

CERTIFICATION OF ENROLLMENT

SENATE BILL 5149

63rd Legislature
2013 Regular Session

Passed by the Senate March 5, 2013
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 15, 2013
YEAS 93 NAYS 4

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5149** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5149

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Senators Carrell, Conway, Padden, Pearson, Braun, Dammeier, and Parlette

Read first time 01/21/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes against pharmacies; amending RCW
2 9.94A.533; and adding a new section to chapter 9.94A RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
5 to read as follows:

6 In a criminal case where:

7 (1) The defendant has been convicted of robbery in the first degree
8 or robbery in the second degree; and

9 (2) There has been a special allegation pleaded and proven beyond
10 a reasonable doubt that the defendant committed a robbery of a pharmacy
11 as defined in RCW 18.64.011(21);

12 the court shall make a finding of fact of the special allegation, or if
13 a jury is had, the jury shall, if it finds the defendant guilty, also
14 find a special verdict as to the special allegation.

15 **Sec. 2.** RCW 9.94A.533 and 2012 c 42 s 3 are each amended to read
16 as follows:

17 (1) The provisions of this section apply to the standard sentence
18 ranges determined by RCW 9.94A.510 or 9.94A.517.

1 (2) For persons convicted of the anticipatory offenses of criminal
2 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
3 standard sentence range is determined by locating the sentencing grid
4 sentence range defined by the appropriate offender score and the
5 seriousness level of the completed crime, and multiplying the range by
6 seventy-five percent.

7 (3) The following additional times shall be added to the standard
8 sentence range for felony crimes committed after July 23, 1995, if the
9 offender or an accomplice was armed with a firearm as defined in RCW
10 9.41.010 and the offender is being sentenced for one of the crimes
11 listed in this subsection as eligible for any firearm enhancements
12 based on the classification of the completed felony crime. If the
13 offender is being sentenced for more than one offense, the firearm
14 enhancement or enhancements must be added to the total period of
15 confinement for all offenses, regardless of which underlying offense is
16 subject to a firearm enhancement. If the offender or an accomplice was
17 armed with a firearm as defined in RCW 9.41.010 and the offender is
18 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
19 commit one of the crimes listed in this subsection as eligible for any
20 firearm enhancements, the following additional times shall be added to
21 the standard sentence range determined under subsection (2) of this
22 section based on the felony crime of conviction as classified under RCW
23 9A.28.020:

24 (a) Five years for any felony defined under any law as a class A
25 felony or with a statutory maximum sentence of at least twenty years,
26 or both, and not covered under (f) of this subsection;

27 (b) Three years for any felony defined under any law as a class B
28 felony or with a statutory maximum sentence of ten years, or both, and
29 not covered under (f) of this subsection;

30 (c) Eighteen months for any felony defined under any law as a class
31 C felony or with a statutory maximum sentence of five years, or both,
32 and not covered under (f) of this subsection;

33 (d) If the offender is being sentenced for any firearm enhancements
34 under (a), (b), and/or (c) of this subsection and the offender has
35 previously been sentenced for any deadly weapon enhancements after July
36 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
37 (4)(a), (b), and/or (c) of this section, or both, all firearm

1 enhancements under this subsection shall be twice the amount of the
2 enhancement listed;

3 (e) Notwithstanding any other provision of law, all firearm
4 enhancements under this section are mandatory, shall be served in total
5 confinement, and shall run consecutively to all other sentencing
6 provisions, including other firearm or deadly weapon enhancements, for
7 all offenses sentenced under this chapter. However, whether or not a
8 mandatory minimum term has expired, an offender serving a sentence
9 under this subsection may be granted an extraordinary medical placement
10 when authorized under RCW 9.94A.728(3);

11 (f) The firearm enhancements in this section shall apply to all
12 felony crimes except the following: Possession of a machine gun,
13 possessing a stolen firearm, drive-by shooting, theft of a firearm,
14 unlawful possession of a firearm in the first and second degree, and
15 use of a machine gun in a felony;

16 (g) If the standard sentence range under this section exceeds the
17 statutory maximum sentence for the offense, the statutory maximum
18 sentence shall be the presumptive sentence unless the offender is a
19 persistent offender. If the addition of a firearm enhancement
20 increases the sentence so that it would exceed the statutory maximum
21 for the offense, the portion of the sentence representing the
22 enhancement may not be reduced.

23 (4) The following additional times shall be added to the standard
24 sentence range for felony crimes committed after July 23, 1995, if the
25 offender or an accomplice was armed with a deadly weapon other than a
26 firearm as defined in RCW 9.41.010 and the offender is being sentenced
27 for one of the crimes listed in this subsection as eligible for any
28 deadly weapon enhancements based on the classification of the completed
29 felony crime. If the offender is being sentenced for more than one
30 offense, the deadly weapon enhancement or enhancements must be added to
31 the total period of confinement for all offenses, regardless of which
32 underlying offense is subject to a deadly weapon enhancement. If the
33 offender or an accomplice was armed with a deadly weapon other than a
34 firearm as defined in RCW 9.41.010 and the offender is being sentenced
35 for an anticipatory offense under chapter 9A.28 RCW to commit one of
36 the crimes listed in this subsection as eligible for any deadly weapon
37 enhancements, the following additional times shall be added to the

1 standard sentence range determined under subsection (2) of this section
2 based on the felony crime of conviction as classified under RCW
3 9A.28.020:

4 (a) Two years for any felony defined under any law as a class A
5 felony or with a statutory maximum sentence of at least twenty years,
6 or both, and not covered under (f) of this subsection;

7 (b) One year for any felony defined under any law as a class B
8 felony or with a statutory maximum sentence of ten years, or both, and
9 not covered under (f) of this subsection;

10 (c) Six months for any felony defined under any law as a class C
11 felony or with a statutory maximum sentence of five years, or both, and
12 not covered under (f) of this subsection;

13 (d) If the offender is being sentenced under (a), (b), and/or (c)
14 of this subsection for any deadly weapon enhancements and the offender
15 has previously been sentenced for any deadly weapon enhancements after
16 July 23, 1995, under (a), (b), and/or (c) of this subsection or
17 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
18 weapon enhancements under this subsection shall be twice the amount of
19 the enhancement listed;

20 (e) Notwithstanding any other provision of law, all deadly weapon
21 enhancements under this section are mandatory, shall be served in total
22 confinement, and shall run consecutively to all other sentencing
23 provisions, including other firearm or deadly weapon enhancements, for
24 all offenses sentenced under this chapter. However, whether or not a
25 mandatory minimum term has expired, an offender serving a sentence
26 under this subsection may be granted an extraordinary medical placement
27 when authorized under RCW 9.94A.728(3);

28 (f) The deadly weapon enhancements in this section shall apply to
29 all felony crimes except the following: Possession of a machine gun,
30 possessing a stolen firearm, drive-by shooting, theft of a firearm,
31 unlawful possession of a firearm in the first and second degree, and
32 use of a machine gun in a felony;

33 (g) If the standard sentence range under this section exceeds the
34 statutory maximum sentence for the offense, the statutory maximum
35 sentence shall be the presumptive sentence unless the offender is a
36 persistent offender. If the addition of a deadly weapon enhancement
37 increases the sentence so that it would exceed the statutory maximum

1 for the offense, the portion of the sentence representing the
2 enhancement may not be reduced.

3 (5) The following additional times shall be added to the standard
4 sentence range if the offender or an accomplice committed the offense
5 while in a county jail or state correctional facility and the offender
6 is being sentenced for one of the crimes listed in this subsection. If
7 the offender or an accomplice committed one of the crimes listed in
8 this subsection while in a county jail or state correctional facility,
9 and the offender is being sentenced for an anticipatory offense under
10 chapter 9A.28 RCW to commit one of the crimes listed in this
11 subsection, the following additional times shall be added to the
12 standard sentence range determined under subsection (2) of this
13 section:

14 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
15 (a) or (b) or 69.50.410;

16 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
17 (c), (d), or (e);

18 (c) Twelve months for offenses committed under RCW 69.50.4013.

19 For the purposes of this subsection, all of the real property of a
20 state correctional facility or county jail shall be deemed to be part
21 of that facility or county jail.

22 (6) An additional twenty-four months shall be added to the standard
23 sentence range for any ranked offense involving a violation of chapter
24 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
25 9.94A.827. All enhancements under this subsection shall run
26 consecutively to all other sentencing provisions, for all offenses
27 sentenced under this chapter.

28 (7) An additional two years shall be added to the standard sentence
29 range for vehicular homicide committed while under the influence of
30 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
31 prior offense as defined in RCW 46.61.5055. All enhancements under
32 this subsection shall be mandatory, shall be served in total
33 confinement, and shall run consecutively to all other sentencing
34 provisions.

35 (8)(a) The following additional times shall be added to the
36 standard sentence range for felony crimes committed on or after July 1,
37 2006, if the offense was committed with sexual motivation, as that term
38 is defined in RCW 9.94A.030. If the offender is being sentenced for

1 more than one offense, the sexual motivation enhancement must be added
2 to the total period of total confinement for all offenses, regardless
3 of which underlying offense is subject to a sexual motivation
4 enhancement. If the offender committed the offense with sexual
5 motivation and the offender is being sentenced for an anticipatory
6 offense under chapter 9A.28 RCW, the following additional times shall
7 be added to the standard sentence range determined under subsection (2)
8 of this section based on the felony crime of conviction as classified
9 under RCW 9A.28.020:

10 (i) Two years for any felony defined under the law as a class A
11 felony or with a statutory maximum sentence of at least twenty years,
12 or both;

13 (ii) Eighteen months for any felony defined under any law as a
14 class B felony or with a statutory maximum sentence of ten years, or
15 both;

16 (iii) One year for any felony defined under any law as a class C
17 felony or with a statutory maximum sentence of five years, or both;

18 (iv) If the offender is being sentenced for any sexual motivation
19 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
20 the offender has previously been sentenced for any sexual motivation
21 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii)
22 of this subsection, all sexual motivation enhancements under this
23 subsection shall be twice the amount of the enhancement listed;

24 (b) Notwithstanding any other provision of law, all sexual
25 motivation enhancements under this subsection are mandatory, shall be
26 served in total confinement, and shall run consecutively to all other
27 sentencing provisions, including other sexual motivation enhancements,
28 for all offenses sentenced under this chapter. However, whether or not
29 a mandatory minimum term has expired, an offender serving a sentence
30 under this subsection may be granted an extraordinary medical placement
31 when authorized under RCW 9.94A.728(3);

32 (c) The sexual motivation enhancements in this subsection apply to
33 all felony crimes;

34 (d) If the standard sentence range under this subsection exceeds
35 the statutory maximum sentence for the offense, the statutory maximum
36 sentence shall be the presumptive sentence unless the offender is a
37 persistent offender. If the addition of a sexual motivation

1 enhancement increases the sentence so that it would exceed the
2 statutory maximum for the offense, the portion of the sentence
3 representing the enhancement may not be reduced;

4 (e) The portion of the total confinement sentence which the
5 offender must serve under this subsection shall be calculated before
6 any earned early release time is credited to the offender;

7 (f) Nothing in this subsection prevents a sentencing court from
8 imposing a sentence outside the standard sentence range pursuant to RCW
9 9.94A.535.

10 (9) An additional one-year enhancement shall be added to the
11 standard sentence range for the felony crimes of RCW 9A.44.073,
12 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
13 or after July 22, 2007, if the offender engaged, agreed, or offered to
14 engage the victim in the sexual conduct in return for a fee. If the
15 offender is being sentenced for more than one offense, the one-year
16 enhancement must be added to the total period of total confinement for
17 all offenses, regardless of which underlying offense is subject to the
18 enhancement. If the offender is being sentenced for an anticipatory
19 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,
20 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,
21 solicited another, or conspired to engage, agree, or offer to engage
22 the victim in the sexual conduct in return for a fee, an additional
23 one-year enhancement shall be added to the standard sentence range
24 determined under subsection (2) of this section. For purposes of this
25 subsection, "sexual conduct" means sexual intercourse or sexual
26 contact, both as defined in chapter 9A.44 RCW.

27 (10)(a) For a person age eighteen or older convicted of any
28 criminal street gang-related felony offense for which the person
29 compensated, threatened, or solicited a minor in order to involve the
30 minor in the commission of the felony offense, the standard sentence
31 range is determined by locating the sentencing grid sentence range
32 defined by the appropriate offender score and the seriousness level of
33 the completed crime, and multiplying the range by one hundred twenty-
34 five percent. If the standard sentence range under this subsection
35 exceeds the statutory maximum sentence for the offense, the statutory
36 maximum sentence is the presumptive sentence unless the offender is a
37 persistent offender.

1 (b) This subsection does not apply to any criminal street gang-
2 related felony offense for which involving a minor in the commission of
3 the felony offense is an element of the offense.

4 (c) The increased penalty specified in (a) of this subsection is
5 unavailable in the event that the prosecution gives notice that it will
6 seek an exceptional sentence based on an aggravating factor under RCW
7 9.94A.535.

8 (11) An additional twelve months and one day shall be added to the
9 standard sentence range for a conviction of attempting to elude a
10 police vehicle as defined by RCW 46.61.024, if the conviction included
11 a finding by special allegation of endangering one or more persons
12 under RCW 9.94A.834.

13 (12) An additional twelve months shall be added to the standard
14 sentence range for an offense that is also a violation of RCW
15 9.94A.831.

16 (13) An additional twelve months shall be added to the standard
17 sentence range for vehicular homicide committed while under the
18 influence of intoxicating liquor or any drug as defined by RCW
19 46.61.520 or for vehicular assault committed while under the influence
20 of intoxicating liquor or any drug as defined by RCW 46.61.522, or for
21 any felony driving under the influence (RCW 46.61.502(6)) or felony
22 physical control under the influence (RCW 46.61.504(6)) for each child
23 passenger under the age of sixteen who is an occupant in the
24 defendant's vehicle. These enhancements shall be mandatory, shall be
25 served in total confinement, and shall run consecutively to all other
26 sentencing provisions. If the addition of a minor child enhancement
27 increases the sentence so that it would exceed the statutory maximum
28 for the offense, the portion of the sentence representing the
29 enhancement may not be reduced.

30 (14) An additional twelve months shall be added to the standard
31 sentence range for an offense that is also a violation of section 1 of
32 this act.

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