

observance of these holidays with that of the federal government. Without such conformity, there would be confusion and frustration among employees and employers alike."

The Honorable A. Ludlow Kramer  
Secretary of State  
State of Washington

Dear Mr. Secretary:

"I am returning herewith House Bill No. 356 entitled:

"AN ACT Relating to legal holidays"

This bill was vetoed by Governor Evans on April 26, 1973. The veto was overridden by the Legislature on September 14, 1973.

Respectfully submitted,

DEAN R. FOSTER  
Chief Clerk

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CHAPTER 2  
[Substitute House Bill No. 323]  
CONTROLLED SUBSTANCES--  
MANDATORY SENTENCES

AN ACT Relating to controlled substances; defining crimes; providing for mandatory sentencing; amending section 69.50.401, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.401; adding a new section to chapter 308, Laws of 1971 ex. sess. and to chapter 69.50 RCW; and prescribing penalties.

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

Section 1. Section 69.50.401, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.401 are each amended to read as follows:

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

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

(i) a controlled substance classified in Schedule I or II

which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or fined not more than twenty-five thousand dollars, or both;

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

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

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

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

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

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

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

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

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

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

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

This section shall not apply to offenses defined and punishable under the provisions of section 2 of this 1973 amendatory act.

NEW SECTION. Sec. 2. There is added to chapter 308, Laws of 1971 ex. sess. and to chapter 69.50 RCW a new section to be designated as 69.50.410 to read as follows:

69.50.410. PROHIBITED ACTS D--PENALTIES. (1) Except as authorized by this chapter it shall be unlawful for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense. Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation. Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: PROVIDED, That the board of prison terms and paroles under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United

States, up to the amount of five hundred thousand dollars on each count.

(5) Any person, addicted to the use of controlled substances, who voluntarily places himself in the custody of the department of social and health services for the purpose of participating in a rehabilitation program of the department for addicts of controlled substances shall be immune from prosecution for subsection (1) offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his voluntary participation in the program of the department of social and health services. All applications for immunity under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 as now or hereafter amended.

Passed the Senate April 14, 1973.

Passed the House April 14, 1973.

Vetoed by the Governor April 26, 1973.

Veto overridden by Senate September 15, 1973.

Veto overridden by House September 14, 1973.

Filed in Office of Secretary of State September 18, 1973.

Note: Governor's explanation of veto is as follows:

"I am returning herewith without my approval

Substitute House Bill No. 323 entitled:

"AN ACT Relating to controlled substances."

This bill would have created mandatory sentences for persons convicted of certain types of crimes involving sale of drugs. I am in full agreement that we need stiff penalties for certain offenders, especially where the offender has earned enormous sums from the sale of drugs. However, certain deficiencies in this act make it unacceptable. However, inasmuch as it would not have gone into effect until the second week of July, and since the legislature will have the opportunity to enact a new law in September, if the legislature does act in September only two months will be lost.

The whole structure of mandatory sentences needs a comprehensive investigation. To require them in all

classified cases may well have the effect of not obtaining a conviction in some cases because it would be known that the defendant would have no hope of release prior to five years and there are many cases where that length of punishment, under all the circumstances, is inappropriate.

It should also be noted that this act would lower the penalty from ten years maximum to five years maximum for sale of a controlled substance classified in schedule I of the controlled substances act. Currently, sale of schedule I substances, which are also narcotics, results in a ten year maximum term. The language concerning maximum terms in section two would clearly make ambiguous what the correct law was for such cases. Moreover, subsection five of section two, though attempting a laudable purpose, clearly creates unintended consequences. This subsection would allow an addicted person to place himself in the custody of the department of social and health services and as long as no indictment or information had been filed prior to that time, such person would be immune from prosecution for prior offenses. Unfortunately, there is no language determining the length of time such a person would have to stay with the department. Consequently, if an individual felt he was about to be charged, he could theoretically go to the department, leave the next week and potentially be immune from prosecution. It is important that these difficulties and the whole issue of the validity of mandatory sentences be thoroughly reviewed in September.

Accordingly, for the reasons set out above, I have determined to veto Substitute House Bill No. 323."

The Honorable A. Ludlow Kramer  
Secretary of State  
State of Washington

Dear Mr. Secretary:

"I am returning herewith House Bill No. 323 entitled:

"AN ACT Relating to controlled substances"

This bill was vetoed by Governor Evans on April 26, 1973. The veto was overridden by the House of

Representatives on September 14, 1973 and by the Senate on  
September 15, 1973.

Respectfully submitted,

DEAN R. FOSTER  
Chief Clerk

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CHAPTER 3  
[House Bill No. 178]  
HEALTH CARE ACTIVITIES--LABOR RELATIONS

AN ACT Relating to labor relations in health care activities; amending section 1, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.010; amending section 2, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.020; amending section 3, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.030; amending section 5, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.050; amending section 7, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.070; amending section 8, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.080; amending section 9, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.090; and amending section 12, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.120.

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

Section 1. Section 1, chapter 156, Laws of 1972 ex. sess. and RCW 49.66.010 are each amended to read as follows:

It is the public policy of the state to expedite the settlement of labor disputes arising in connection with health care activities, in order that there may be no lessening, however temporary, in the quality of the care given to patients. It is the legislative purpose by this chapter to promote collective bargaining between health care activities and their ((nursing)) employees, to protect the right of ((nursing)) employees of health care activities to organize and select collective bargaining units of their own choosing.

It is further determined that any agreements involving union security including an all-union agreement or agency agreement must safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee must pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected