
HOUSE BILL 1561

State of Washington

67th Legislature

2021 Regular Session

By Representative Graham

1 AN ACT Relating to expanding offenses and penalties for
2 manufacture, sale, distribution, and other conduct involving
3 controlled substances and counterfeit substances; amending RCW
4 9A.42.100, 9.94A.518, 69.50.406, 69.50.4011, 69.50.410, and
5 69.50.4015; and prescribing penalties.

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

7 **Sec. 1.** RCW 9A.42.100 and 2005 c 218 s 4 are each amended to
8 read as follows:

9 A person is guilty of the crime of endangerment with a controlled
10 substance if the person knowingly or intentionally permits a
11 dependent child or dependent adult to be exposed to, ingest, inhale,
12 or have contact with (~~methamphetamine~~) any controlled substance as
13 defined in RCW 69.50.101 or ephedrine, pseudoephedrine, or anhydrous
14 ammonia, including their salts, isomers, and salts of isomers, that
15 are being used in the manufacture of methamphetamine, including its
16 salts, isomers, and salts of isomers. Endangerment with a controlled
17 substance is a class B felony.

18 **Sec. 2.** RCW 9.94A.518 and 2003 c 53 s 57 are each amended to
19 read as follows:

TABLE 4

DRUG OFFENSES
INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

- III Any felony offense under chapter
69.50 RCW with a deadly weapon
special verdict under RCW
~~((9.94A.602))~~ 9.94A.825
- Controlled Substance Homicide (RCW
69.50.415)
- 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 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, 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))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana, amphetamine,
6 methamphetamines, or
7 flunitrazepam) (RCW
8 69.50.401(2) (c) through (e))

9 Manufacture of methamphetamine
10 (RCW 69.50.401(2)(b))

11 Over 18 and deliver heroin,
12 methamphetamine, a narcotic from
13 Schedule I or II, or flunitrazepam
14 from Schedule IV to someone
15 under 18 (RCW 69.50.406)

16 Over 18 and deliver narcotic from
17 Schedule III, IV, or V or a
18 nonnarcotic, except flunitrazepam
19 or methamphetamine, from
20 Schedule I-V to someone under 18
21 ~~((and 3 years junior))~~ (RCW
22 69.50.406)

23 Possession of Ephedrine,
24 Pseudoephedrine, or Anhydrous
25 Ammonia with intent to
26 manufacture
27 methamphetamine (RCW
28 69.50.440)

29 Selling for profit (controlled or
30 counterfeit) any controlled
31 substance (RCW 69.50.410)

32 II ~~((Create, deliver, or possess a~~
33 ~~counterfeit controlled substance~~
34 ~~(RCW 69.50.4011)~~)

35 ~~Deliver or possess with intent to~~
36 ~~deliver methamphetamine (RCW~~
37 ~~69.50.401(2)(b))~~)

1 Delivery of a material in lieu of a
2 controlled substance (RCW
3 69.50.4012)

4 Maintaining a Dwelling or Place for
5 Controlled Substances (RCW
6 69.50.402(1)(f))

7 ~~((Manufacture, deliver, or possess with
8 intent to deliver amphetamine
9 (RCW 69.50.401(2)(b))~~

10 ~~Manufacture, deliver, or possess with
11 intent to deliver narcotics from
12 Schedule I or II or flunitrazepam
13 from Schedule IV (RCW
14 69.50.401(2)(a)))~~

15 ~~Manufacture, deliver, or possess with
16 intent to deliver narcotics from
17 Schedule III, IV, or V or
18 nonnarcotics from Schedule I-V
19 (except marijuana, amphetamine,
20 methamphetamines, or
21 flunitrazepam) (RCW
22 69.50.401(2)(c) through (e)))~~

23 Manufacture, distribute, or possess
24 with intent to distribute an
25 imitation controlled substance
26 (RCW 69.52.030(1))

27 Possess a counterfeit controlled
28 substance (RCW 69.50.4011
29 (1)(b))

30 I Forged Prescription (RCW 69.41.020)

31 Forged Prescription for a Controlled
32 Substance (RCW 69.50.403)

33 Manufacture, deliver, or possess with
34 intent to deliver marijuana (RCW
35 69.50.401(2)(c))

Possess Controlled Substance that is a
Narcotic from Schedule III, IV, or
V or Nonnarcotic from Schedule I-
V (RCW 69.50.4013)

Possession of Controlled Substance
that is either heroin or narcotics
from Schedule I or II (RCW
69.50.4013)

Unlawful Use of Building for Drug
Purposes (RCW 69.53.010)

Sec. 3. RCW 69.50.406 and 2019 c 379 s 3 are each amended to read as follows:

(1) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine, including its salts, isomers, and salts of isomers, or flunitrazepam, including its salts, isomers, and salts of isomers, listed in Schedule IV, to a person under eighteen years of age is guilty of a class A felony punishable by the fine authorized by RCW 69.50.401(2) (a) or (b), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(2) (a) or (b), or by both.

(2) Except as provided in RCW 69.50.475, any person eighteen years of age or over who violates RCW 69.50.401 by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age (~~who is at least three years his or her junior~~) is guilty of a class B felony punishable by the fine authorized by RCW 69.50.401(2) (c), (d), or (e), by a term of imprisonment up to twice that authorized by RCW 69.50.401(2) (c), (d), or (e), or both.

(3) Any person convicted under this section shall receive a mandatory term of confinement of not less than seven years.

Sec. 4. RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

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

(a) Create or deliver (~~, or possess~~) a counterfeit substance; or

(b) Possess a counterfeit substance.

1 (2) Any person who violates this section with respect to:

2 (a) A counterfeit substance classified in Schedule I or II which
3 is a narcotic drug, or flunitrazepam classified in Schedule IV, is
4 guilty of a class B felony and upon conviction may be imprisoned for
5 not more than ten years, fined not more than twenty-five thousand
6 dollars, or both;

7 (b) A counterfeit substance which is methamphetamine, is guilty
8 of a class B felony and upon conviction may be imprisoned for not
9 more than ten years, fined not more than twenty-five thousand
10 dollars, or both;

11 (c) Any other counterfeit substance classified in Schedule I, II,
12 or III, is guilty of a class C felony punishable according to chapter
13 9A.20 RCW;

14 (d) A counterfeit substance classified in Schedule IV, except
15 flunitrazepam, is guilty of a class C felony punishable according to
16 chapter 9A.20 RCW;

17 (e) A counterfeit substance classified in Schedule V, is guilty
18 of a class C felony punishable according to chapter 9A.20 RCW.

19 **Sec. 5.** RCW 69.50.410 and 2003 c 53 s 342 are each amended to
20 read as follows:

21 (1) Except as authorized by this chapter it is a class ((C)) B
22 felony for any person to sell for profit any controlled substance or
23 counterfeit substance classified in Schedule I, RCW 69.50.204, except
24 leaves and flowering tops of marihuana.

25 For the purposes of this section only, the following words and
26 phrases shall have the following meanings:

27 (a) "To sell" means the passing of title and possession of a
28 controlled substance from the seller to the buyer for a price whether
29 or not the price is paid immediately or at a future date.

30 (b) "For profit" means the obtaining of anything of value in
31 exchange for a controlled substance.

32 (c) "Price" means anything of value.

33 (2)(a) Any person convicted of a violation of subsection (1) of
34 this section shall receive a sentence of not more than five years in
35 a correctional facility of the department of social and health
36 services for the first offense.

37 (b) Any person convicted on a second or subsequent cause, the
38 sale having transpired after prosecution and conviction on the first
39 cause, of subsection (1) of this section shall receive a mandatory

1 sentence of five years in a correctional facility of the department
2 of social and health services and no judge of any court shall suspend
3 or defer the sentence imposed for the second or subsequent violation
4 of subsection (1) of this section.

5 (3) (a) Any person convicted of a violation of subsection (1) of
6 this section by selling heroin shall receive a mandatory sentence of
7 two years in a correctional facility of the department of social and
8 health services and no judge of any court shall suspend or defer the
9 sentence imposed for such violation.

10 (b) Any person convicted on a second or subsequent sale of
11 heroin, the sale having transpired after prosecution and conviction
12 on the first cause of the sale of heroin shall receive a mandatory
13 sentence of ten years in a correctional facility of the department of
14 social and health services and no judge of any court shall suspend or
15 defer the sentence imposed for this second or subsequent violation:
16 PROVIDED, That the indeterminate sentence review board under RCW
17 9.95.040 shall not reduce the minimum term imposed for a violation
18 under this subsection.

19 (4) Whether or not a mandatory minimum term has expired, an
20 offender serving a sentence under this section may be granted an
21 extraordinary medical placement when authorized under RCW
22 9.94A.728(~~((4))~~) (1)(c).

23 (5) In addition to the sentences provided in subsection (2) of
24 this section, any person convicted of a violation of subsection (1)
25 of this section shall be fined in an amount calculated to at least
26 eliminate any and all proceeds or profits directly or indirectly
27 gained by such person as a result of sales of controlled substances
28 in violation of the laws of this or other states, or the United
29 States, up to the amount of five hundred thousand dollars on each
30 count.

31 (6) Any person, addicted to the use of controlled substances, who
32 voluntarily applies to the department of social and health services
33 for the purpose of participating in a rehabilitation program approved
34 by the department for addicts of controlled substances shall be
35 immune from prosecution for subsection (1) offenses unless a filing
36 of an information or indictment against such person for a violation
37 of subsection (1) of this section is made prior to his or her
38 voluntary participation in the program of the department of social
39 and health services. All applications for immunity under this section
40 shall be sent to the department of social and health services in

1 Olympia. It shall be the duty of the department to stamp each
2 application received pursuant to this section with the date and time
3 of receipt.

4 (7) This section shall not apply to offenses defined and
5 punishable under the provisions of RCW 69.50.401 through 69.50.4015.

6 **Sec. 6.** RCW 69.50.4015 and 2003 c 53 s 336 are each amended to
7 read as follows:

8 (1) It is unlawful to compensate, threaten, solicit, or in any
9 other manner involve a person under the age of eighteen years in a
10 transaction unlawfully to manufacture, sell, or deliver a controlled
11 substance.

12 (2) A violation of this section is a class ((C)) B felony
13 punishable according to chapter 9A.20 RCW.

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