26 (h) One member representing Washington counties;

27 (i) One member from the sentencing guidelines commission;

28 (j) One member representing law enforcement;

29 (k) One member of a federally recognized tribe;

30 (l) One member from an organization representing minority
31 interests;

32 (m) One member who has successfully overcome substance abuse
33 disorder and has experience with the criminal justice system;

34 (n) One member from the governor's office; and

35 (o) One member from the office of the attorney general.

36 (4) The work group shall additionally consult with professional
37 associations and academic institutions with background and expertise
38 in treating substance abuse disorders.

1 (5) The work group shall submit its recommendations to the
2 appropriate committees of the legislature by November 1, 2022."

3 Renumber the remaining parts and sections consecutively and
4 correct any internal references accordingly.

5 Beginning on page 36, line 13, strike all material through "RCW."
6 on page 41, line 5

7 Renumber the remaining parts and sections consecutively and
8 correct any internal references accordingly.

9 On page 41, line 8, after "**Sec. 21.**" strike "Sections 5, 8, and
10 10 of this act expire" and insert "Section 5 of this act expires"

11 On page 41, line 10, after "**Sec. 22.**" strike "Sections 6, 9, and
12 11 of this act take" and insert "Section 6 of this act takes"

13 On page 41, beginning on line 12, after "**Sec. 23.**" strike all
14 material through "committee." on line 28 and insert "Sections 1
15 through 4, 6, and 7 of this act expire July 1, 2023."

16 On page 41, beginning on line 29, after "**Sec. 24.**" strike all
17 material through "are" on line 30 and insert "Except for section 6 of
18 this act, this act is"

19 On page 41, line 32, after "institutions, and" strike "take" and
20 insert "takes"

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21 On page 42, beginning on line 1, after "page 1," strike all
22 material through "date;" on line 13 and insert "line 1 of the title,
23 after "decision;" strike the remainder of the title and insert
24 "amending RCW 69.50.4011, 69.50.4013, 69.50.412, 69.50.445,
25 69.41.030, 69.41.030, 2.24.010, 2.24.040, and 9.94A.728; creating new
26 sections; prescribing penalties; providing an effective date;
27 providing expiration dates;"

EFFECT: (1) Removes the definition of personal use amount.

(2) Makes possession of a controlled substance, counterfeit substance, or legend drug by a person 21 years of age or older a class 2 civil infraction. To the extent resources are available, the court must refer the individual for diversion or treatment.

(3) Makes possession of a controlled substance, counterfeit substance, or legend drug by a person under the age of 21 a class 3 civil infraction, subject to a fine or participation in four hours of community restitution or both. The court may also require chemical dependency treatment evaluation.

(4) Makes possession of drug paraphernalia for personal use a class 2 civil infraction for a person 21 years of age or older and a class 3 civil infraction for those under the age of 21.

(5) Creates a class 1 civil infraction for disposing of drug paraphernalia in a public place.

(6) Requires HCA and DOH convene a work group to develop recommendations for reforming laws and practices to align with the goal of treating substance use disorder as a disease rather than a criminal behavior.

(7) Expires provisions modifying drug possession penalties on June 1, 2023.

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