

facilities.

NEW SECTION. Sec. 21. The powers and authority conferred upon municipalities under the provisions of this 1969 act shall be in addition to and supplemental to powers or authority conferred by any other law, and nothing contained herein limits any other power or authority of such municipalities.

NEW SECTION. Sec. 22. If any provision of this 1969 act, or its application to any municipality, person or circumstance is held invalid, the remainder of this 1969 act or the application of the provisions to other municipalities, persons or circumstances is not affected.

Passed the House May 10, 1969
Passed the Senate April 7, 1969
Approved by the Governor May 23, 1969
Filed in office of Secretary of State May 23, 1969

CHAPTER 256
[Substitute House Bill No. 116]
CRIMES AND CRIMINAL PROCEDURES--
RECORDS OF IDENTIFICATION--
NARCOTIC DRUGS, DANGEROUS DRUGS, CANNABIS--
EROTIC MATERIALS

AN ACT Relating to crimes and criminal procedures; amending section 69.33.220, chapter 27, Laws of 1959 and RCW 69.33.220; amending section 69.33.300, chapter 27, Laws of 1959 and RCW 69.33.300; amending section 1, chapter 6, Laws of 1939 as last amended by section 1, chapter 71, Laws of 1967 and RCW 69.40.060; amending section 2, chapter 6, Laws of 1939 as amended by section 23, chapter 38, Laws of 1963, and RCW 69.40.070; adding new sections to chapter 28, Laws of 1959 and to chapter 72.50 RCW; adding a new section to chapter 38, Laws of 1963 and to chapter 69.40 RCW; adding a new section to chapter 69.40 RCW; defining certain crimes; and prescribing penalties.

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

NEW SECTION. Section 1. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

As used in sections 2 through 5 of this 1969 amendatory act:

- (1) "Records of identification" shall include fingerprints, photographs, voice recordings and physical measurements of a person;
- (2) "Agency" shall mean any law enforcement agency of this state or a subdivision thereof and any institution listed in RCW 72-50.090;
- (3) "Bureau" shall mean the state bureau of criminal identification.

NEW SECTION. Sec. 2. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

All agencies which send records of identification of any person arrested to the bureau or to the federal bureau of investigation or to other law enforcement agencies shall also send to such bureau or agency information as to the final disposition of all such charges, including a statement where appropriate, to the effect that no charges have been brought. The bureau shall enter such information on its records.

NEW SECTION. Sec. 3. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

In the event that (1) the person is not convicted of any of the charges for which he was arrested for the reason that such charges are not brought against him; or (2) such charges are brought and have been dismissed or the person has been acquitted; all such records of identification shall be confidential to the extent provided for in RCW 72.50.100 except that such facts may be released on order of court where such facts are material to issues in any litigation.

NEW SECTION. Sec. 4. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

All records of arrest maintained by the bureau, or by any other agency, shall carry a notation clearly stating the disposition of the charges against the person arrested, or stating that no charges will be brought.

NEW SECTION. Sec. 5. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

A proceeding may be brought under chapter 7.16 RCW to enforce sections 1 through 6 of this 1969 amendatory act and the attorney general of the state may at his discretion represent the plaintiff in any attempt to gain relief hereunder or the plaintiff may proceed on his own behalf.

NEW SECTION. Sec. 6. There is added to chapter 28, Laws of 1959 and to chapter 72.50 RCW a new section to read as follows:

In addition to other remedies provided in this chapter any person who wilfully violates the provisions of section 3 of this 1969 amendatory act shall be liable to any person whose records are released thereby for any actual damages including injury to reputation.

Sec. 7. Section 69.33.220, chapter 27, Laws of 1959 and RCW 69.33.220 are each amended to read as follows:

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

- (1) "Person" includes any corporation, association, copartnership, or one or more individuals.
- (2) "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.
- (3) "Dentist" means a person authorized by law to practice dentistry in this state.
- (4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.
- (5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.
- (6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written

orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution for the care and treatment of the sick and injured, found by the state board of pharmacy to have a custodian of narcotics proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the state board of pharmacy as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) ("~~Cannabis~~"-includes-all-parts-of-the-plant-Cannabis Sativa-L.-whether-growing-or-not,-the-seeds-thereof,-the-resin-extracted-from-any-part-of-such-plant,-and-every-compound,-manufacture,-salt,-derivative,-mixture,-or-preparation-of-such-plant,-its-seeds,-

~~or-resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.~~

((14)) "Narcotic drugs" mean coca leaves, opium ((~~cannabis~~)) and every other substance neither chemically nor physically distinguishable from them; any other drugs to which the federal laws relating to narcotic drugs may now apply; and any drug found by the board of pharmacy, after reasonable notice and opportunity for hearing, to have addiction-forming or addiction-sustaining liability similar to morphine or cocaine, from the date of publication of such finding by the state board of pharmacy: PROVIDED, That narcotic drugs shall not include cannabis and the provisions of this chapter shall not ever be applicable to any form of cannabis.

((15)) (14) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

((16)) (15) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the state board of pharmacy.

((17)) (16) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

((18)) (17) "Registry number" means the number assigned to each person registered under the federal narcotic laws.

Sec. 8. Section 69.33.300, chapter 27, Laws of 1959 and RCW 69.33.300 are each amended to read as follows:

(1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs,

shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients: PROVIDED, That no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by RCW 69.33.290, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection 5 of this section.

(5) The form of records shall be prescribed by the state board of pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced; ~~((and the proportion of resin contained in or producible from the plant Cannabis Sativa L.))~~ the record of all narcotic drugs sold, administered, dispensed or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

Sec. 9. Section 1, chapter 6, Laws of 1939 as last amended by section 1, chapter 71, Laws of 1967 and RCW 69.40.060 are each amended to read as follows:

(1) It shall be unlawful for a person, firm, or corporation to sell, give away, barter, exchange or distribute amytal, luminal, veronal, barbital, acid diethylbarbituric, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing

more than one grain to the avoirdupois or fluid ounce of the above substances; or to sell, give away, barter, exchange, or distribute any amphetamine or any dextroamphetamine, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing such substances; or to sell, give away, barter, exchange or distribute dimethyltryptamine, lysergic acid, mescaline, peyote, psilocin, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing such substances; (2) It shall be unlawful for a person, firm or corporation to sell, give away, barter, exchange or distribute any part of the plant Cannabis Sativa L., commonly known as marihuana, or any other cannabis plant whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination; or to sell, give away, barter, exchange or distribute any drug found by federal law or regulation or Washington state pharmacy board regulation to have a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect; or any other drug which is required by any applicable federal or state law or federal regulation or Washington state pharmacy board regulation to be used only on prescription, except upon the written or oral order of prescription of a physician, surgeon, dentist, or

veterinary surgeon licensed to practice in the state, and shall not be refilled without the written or oral order of the prescriber: PROVIDED, That the ((above)) provisions of this section shall not apply to the sale at wholesale by drug jobbers, drug wholesalers, and drug manufacturers to pharmacies or to physicians, dentists, or veterinary surgeons, nor to each other nor to the sale at retail in pharmacies by pharmacists to each other or to physicians, surgeons, dentists or veterinary surgeons licensed to practice in this state.

Sec.10. Section 2, chapter 6, Laws of 1939 as amended by section 23, chapter 38, Laws of 1963, and RCW 69.40.070 are each amended to read as follows:

Whoever violates any provision of chapter 69.40 RCW, and said violation solely involves the drug cannabis, commonly known as marijuana, shall, upon conviction, be fined and imprisoned as herein provided:

(1) For the first offense, the offender shall be guilty of a misdemeanor, and punishable by a fine not exceeding ((two-hundred)) five hundred dollars or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment;

(2) For a second offense, or if, in the case of a first conviction of violation of any provision of this chapter, the offender shall previously have been convicted of any violation of the laws of the United States, this state or any other state, territory or district relating to dangerous drugs, narcotic drugs or cannabis, the offender shall be guilty of a gross misdemeanor and the court may in its discretion impose a fine of not to exceed one thousand dollars or a sentence not to exceed one year in the county jail, or both such fine and imprisonment;

(3) For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the laws of the United States or of this state, or of any other state, territory or district relating to dangerous drugs, narcotic drugs or cannabis, the offender shall be

guilty of a felony and shall be fined not more than ten thousand dollars and be imprisoned in the state penitentiary not more than ten years.

(4) For any offense under the provisions of this chapter involving a sale to or other transaction with a minor the offender shall be guilty of a felony and shall be fined not more than fifty thousand dollars and be imprisoned in the state penitentiary not more than twenty years.

(5) Except as provided in subsection (4) of this section, for any sale of cannabis or for possession with intent to sell, the offender shall be guilty of a felony and shall be fined not more than five thousand dollars and be imprisoned in the state penitentiary not less than three nor more than ten years. In any prosecution under this section, proof that a person unlawfully possessed in excess of 40 grams of cannabis shall be prima facie evidence that possession was with intent to sell.

NEW SECTION. Sec. 11. There is added to chapter 69.40 RCW a new section to read as follows:

Cannabis as now or hereafter defined by the Washington state board of pharmacy shall be a dangerous drug as defined herein and accordingly shall be subject to the provisions of chapter 69.40 RCW and shall not be considered a narcotic drug and accordingly not subject to the provisions of chapter 69.33 RCW as now law or hereafter amended.

NEW SECTION. Sec. 12. There is added to chapter 38, Laws of 1963, and to chapter 69.40 RCW a new section to read as follows:

Whoever violates any provision of chapter 69.40 RCW, except when such violation involves only the drug cannabis, shall, upon conviction, be fined and imprisoned as herein provided:

(1) The offender shall be guilty of a felony, and punishable by a fine not exceeding five thousand dollars or by imprisonment in the state penitentiary not exceeding ten years, or by both such fine and imprisonment;

(2) For any offense under the provisions of this chapter involving a sale to or other transaction with a minor the offender shall be guilty of a felony and shall be fined not more than fifty thousand dollars and be imprisoned in the state penitentiary not more than twenty years;

(3) Except as provided in subsection (2) of this section, for any sale, the offender shall be guilty of a felony and shall be fined not more than five thousand dollars and be imprisoned in the state penitentiary not less than three nor more than ten years.

NEW SECTION. Sec. 13. For the purposes of sections 13 through 20 of this 1969 amendatory act:

(1) "Minor" means any person under the age of eighteen years;

(2) "Erotic material" means printed material, photographs, pictures, motion pictures, and other material the dominant theme of which taken as a whole appeals to the prurient interest of minors in sex; which is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters or sado-masochistic abuse; and is utterly without redeeming social value;

(3) "Person" means any individual, corporation, or other organization;

(4) "Dealers", "distributors", and "exhibitors" mean persons engaged in the distribution, sale, or exhibition of printed material, photographs, pictures, or motion pictures.

NEW SECTION. Sec. 14. (1) When it appears that material which may be deemed erotic is being sold, distributed, or exhibited in this state, the prosecuting attorney of the county in which the sale, distribution, or exhibition is taking place may apply to the superior court for a hearing to determine the character of the material with respect to whether it is erotic material.

(2) Notice of the hearing shall immediately be served upon the dealer, distributor, or exhibitor selling or otherwise distributing or exhibiting the alleged erotic material. The superior court

shall hold a hearing not later than five days from the service of notice to determine whether the subject matter is erotic material within the meaning of section 13 of this 1969 amendatory act.

(3) If the superior court rules that the subject material is erotic material, then, following such adjudication:

(a) If the subject material is written or printed, the court shall issue an order requiring that an "adults only" label be placed on the publication, if such publication is going to continue to be distributed. Whenever the superior court orders a publication to have an "adults only" label placed thereon, such label shall be impressed on the front cover of all copies of such erotic publication sold or otherwise distributed in the state of Washington. Such labels shall be in forty-eight point bold face type located in a conspicuous place on the front cover of the publication. All dealers and distributors are hereby prohibited from displaying erotic publications in their store windows, on outside newsstands on public thoroughfares, or in any other manner so as to make them readily accessible to minors.

(b) If the subject material is a motion picture, the court shall issue an order requiring that such motion picture shall be labeled "adults only". The exhibitor shall prominently display a sign saying "adults only" at the place of exhibition, and any advertising of said motion picture shall contain a statement that it is for adults only. Such exhibitor shall also display a sign at the place where admission tickets are sold stating that it is unlawful for minors to misrepresent their age.

(c) Failure to comply with a court order issued under the provisions of this section shall subject the dealer, distributor, or exhibitor to contempt proceedings.

(d) Any person who, after the court determines material to be erotic, sells, distributes, or exhibits the erotic material to a minor shall be guilty of violating sections 13 through 20 of this 1969 amendatory act, such violation to carry the following penalties:

(i) For the first offense a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months;

(ii) For the second offense a gross misdemeanor and upon conviction shall be fined not more than one thousand dollars, or imprisoned not more than one year;

(iii) For all subsequent offenses a felony and upon conviction shall be fined not more than five thousand dollars, or imprisoned not less than one year.

NEW SECTION. Sec. 15. In any prosecution for violation of section 14 of this 1969 amendatory act, it shall be a defense that:

(1) If the violation pertains to a motion picture, the minor was accompanied by a parent, parent's spouse, or guardian; or

(2) Such minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or an apparently official document purporting to establish such minor was over the age of eighteen years; or

(3) Such minor was accompanied by a person who represented himself to be a parent, or the spouse of a parent, or a guardian of such minor, and the defendant in good faith relied upon such representation.

NEW SECTION. Sec. 16. (1) It shall be unlawful for any minor to misrepresent his true age or his true status as the child, step-child or ward of a person accompanying him, for the purpose of purchasing or obtaining access to any material described in section 13 of this 1969 amendatory act.

(2) It shall be unlawful for any person accompanying such minor to misrepresent his true status as parent, spouse of a parent or guardian of any minor for the purpose of enabling such minor to purchase or obtain access to material described in section 13 of this 1969 amendatory act.

NEW SECTION. Sec. 17. No retailer, wholesaler, or exhibitor is to be deprived of service from a wholesaler or wholesaler-distrib-

butor of books, magazines, motion pictures or other materials or subjected to loss of his franchise or right to deal or exhibit as a result of his attempts to comply with this statute. Any publisher, distributor, or other person, or combination of such persons, which withdraws or attempts to withdraw a franchise or other right to sell at retail, wholesale or exhibit materials on account of the retailer's, wholesaler's or exhibitor's attempts to comply with sections 13 through 20 of this 1969 amendatory act shall incur civil liability to such retailer, wholesaler or exhibitor for threefold the actual damages resulting from such withdrawal or attempted withdrawal.

NEW SECTION. Sec. 18. Nothing in sections 13 through 20 of this 1969 amendatory act shall apply to the circulation of any such material by any recognized historical society or museum, the state law library, any county law library, the state library, the public library, any library of any college or university, or to any archive or library under the supervision and control of the state, county, municipality, or other political subdivision.

NEW SECTION. Sec. 19. The provisions of sections 13 through 20 of this 1969 amendatory act shall not apply to acts done in the scope of his employment by a motion picture operator or projectionist employed by the owner or manager of a theatre or other place for the showing of motion pictures, unless the motion picture operator or projectionist has a financial interest in such theatre or place where in he is so employed or unless he caused to be performed or exhibited such performance or motion picture without the knowledge and consent of the manager or owner of the theatre or other place of showing.

NEW SECTION. Sec. 20. The provisions of sections 13 through 20 of this 1969 amendatory act shall be exclusive.

NEW SECTION. Sec. 21. If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provi-

sions to other persons or circumstances, is not affected.

Passed the House May 12, 1969
 Passed the Senate May 10, 1969
 Approved by the Governor May 23, 1969
 Filed in office of Secretary of State May 23, 1969

CHAPTER 257
 [Substitute House Bill No. 352]
 BUSINESS AND OCCUPATIONS TAX--
 CREDITS FOR CERTAIN MANUFACTURERS

AN ACT Relating to revenue and taxation; and amending section 26, chapter 173, Laws of 1965 ex. sess. as amended by section 1, chapter 89, Laws of 1967 ex. sess., and RCW 82.04.435; and declaring an emergency.

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

Section 1. Section 26, chapter 173, Laws of 1965 ex. sess. as amended by section 1, chapter 89, Laws of 1967 ex. sess., and RCW 82.04.435 are each amended to read as follows:

In computing tax under this chapter there may be credited against the amount of the tax the following items:

As to persons engaging in activities defined in RCW 82.04.120 (the definition of the term "to manufacture"), an amount not to exceed the tax actually paid under chapter 82.08 RCW (Retail Sales Tax) or chapter 82.12 RCW (Use Tax) by such persons or their lessors or their contract vendors, on materials, labor and services in the construction (~~or major improvement of buildings, structures or other improvements to real property that are essential to or an integral part of a factory, mill or manufacturing plant when such factory, mill or manufacturing plant is used or to be used in the business of manufacture for sale or commercial or industrial use of any articles, substances or commodities;--PROVIDED, That this credit shall be allowable only against tax payable by the manufacturer and measured by the value of products or gross proceeds of sales of articles, substances or commodities manufactured in this state;--PROVIDED FURTHER, That this credit shall be allowable only against any tax payable which is attributable to manufacturing which involves the use of such con-~~