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HOUSE BILL 2339

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State of Washington

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By Representatives Schoesler, Sheldon, Foreman, Sheahan, Grant, Pelesky, Reams, McMorris, L. Thomas, Thompson, D. Schmidt, Fuhrman, Chandler, Sherstad, Hargrove, Smith, McMahan, Benton and Silver

Read first time 01/10/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to manufacture, delivering, or possession of  
2 methamphetamine; amending RCW 69.50.401; reenacting and amending RCW  
3 9.94A.320; adding a new section to chapter 69.50 RCW; and prescribing  
4 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 RCW  
7 to read as follows:

8 It is unlawful for any person to possess ephedrine with intent to  
9 manufacture methamphetamine. Any person who violates this section is  
10 guilty of a crime and may be imprisoned for not more than ten years,  
11 fined not more than twenty-five thousand dollars, or both.

12 **Sec. 2.** RCW 69.50.401 and 1989 c 271 s 104 are each amended to  
13 read as follows:

14 (a) Except as authorized by this chapter, it is unlawful for any  
15 person to manufacture, deliver, or possess with intent to manufacture  
16 or deliver, a controlled substance.

17 (1) Any person who violates this subsection with respect to:

1 (i) a controlled substance classified in Schedule I or II which is  
2 a narcotic drug or methamphetamine, is guilty of a crime and upon  
3 conviction may be imprisoned for not more than ten years, or (A) fined  
4 not more than twenty-five thousand dollars if the crime involved less  
5 than two kilograms of the drug, or both such imprisonment and fine; or  
6 (B) if the crime involved two or more kilograms of the drug, then fined  
7 not more than one hundred thousand dollars for the first two kilograms  
8 and not more than fifty dollars for each gram in excess of two  
9 kilograms, or both such imprisonment and fine;

10 (ii) any other controlled substance classified in Schedule I, II,  
11 or III, is guilty of a crime and upon conviction may be imprisoned for  
12 not more than five years, fined not more than ten thousand dollars, or  
13 both;

14 (iii) a substance classified in Schedule IV, is guilty of a crime  
15 and upon conviction may be imprisoned for not more than five years,  
16 fined not more than ten thousand dollars, or both;

17 (iv) a substance classified in Schedule V, is guilty of a crime and  
18 upon conviction may be imprisoned for not more than five years, fined  
19 not more than ten thousand dollars, or both.

20 (b) Except as authorized by this chapter, it is unlawful for any  
21 person to create, deliver, or possess a counterfeit substance.

22 (1) Any person who violates this subsection with respect to:

23 (i) a counterfeit substance classified in Schedule I or II which is  
24 a narcotic drug or methamphetamine, is guilty of a crime and upon  
25 conviction may be imprisoned for not more than ten years, fined not  
26 more than twenty-five thousand dollars, or both;

27 (ii) any other counterfeit substance classified in Schedule I, II,  
28 or III, is guilty of a crime and upon conviction may be imprisoned for  
29 not more than five years, fined not more than ten thousand dollars, or  
30 both;

31 (iii) a counterfeit substance classified in Schedule IV, is guilty  
32 of a crime and upon conviction may be imprisoned for not more than five  
33 years, fined not more than ten thousand dollars, or both;

34 (iv) a counterfeit substance classified in Schedule V, is guilty of  
35 a crime and upon conviction may be imprisoned for not more than five  
36 years, fined not more than ten thousand dollars, or both.

37 (c) It is unlawful, except as authorized in this chapter and  
38 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for  
39 the sale, gift, delivery, dispensing, distribution, or administration

1 of a controlled substance to any person and then sell, give, deliver,  
2 dispense, distribute, or administer to that person any other liquid,  
3 substance, or material in lieu of such controlled substance. Any  
4 person who violates this subsection is guilty of a crime and upon  
5 conviction may be imprisoned for not more than five years, fined not  
6 more than ten thousand dollars, or both.

7 (d) It is unlawful for any person to possess a controlled substance  
8 unless the substance was obtained directly from, or pursuant to, a  
9 valid prescription or order of a practitioner while acting in the  
10 course of his or her professional practice, or except as otherwise  
11 authorized by this chapter. Any person who violates this subsection is  
12 guilty of a crime, and upon conviction may be imprisoned for not more  
13 than five years, fined not more than ten thousand dollars, or both,  
14 except as provided for in subsection (e) of this section.

15 (e) Except as provided for in subsection (a)(1)(ii) of this section  
16 any person found guilty of possession of forty grams or less of  
17 marihuana shall be guilty of a misdemeanor.

18 (f) It is unlawful to compensate, threaten, solicit, or in any  
19 other manner involve a person under the age of eighteen years in a  
20 transaction unlawfully to manufacture, sell, or deliver a controlled  
21 substance. A violation of this subsection shall be punished as a class  
22 C felony punishable in accordance with RCW 9A.20.021.

23 This section shall not apply to offenses defined and punishable  
24 under the provisions of RCW 69.50.410.

25 **Sec. 3.** RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and  
26 1995 c 129 s 3 (Initiative Measure No. 159) are each reenacted and  
27 amended to read as follows:

28 TABLE 2

29 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

30	XV	Aggravated Murder 1 (RCW 10.95.020)
31	XIV	Murder 1 (RCW 9A.32.030)
32		Homicide by abuse (RCW 9A.32.055)
33	XIII	Murder 2 (RCW 9A.32.050)
34	XII	Assault 1 (RCW 9A.36.011)
35		Assault of a Child 1 (RCW 9A.36.120)

1 XI Rape 1 (RCW 9A.44.040)  
2 Rape of a Child 1 (RCW 9A.44.073)  
3 X Kidnapping 1 (RCW 9A.40.020)  
4 Rape 2 (RCW 9A.44.050)  
5 Rape of a Child 2 (RCW 9A.44.076)  
6 Child Molestation 1 (RCW 9A.44.083)  
7 Damaging building, etc., by explosion with  
8 threat to human being (RCW  
9 70.74.280(1))  
10 Over 18 and deliver heroin or narcotic  
11 from Schedule I or II to someone  
12 under 18 (RCW 69.50.406)  
13 Leading Organized Crime (RCW  
14 9A.82.060(1)(a))  
15 IX Assault of a Child 2 (RCW 9A.36.130)  
16 Robbery 1 (RCW 9A.56.200)  
17 Manslaughter 1 (RCW 9A.32.060)  
18 Explosive devices prohibited (RCW  
19 70.74.180)  
20 Indecent Liberties (with forcible  
21 compulsion) (RCW 9A.44.100(1)(a))  
22 Endangering life and property by  
23 explosives with threat to human being  
24 (RCW 70.74.270)  
25 Over 18 and deliver narcotic from Schedule  
26 III, IV, or V or a nonnarcotic from  
27 Schedule I-V to someone under 18 and  
28 3 years junior (RCW 69.50.406)  
29 Controlled Substance Homicide (RCW  
30 69.50.415)  
31 Sexual Exploitation (RCW 9.68A.040)  
32 Inciting Criminal Profiteering (RCW  
33 9A.82.060(1)(b))  
34 Vehicular Homicide, by being under the  
35 influence of intoxicating liquor or  
36 any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)  
2 Promoting Prostitution 1 (RCW 9A.88.070)  
3 Selling for profit (controlled or  
4 counterfeit) any controlled substance  
5 (RCW 69.50.410)  
6 Manufacture, deliver, or possess with  
7 intent to deliver heroin ((~~or~~)),  
8 cocaine, or methamphetamine (RCW  
9 69.50.401(a)(1)(i))  
10 ((~~Manufacture, deliver, or possess with~~  
11 ~~intent to deliver methamphetamine~~  
12 ~~(RCW 69.50.401(a)(1)(ii))~~))  
13 Possession of ephedrine with intent to  
14 manufacture methamphetamine (RCW  
15 69.43.--- (section 1 of this act))  
16 Vehicular Homicide, by the operation of  
17 any vehicle in a reckless manner (RCW  
18 46.61.520)

19 VII Burglary 1 (RCW 9A.52.020)  
20 Vehicular Homicide, by disregard for the  
21 safety of others (RCW 46.61.520)  
22 Introducing Contraband 1 (RCW 9A.76.140)  
23 Indecent Liberties (without forcible  
24 compulsion) (RCW 9A.44.100(1) (b) and  
25 (c))  
26 Child Molestation 2 (RCW 9A.44.086)  
27 Dealing in depictions of minor engaged in  
28 sexually explicit conduct (RCW  
29 9.68A.050)  
30 Sending, bringing into state depictions of  
31 minor engaged in sexually explicit  
32 conduct (RCW 9.68A.060)  
33 Involving a minor in drug dealing (RCW  
34 69.50.401(f))  
35 Reckless Endangerment 1 (RCW 9A.36.045)  
36 Unlawful Possession of a Firearm in the  
37 first degree (RCW 9.41.040(1)(a))

1 VI Bribery (RCW 9A.68.010)  
2 Manslaughter 2 (RCW 9A.32.070)  
3 Rape of a Child 3 (RCW 9A.44.079)  
4 Intimidating a Juror/Witness (RCW  
5 9A.72.110, 9A.72.130)  
6 Damaging building, etc., by explosion with  
7 no threat to human being (RCW  
8 70.74.280(2))  
9 Endangering life and property by  
10 explosives with no threat to human  
11 being (RCW 70.74.270)  
12 Incest 1 (RCW 9A.64.020(1))  
13 Manufacture, deliver, or possess with  
14 intent to deliver narcotics from  
15 Schedule I or II (except heroin or  
16 cocaine) (RCW 69.50.401(a)(1)(i))  
17 Intimidating a Judge (RCW 9A.72.160)  
18 Bail Jumping with Murder 1 (RCW  
19 9A.76.170(2)(a))  
20 Theft of a Firearm (RCW 9A.56.300)

21 V Persistent prison misbehavior (RCW  
22 9.94.070)  
23 Criminal Mistreatment 1 (RCW 9A.42.020)  
24 Rape 3 (RCW 9A.44.060)  
25 Sexual Misconduct with a Minor 1 (RCW  
26 9A.44.093)  
27 Child Molestation 3 (RCW 9A.44.089)  
28 Kidnapping 2 (RCW 9A.40.030)  
29 Extortion 1 (RCW 9A.56.120)  
30 Incest 2 (RCW 9A.64.020(2))  
31 Perjury 1 (RCW 9A.72.020)  
32 Extortionate Extension of Credit (RCW  
33 9A.82.020)  
34 Advancing money or property for  
35 extortionate extension of credit (RCW  
36 9A.82.030)  
37 Extortionate Means to Collect Extensions  
38 of Credit (RCW 9A.82.040)

1           Rendering Criminal Assistance 1 (RCW  
2                           9A.76.070)  
3           Bail Jumping with class A Felony (RCW  
4                           9A.76.170(2)(b))  
5           Sexually Violating Human Remains (RCW  
6                           9A.44.105)  
7           Delivery of imitation controlled substance  
8                           by person eighteen or over to person  
9                           under eighteen (RCW 69.52.030(2))  
10          Possession of a Stolen Firearm (RCW  
11                           9A.56.310)

12        IV           Residential Burglary (RCW 9A.52.025)  
13                      Theft of Livestock 1 (RCW 9A.56.080)  
14                      Robbery 2 (RCW 9A.56.210)  
15                      Assault 2 (RCW 9A.36.021)  
16                      Escape 1 (RCW 9A.76.110)  
17                      Arson 2 (RCW 9A.48.030)  
18                      Commercial Bribery (RCW 9A.68.060)  
19                      Bribing a Witness/Bribe Received by  
20                            Witness (RCW 9A.72.090, 9A.72.100)  
21                      Malicious Harassment (RCW 9A.36.080)  
22                      Threats to Bomb (RCW 9.61.160)  
23                      Willful Failure to Return from Furlough  
24                            (RCW 72.66.060)  
25                      Hit and Run « Injury Accident (RCW  
26                            46.52.020(4))  
27                      Vehicular Assault (RCW 46.61.522)  
28                      Manufacture, deliver, or possess with  
29                            intent to deliver narcotics from  
30                            Schedule III, IV, or V or  
31                            nonnarcotics from Schedule I-V  
32                            (except marijuana or  
33                            methamphetamines) (RCW  
34                            69.50.401(a)(1)(ii) through (iv))  
35                      Influencing Outcome of Sporting Event (RCW  
36                            9A.82.070)

1 Use of Proceeds of Criminal Profiteering  
2 (RCW 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property  
4 (RCW 9A.82.050(2))

5 III Criminal Mistreatment 2 (RCW 9A.42.030)  
6 Extortion 2 (RCW 9A.56.130)  
7 Unlawful Imprisonment (RCW 9A.40.040)  
8 Assault 3 (RCW 9A.36.031)  
9 Assault of a Child 3 (RCW 9A.36.140)  
10 Custodial Assault (RCW 9A.36.100)  
11 Unlawful possession of firearm in the  
12 second degree (RCW 9.41.040(1)(b))  
13 Harassment (RCW 9A.46.020)  
14 Promoting Prostitution 2 (RCW 9A.88.080)  
15 Willful Failure to Return from Work  
16 Release (RCW 72.65.070)  
17 Burglary 2 (RCW 9A.52.030)  
18 Introducing Contraband 2 (RCW 9A.76.150)  
19 Communication with a Minor for Immoral  
20 Purposes (RCW 9.68A.090)  
21 Patronizing a Juvenile Prostitute (RCW  
22 9.68A.100)  
23 Escape 2 (RCW 9A.76.120)  
24 Perjury 2 (RCW 9A.72.030)  
25 Bail Jumping with class B or C Felony (RCW  
26 9A.76.170(2)(c))  
27 Intimidating a Public Servant (RCW  
28 9A.76.180)  
29 Tampering with a Witness (RCW 9A.72.120)  
30 Manufacture, deliver, or possess with  
31 intent to deliver marijuana (RCW  
32 69.50.401(a)(1)(ii))  
33 Delivery of a material in lieu of a  
34 controlled substance (RCW  
35 69.50.401(c))  
36 Manufacture, distribute, or possess with  
37 intent to distribute an imitation  
38 controlled substance (RCW  
39 69.52.030(1))

1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Theft of livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)

5 II Unlawful Practice of Law (RCW 2.48.180)  
6 Malicious Mischief 1 (RCW 9A.48.070)  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Theft 1 (RCW 9A.56.030)  
10 Trafficking in Insurance Claims (RCW  
11 48.30A.015)  
12 Unlicensed Practice of a Profession or  
13 Business (RCW 18.130.190(7))  
14 Health Care False Claims (RCW 48.80.030)  
15 Possession of controlled substance that is  
16 either heroin or narcotics from  
17 Schedule I or II (RCW 69.50.401(d))  
18 Possession of phencyclidine (PCP) (RCW  
19 69.50.401(d))  
20 Create, deliver, or possess a counterfeit  
21 controlled substance (RCW  
22 69.50.401(b))  
23 Computer Trespass 1 (RCW 9A.52.110)  
24 Escape from Community Custody (RCW  
25 72.09.310)

26 I Theft 2 (RCW 9A.56.040)  
27 Possession of Stolen Property 2 (RCW  
28 9A.56.160)  
29 Forgery (RCW 9A.60.020)  
30 Taking Motor Vehicle Without Permission  
31 (RCW 9A.56.070)  
32 Vehicle Prowl 1 (RCW 9A.52.095)  
33 Attempting to Elude a Pursuing Police  
34 Vehicle (RCW 46.61.024)  
35 Malicious Mischief 2 (RCW 9A.48.080)  
36 Reckless Burning 1 (RCW 9A.48.040)  
37 Unlawful Issuance of Checks or Drafts (RCW  
38 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140  
2 (2) and (3))  
3 False Verification for Welfare (RCW  
4 74.08.055)  
5 Forged Prescription (RCW 69.41.020)  
6 Forged Prescription for a Controlled  
7 Substance (RCW 69.50.403)  
8 Possess Controlled Substance that is a  
9 Narcotic from Schedule III, IV, or V  
10 or Non-narcotic from Schedule I-V  
11 (except phencyclidine) (RCW  
12 69.50.401(d))

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