
SENATE BILL 5471

State of Washington

67th Legislature

2021 Regular Session

By Senators Padden and Wagoner

Read first time 03/04/21. Referred to Committee on Law & Justice.

1 AN ACT Relating to knowing possession of a controlled substance;
2 amending RCW 69.50.4011, 69.50.4013, 69.50.4014, 69.41.030, and
3 69.41.030; prescribing penalties; providing an effective date;
4 providing an expiration date; and declaring an emergency.

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

6 **Sec. 1.** RCW 69.50.4011 and 2003 c 53 s 332 are each amended to
7 read as follows:

8 (1) Except as authorized by this chapter, it is unlawful for any
9 person to create, deliver, or knowingly possess a counterfeit
10 substance.

11 (2) (~~Any~~) Except as provided in subsection (3) of this section,
12 any person who violates this section with respect to:

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

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

1 (c) Any other counterfeit substance classified in Schedule I, II,
2 or III, is guilty of a class C felony punishable according to chapter
3 9A.20 RCW;

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

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

9 (3) Any person who possesses a counterfeit substance under this
10 section, but does not do so knowingly, is guilty of a civil
11 infraction and is subject to a fine of not more than \$3,000.

12 **Sec. 2.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to
13 read as follows:

14 (1) It is unlawful for any person to possess a controlled
15 substance unless the substance was obtained directly from, or
16 pursuant to, a valid prescription or order of a practitioner while
17 acting in the course of his or her professional practice, or except
18 as otherwise authorized by this chapter.

19 (2) Except as provided in RCW 69.50.4014(~~(, any)~~):

20 (a) Any person who knowingly violates this section is guilty of a
21 class C felony punishable under chapter 9A.20 RCW;

22 (b) Any person who possesses a controlled substance under this
23 section, but does not do so knowingly, is guilty of a civil
24 infraction and is subject to a fine of not more than \$3,000.

25 (3)(a) The possession, by a person twenty-one years of age or
26 older, of useable marijuana, marijuana concentrates, or marijuana-
27 infused products in amounts that do not exceed those set forth in RCW
28 69.50.360(3) is not a violation of this section, this chapter, or any
29 other provision of Washington state law.

30 (b) The possession of marijuana, useable marijuana, marijuana
31 concentrates, and marijuana-infused products being physically
32 transported or delivered within the state, in amounts not exceeding
33 those that may be established under RCW 69.50.385(3), by a licensed
34 employee of a common carrier when performing the duties authorized in
35 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
36 this section, this chapter, or any other provision of Washington
37 state law.

38 (4)(a) The delivery by a person twenty-one years of age or older
39 to one or more persons twenty-one years of age or older, during a

1 single twenty-four hour period, for noncommercial purposes and not
2 conditioned upon or done in connection with the provision or receipt
3 of financial consideration, of any of the following marijuana
4 products, is not a violation of this section, this chapter, or any
5 other provisions of Washington state law:

6 (i) One-half ounce of useable marijuana;

7 (ii) Eight ounces of marijuana-infused product in solid form;

8 (iii) Thirty-six ounces of marijuana-infused product in liquid
9 form; or

10 (iv) Three and one-half grams of marijuana concentrates.

11 (b) The act of delivering marijuana or a marijuana product as
12 authorized under this subsection (4) must meet one of the following
13 requirements:

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

16 (ii) The marijuana or marijuana product must be in the original
17 packaging as purchased from the marijuana retailer.

18 (5) No person under twenty-one years of age may possess,
19 manufacture, sell, or distribute marijuana, marijuana-infused
20 products, or marijuana concentrates, regardless of THC concentration.
21 This does not include qualifying patients with a valid authorization.

22 (6) The possession by a qualifying patient or designated provider
23 of marijuana concentrates, useable marijuana, marijuana-infused
24 products, or plants in accordance with chapter 69.51A RCW is not a
25 violation of this section, this chapter, or any other provision of
26 Washington state law.

27 **Sec. 3.** RCW 69.50.4014 and 2015 2nd sp.s. c 4 s 505 are each
28 amended to read as follows:

29 Except as provided in RCW 69.50.401(2)(c) or as otherwise
30 authorized by this chapter, any person found guilty of knowing
31 possession of forty grams or less of marijuana is guilty of a
32 misdemeanor.

33 **Sec. 4.** RCW 69.41.030 and 2019 c 55 s 9 are each amended to read
34 as follows:

35 (1) It shall be unlawful for any person to sell, deliver, or
36 possess any legend drug except upon the order or prescription of a
37 physician under chapter 18.71 RCW, an osteopathic physician and
38 surgeon under chapter 18.57 RCW, an optometrist licensed under

1 chapter 18.53 RCW who is certified by the optometry board under RCW
2 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
3 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
4 18.92 RCW, a commissioned medical or dental officer in the United
5 States armed forces or public health service in the discharge of his
6 or her official duties, a duly licensed physician or dentist employed
7 by the veterans administration in the discharge of his or her
8 official duties, a registered nurse or advanced registered nurse
9 practitioner under chapter 18.79 RCW when authorized by the nursing
10 care quality assurance commission, a pharmacist licensed under
11 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
12 or protocols established under RCW 18.64.011 and authorized by the
13 commission and approved by a practitioner authorized to prescribe
14 drugs, an osteopathic physician assistant under chapter 18.57A RCW
15 when authorized by the board of osteopathic medicine and surgery, a
16 physician assistant under chapter 18.71A RCW when authorized by the
17 Washington medical commission, or any of the following professionals
18 in any province of Canada that shares a common border with the state
19 of Washington or in any state of the United States: A physician
20 licensed to practice medicine and surgery or a physician licensed to
21 practice osteopathic medicine and surgery, a dentist licensed to
22 practice dentistry, a podiatric physician and surgeon licensed to
23 practice podiatric medicine and surgery, a licensed advanced
24 registered nurse practitioner, a licensed physician assistant, a
25 licensed osteopathic physician assistant, or a veterinarian licensed
26 to practice veterinary medicine: PROVIDED, HOWEVER, That the above
27 provisions shall not apply to sale, delivery, or possession by drug
28 wholesalers or drug manufacturers, or their agents or employees, or
29 to any practitioner acting within the scope of his or her license, or
30 to a common or contract carrier or warehouse operator, or any
31 employee thereof, whose possession of any legend drug is in the usual
32 course of business or employment: PROVIDED FURTHER, That nothing in
33 this chapter or chapter 18.64 RCW shall prevent a family planning
34 clinic that is under contract with the health care authority from
35 selling, delivering, possessing, and dispensing commercially
36 prepackaged oral contraceptives prescribed by authorized, licensed
37 health care practitioners: PROVIDED FURTHER, That nothing in this
38 chapter prohibits possession or delivery of legend drugs by an
39 authorized collector or other person participating in the operation
40 of a drug take-back program authorized in chapter 69.48 RCW.

1 (2) (a) A violation of this section involving the sale, delivery,
2 or possession with intent to sell or deliver is a class B felony
3 punishable according to chapter 9A.20 RCW.

4 (b) (i) A person who knowingly possesses a legend drug in
5 violation of this section ((involving possession)) is guilty of a
6 misdemeanor;

7 (ii) A person who possesses a legend drug in violation of this
8 section, but does not do so knowingly, is guilty of a civil
9 infraction and subject to a fine of not more than \$3,000.

10 **Sec. 5.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to
11 read as follows:

12 (1) It shall be unlawful for any person to sell, deliver, or
13 possess any legend drug except upon the order or prescription of a
14 physician under chapter 18.71 RCW, an osteopathic physician and
15 surgeon under chapter 18.57 RCW, an optometrist licensed under
16 chapter 18.53 RCW who is certified by the optometry board under RCW
17 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
18 and surgeon under chapter 18.22 RCW, a veterinarian under chapter
19 18.92 RCW, a commissioned medical or dental officer in the United
20 States armed forces or public health service in the discharge of his
21 or her official duties, a duly licensed physician or dentist employed
22 by the veterans administration in the discharge of his or her
23 official duties, a registered nurse or advanced registered nurse
24 practitioner under chapter 18.79 RCW when authorized by the nursing
25 care quality assurance commission, a pharmacist licensed under
26 chapter 18.64 RCW to the extent permitted by drug therapy guidelines
27 or protocols established under RCW 18.64.011 and authorized by the
28 commission and approved by a practitioner authorized to prescribe
29 drugs, a physician assistant under chapter 18.71A RCW when authorized
30 by the Washington medical commission, or any of the following
31 professionals in any province of Canada that shares a common border
32 with the state of Washington or in any state of the United States: A
33 physician licensed to practice medicine and surgery or a physician
34 licensed to practice osteopathic medicine and surgery, a dentist
35 licensed to practice dentistry, a podiatric physician and surgeon
36 licensed to practice podiatric medicine and surgery, a licensed
37 advanced registered nurse practitioner, a licensed physician
38 assistant, or a veterinarian licensed to practice veterinary
39 medicine: PROVIDED, HOWEVER, That the above provisions shall not

1 apply to sale, delivery, or possession by drug wholesalers or drug
2 manufacturers, or their agents or employees, or to any practitioner
3 acting within the scope of his or her license, or to a common or
4 contract carrier or warehouse operator, or any employee thereof,
5 whose possession of any legend drug is in the usual course of
6 business or employment: PROVIDED FURTHER, That nothing in this
7 chapter or chapter 18.64 RCW shall prevent a family planning clinic
8 that is under contract with the health care authority from selling,
9 delivering, possessing, and dispensing commercially prepackaged oral
10 contraceptives prescribed by authorized, licensed health care
11 practitioners: PROVIDED FURTHER, That nothing in this chapter
12 prohibits possession or delivery of legend drugs by an authorized
13 collector or other person participating in the operation of a drug
14 take-back program authorized in chapter 69.48 RCW.

15 (2) (a) A violation of this section involving the sale, delivery,
16 or possession with intent to sell or deliver is a class B felony
17 punishable according to chapter 9A.20 RCW.

18 (b) (i) A person who knowingly possesses a legend drug in
19 violation of this section ((involving possession)) is guilty of a
20 misdemeanor;

21 (ii) A person who possesses a legend drug in violation of this
22 section, but does not do so knowingly, is guilty of a civil
23 infraction and subject to a fine of not more than \$3,000.

24 NEW SECTION. Sec. 6. Section 4 of this act expires July 1,
25 2022.

26 NEW SECTION. Sec. 7. Section 5 of this act takes effect July 1,
27 2022.

28 NEW SECTION. Sec. 8. Sections 1 through 4, 6, and 7 of this act
29 are necessary for the immediate preservation of the public peace,
30 health, or safety, or support of the state government and its
31 existing public institutions, and take effect immediately.

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