
HOUSE BILL 2002

State of Washington

68th Legislature

2024 Regular Session

By Representatives Low and Cheney

Prefiled 12/21/23.

1 AN ACT Relating to criminal penalties for the knowing or
2 intentional use of fentanyl or methamphetamine in a public space with
3 another person; amending RCW 69.50.4013 and 9.94A.518; adding a new
4 section to chapter 69.50 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50
7 RCW to read as follows:

8 (1) It is unlawful for any person to knowingly or intentionally
9 combust or exhale the smoke of a substance:

10 (a) The person knows or reasonably should know contains or is
11 contaminated with fentanyl or methamphetamine, or their isomers,
12 esters, ethers, salts, or salts of isomers, esters, or ethers; and

13 (b) While in a public space and within 10 feet of another person,
14 or while inside an enclosed public space with another person.

15 (2) Except as provided in subsection (3) of this section, any
16 person who violates this section is guilty of a gross misdemeanor.

17 (3) Any person who violates this section while in a public space
18 and within 10 feet of another person under age 13, or while inside an
19 enclosed public space with another person under age 13, is guilty of
20 a class C felony.

1 (4) For the purposes of this section, "public space" includes,
2 but is not limited to, a public conveyance, park, transit stop,
3 hospital or other health care setting, or any other place open to the
4 public.

5 **Sec. 2.** RCW 69.50.4013 and 2023 sp.s. c 1 s 2 are each amended
6 to read as follows:

7 (1) Except as otherwise authorized by this chapter, it is
8 unlawful for any person to:

9 (a) Knowingly possess a controlled substance unless the substance
10 was obtained directly from, or pursuant to, a valid prescription or
11 order of a practitioner while acting in the course of his or her
12 professional practice; or

13 (b) Knowingly use a controlled substance in a public place,
14 unless the substance was obtained directly from, or pursuant to, a
15 valid prescription or order of a practitioner while acting in the
16 course of his or her professional practice.

17 (2)(a) Except as provided in RCW 69.50.4014 (~~(e)~~), 69.50.445, or
18 section 1 of this act, a violation of subsection (1)(a) or (b) of
19 this section is a gross misdemeanor punishable by imprisonment of up
20 to 180 days in jail, or by a fine of not more than \$1,000, or by both
21 such imprisonment and fine, however, if the defendant has two or more
22 prior convictions under subsection (1)(a) or (b) of this section
23 occurring after July 1, 2023, a violation of subsection (1)(a) or (b)
24 of this section is punishable by imprisonment for up to 364 days, or
25 by a fine of not more than \$1,000, or by both such imprisonment and
26 fine. The prosecutor is encouraged to divert such cases for
27 assessment, treatment, or other services.

28 (b) No person may be charged under both subsection (1)(a) and (b)
29 of this section relating to the same course of conduct.

30 (c) In lieu of jail booking and referral to the prosecutor, law
31 enforcement is encouraged to offer a referral to assessment and
32 services available under RCW 10.31.110 or other program or entity
33 responsible for receiving referrals in lieu of legal system
34 involvement, which may include, but are not limited to, arrest and
35 jail alternative programs established under RCW 36.28A.450, law
36 enforcement assisted diversion programs established under RCW
37 71.24.589, and the recovery navigator program established under RCW
38 71.24.115.

1 (3) (a) The possession, by a person 21 years of age or older, of
2 useable cannabis, cannabis concentrates, or cannabis-infused products
3 in amounts that do not exceed those set forth in RCW 69.50.360(3) is
4 not a violation of this section, this chapter, or any other provision
5 of Washington state law.

6 (b) The possession of cannabis, useable cannabis, cannabis
7 concentrates, and cannabis-infused products being physically
8 transported or delivered within the state, in amounts not exceeding
9 those that may be established under RCW 69.50.385(3), by a licensed
10 employee of a common carrier when performing the duties authorized in
11 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
12 this section, this chapter, or any other provision of Washington
13 state law.

14 (4) (a) The delivery by a person 21 years of age or older to one
15 or more persons 21 years of age or older, during a single 24 hour
16 period, for noncommercial purposes and not conditioned upon or done
17 in connection with the provision or receipt of financial
18 consideration, of any of the following cannabis products, is not a
19 violation of this section, this chapter, or any other provisions of
20 Washington state law:

- 21 (i) One-half ounce of useable cannabis;
- 22 (ii) Eight ounces of cannabis-infused product in solid form;
- 23 (iii) 36 ounces of cannabis-infused product in liquid form; or
- 24 (iv) Three and one-half grams of cannabis concentrates.

25 (b) The act of delivering cannabis or a cannabis product as
26 authorized under this subsection (4) must meet one of the following
27 requirements:

28 (i) The delivery must be done in a location outside of the view
29 of general public and in a nonpublic place; or

30 (ii) The cannabis or cannabis product must be in the original
31 packaging as purchased from the cannabis retailer.

32 (5) No person under 21 years of age may manufacture, sell,
33 distribute, or knowingly possess cannabis, cannabis-infused products,
34 or cannabis concentrates, regardless of THC concentration. This does
35 not include qualifying patients with a valid authorization.

36 (6) The possession by a qualifying patient or designated provider
37 of cannabis concentrates, useable cannabis, cannabis-infused
38 products, or plants in accordance with chapter 69.51A RCW is not a
39 violation of this section, this chapter, or any other provision of
40 Washington state law.

1 (7) For the purposes of this section, "public place" has the same
2 meaning as defined in RCW 66.04.010, but the exclusions in RCW
3 66.04.011 do not apply.

4 (8) For the purposes of this section, "use a controlled
5 substance" means to introduce the substance into the human body by
6 injection, inhalation, ingestion, or any other means.

7 **Sec. 3.** RCW 9.94A.518 and 2023 c 66 s 2 are each amended to read
8 as follows:

9 TABLE 4

10 DRUG OFFENSES
11 INCLUDED WITHIN EACH
12 SERIOUSNESS LEVEL

- 13 III Any felony offense under chapter
14 69.50 RCW with a deadly weapon
15 special verdict under RCW
16 9.94A.825
- 17 Controlled Substance Homicide (RCW
18 69.50.415)
- 19 Delivery of imitation controlled
20 substance by person eighteen or
21 over to person under eighteen
22 (RCW 69.52.030(2))
- 23 Involving a minor in drug dealing
24 (RCW 69.50.4015)
- 25 Manufacture of methamphetamine
26 (RCW 69.50.401(2)(b))
- 27 Over 18 and deliver heroin,
28 methamphetamine, a narcotic from
29 Schedule I or II, or flunitrazepam
30 from Schedule IV to someone
31 under 18 (RCW 69.50.406)

1 Over 18 and deliver narcotic from
2 Schedule III, IV, or V or a
3 nonnarcotic, except flunitrazepam
4 or methamphetamine, from
5 Schedule I-V to someone under 18
6 and 3 years junior (RCW
7 69.50.406)

8 Possession of Ephedrine,
9 Pseudoephedrine, or Anhydrous
10 Ammonia with intent to
11 manufacture methamphetamine
12 (RCW 69.50.440)

13 Selling for profit (controlled or
14 counterfeit) any controlled
15 substance (RCW 69.50.410)

16 II Combust or exhale fentanyl or
17 methamphetamine in a public
18 space with another person under
19 age 13 (section 1(3) of this act)

20 Create or deliver a counterfeit
21 controlled substance (RCW
22 69.50.4011(1)(a))

23 Deliver or possess with intent to
24 deliver methamphetamine (RCW
25 69.50.401(2)(b))

26 Delivery of a material in lieu of a
27 controlled substance (RCW
28 69.50.4012)

29 Maintaining a Dwelling or Place for
30 Controlled Substances (RCW
31 69.50.402(1)(f))

32 Manufacture, deliver, or possess with
33 intent to deliver amphetamine
34 (RCW 69.50.401(2)(b))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule I or II or flunitrazepam
4 from Schedule IV (RCW
5 69.50.401(2)(a))
6 Manufacture, deliver, or possess with
7 intent to deliver narcotics from
8 Schedule III, IV, or V or
9 nonnarcotics from Schedule I-V
10 (except cannabis as defined in
11 RCW 69.50.101, amphetamine,
12 methamphetamines, or
13 flunitrazepam) (RCW
14 69.50.401(2) (c) through (e))
15 Manufacture, distribute, or possess
16 with intent to distribute an
17 imitation controlled substance
18 (RCW 69.52.030(1))
19 Possess, purchase, deliver, sell, or
20 possess with intent to sell a
21 tableting machine or encapsulating
22 machine (RCW 69.50.418)
23 I Forged Prescription (RCW 69.41.020)
24 Forged Prescription for a Controlled
25 Substance (RCW 69.50.403)
26 Manufacture, deliver, or possess with
27 intent to deliver cannabis as
28 defined in RCW 69.50.101 (RCW
29 69.50.401(2)(c))
30 Unlawful Use of Building for Drug
31 Purposes (RCW 69.53.010)

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