

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 110, Laws of 1973 as amended by section 31, chapter 185, Laws of 1987 and RCW 51.12.130 are each amended to read as follows:

(1) All persons registered as apprentices or trainees with the state apprenticeship council and participating in supplemental and related instruction classes conducted by a school district, a community college, a vocational school, or a local joint apprenticeship committee, shall be considered as workers of the state apprenticeship council and subject to the provisions of Title 51 RCW, for the time spent in actual attendance at such supplemental and related instruction classes.

(2) The assumed wage rate for all apprentices or trainees during the hours they are participating in supplemental and related instruction classes, shall be three dollars per hour. This amount shall be used for purposes of computations of premiums(~~(, and)~~). For purposes of ((computations of)) computing disability compensation payments, the actual wage rate during employment shall be used.

(3) Only those apprentices or trainees who are registered with the state apprenticeship council prior to their injury or death and who incur such injury or death while participating in supplemental and related instruction classes shall be entitled to benefits under the provisions of Title 51 RCW.

(4) The filing of claims for benefits under the authority of this section shall be the exclusive remedy of apprentices or trainees and their beneficiaries for injuries or death compensable under the provisions of Title 51 RCW against the state, its political subdivisions, the school district, community college, or vocational school and their members, officers or employees or any employer regardless of negligence.

(5) This section shall not apply to any apprentice or trainee who has earned wages for the time spent in participating in supplemental and related instruction classes.

Passed the Senate March 7, 1988.

Passed the House March 2, 1988.

Approved by the Governor March 18, 1988.

Filed in Office of Secretary of State March 18, 1988.

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## CHAPTER 141

[Substitute House Bill No. 692]

### CONTROLLED SUBSTANCES—BUILDINGS WHERE CONTROLLED SUBSTANCES ACTIVITIES OCCUR ARE NUISANCES—ABATEMENT

AN ACT Relating to controlled substances; amending RCW 7.48.052, 7.48A.010, and 7.48A.020; adding a new chapter to Title 7 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 1, Laws of 1979 and RCW 7.48.052 are each amended to read as follows:

The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every place in the state where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(4) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a moral nuisance under this section;

(6) Every place which, as a regular course of business, is used for the purpose of lewdness, assignation, or prostitution, and every such place in or upon which acts of lewdness, assignation, or prostitution are conducted, permitted, carried on, continued, or exist;

(7) All public houses or places of resort where illegal gambling is carried on or permitted; all houses or places within any city, town, or village, or upon any public road, or highway where drunkenness, illegal gambling, fighting, or breaches of the peace are carried on or permitted; ~~((all opium dens, or houses, or places of resort where opium smoking is permitted))~~ all houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection or any other means.

Sec. 2. Section 1, chapter 184, Laws of 1982 and RCW 7.48A.010 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual or violent conduct which appears in the lewd matter, or knowledge of the acts of lewdness or prostitution which occur on the premises, or knowledge that controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, or injection or any other means.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which explicitly depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or

(iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

(c) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Matter" shall mean a motion picture film or a publication or both.

(5) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Film, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(6) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(7) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(8) "Prurient" means that which incites lasciviousness or lust.

(9) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or coin-operated machine.

(10) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

Sec. 3. Section 2, chapter 184, Laws of 1982 and RCW 7.48A.020 are each amended to read as follows:

The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(3) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(4) Every place which, as a regular course of business, is used for the purpose of lewdness or prostitution, and every such place in or upon which acts of lewdness or prostitution are conducted, permitted, carried on, continued, or exist;

(5) All houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered, or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection, or any other means.

**NEW SECTION.** Sec. 4. (1) Every building or unit within a building used for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance as defined in chapter 69.50 RCW, legend drug as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW, and every building or unit within a building wherein or upon which such acts take place, is a nuisance which shall be enjoined, abated, and prevented, whether it is a public or private nuisance.

(2) As used in this chapter, "building" includes, but is not limited to, any structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

**NEW SECTION.** Sec. 5. The action provided for in section 4 of this act shall be brought in the superior court in the county in which the property is located. Such action shall be commenced by the filing of a complaint alleging the facts constituting the nuisance.

Any complaint filed under this chapter shall be verified or accompanied by affidavit. For purposes of showing that the owner or his or her agent has had an opportunity to abate the nuisance, the affidavit shall contain a description of all attempts by the applicant to notify and locate the owner of the property or the owner's agent.

In addition, the affidavit shall describe in detail the adverse impact associated with the property on the surrounding neighborhood. "Adverse impact" includes, but is not limited to, the following: Any search warrants served on the property where controlled substances were seized; investigative purchases of controlled substances on or near the property by law enforcement or their agents; arrests of persons who frequent the property for violation of controlled substances laws; increased volume of traffic associated with the property; and the number of complaints made to law enforcement of illegal activity associated with the property.

After filing the complaint, the court shall grant a hearing within three business days after the filing.

**NEW SECTION.** Sec. 6. Upon application for a temporary restraining order or preliminary injunction, the court may, upon a showing of good cause, issue an ex parte restraining order or preliminary injunction, preventing the defendant and all other persons from removing or in any manner interfering with the personal property and contents of the place where the nuisance is alleged to exist and may grant such preliminary equitable relief as is necessary to prevent the continuance or recurrence of the nuisance pending final resolution of the matter on the merits. However, pending the decision, the stock in trade may not be so restrained, but an inventory and full accounting of all business transactions may be required.

The restraining order or preliminary injunction may be served by handing to and leaving a copy with any person in charge of the place or residing in the place, or by posting a copy in a conspicuous place at or upon one or more of the principal doors or entrances to the place, or by both delivery and posting. The officer serving the order or injunction shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining the nuisance.

Any violation of the order or injunction is a contempt of court, and where such order or injunction is posted, mutilation or removal thereof while the same remains in force is a contempt of court if such posted order or injunction contains a notice to that effect.

**NEW SECTION.** Sec. 7. A temporary restraining order or preliminary injunction shall not issue under this chapter except upon the giving of a bond or security by the applicant, in the sum that the court deems proper, but not less than one thousand dollars, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained or enjoined. A bond or security shall not be required of the state of Washington, municipal corporations, or political subdivisions of the state of Washington.

**NEW SECTION.** Sec. 8. An action under this chapter shall have precedence over all other actions, except prior matters of the same character, criminal proceedings, election contests, hearings on temporary restraining orders and injunctions, and actions to forfeit vehicles used in violation of the uniform controlled substances act.

**NEW SECTION.** Sec. 9. (1) If the complaint under this chapter is filed by a citizen, the complaint shall not be dismissed by the citizen for want of prosecution except upon a sworn statement made by the citizen and the citizen's attorney, if the citizen has one. The statement shall set forth the reasons why the action should be dismissed. The case shall only be dismissed if so ordered by the court.

(2) In case of failure to prosecute the action with reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any other citizen consenting to be substituted for the plaintiff.

**NEW SECTION.** Sec. 10. A copy of the complaint, together with a notice of the time and place of the hearing of the action shall be served upon the defendant at least one business day before the hearing. Service may also be made by posting the papers in the same manner as is provided for in section 6 of this act. If the hearing is then continued at the request of any defendant, all temporary orders and injunctions shall be extended as a matter of course.

**NEW SECTION.** Sec. 11. (1) Except as provided in subsection (2) of this section, if the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the final judgment in the case. Plaintiff's costs in the action, including those of abatement, are a lien upon the building or unit within a building. The lien is enforceable and collectible by execution issued by order of the court.

(2) If the court finds and concludes that the owner of the building or unit within a building: (a) Had no knowledge of the existence of the nuisance or has been making reasonable efforts to abate the nuisance, (b) has not been guilty of any contempt of court in the proceedings, and (c) will immediately abate any such nuisance that may exist at the building or unit within a building and prevent it from being a nuisance within a period of one year thereafter, the court shall, if satisfied of the owner's good faith, order the building or unit within a building to be delivered to the owner, and no order of abatement shall be entered. If an order of abatement has been entered and the owner subsequently meets the requirements of this subsection, the order of abatement shall be canceled.

**NEW SECTION.** Sec. 12. Any final order of abatement issued under this chapter shall:

(1) Direct the removal of all personal property subject to seizure and forfeiture pursuant to RCW 69.50.505 from the building or unit within a building, and direct their disposition pursuant to the forfeiture provisions of RCW 69.50.505;

(2) Provide for the immediate closure of the building or unit within a building against its use for any purpose, and for keeping it closed for a period of one year unless released sooner as provided in this chapter; and

(3) State that while the order of abatement remains in effect the building or unit within a building shall remain in the custody of the court.

**NEW SECTION.** Sec. 13. In all actions brought under this chapter, the proceeds and all moneys forfeited pursuant to the forfeiture provisions of RCW 69.50.505 shall be applied as follows:

(1) First, to the fees and costs of the removal and sale;

(2) Second, to the allowances and costs of closing and keeping closed the building or unit within a building;

(3) Third, to the payment of the plaintiff's costs in the action; and

(4) Fourth, the balance, if any, to the owner of the property.

If the proceeds of the sale of items subject to seizure and forfeiture do not fully discharge all of the costs, fees, and allowances, the building or unit within a building shall then also be sold under execution issued upon the order of the court, and the proceeds of the sale shall be applied in a like manner.

A building or unit within a building shall not be sold under this section unless the court finds and concludes by clear and convincing evidence that the owner of the building or unit within a building had actual or constructive knowledge or notice of the existence of the nuisance. However, this shall not be construed as limiting or prohibiting the entry of any final order of abatement as provided in this chapter.

NEW SECTION. Sec. 14. An intentional violation of a restraining order, preliminary injunction, or order of abatement under this chapter is punishable as a contempt of court by a fine of not more than ten thousand dollars which may not be waived, or by imprisonment for not more than one year, or by both.

NEW SECTION. Sec. 15. Whenever the owner of a building or unit within a building upon which the act or acts constituting the contempt have been committed, or the owner of any interest in the building or unit has been guilty of a contempt of court, and fined in any proceedings under this chapter, the fine is a lien upon the building or unit within a building to the extent of the owner's interest. The lien is enforceable and collectible by execution issued by order of the court.

NEW SECTION. Sec. 16. The abatement of a nuisance under this chapter does not prejudice the right of any person to recover damages for its past existence.

NEW SECTION. Sec. 17. Sections 4 through 16 of this act constitute a new chapter in Title 7 RCW.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House March 9, 1988.

Passed the Senate March 5, 1988.

Approved by the Governor March 21, 1988.

Filed in Office of Secretary of State March 21, 1988.

## CHAPTER 142

[Substitute House Bill No. 608]

### CHILD ABUSE OR NEGLECT—MALICIOUS REPORTING, MISDEMEANOR

AN ACT Relating to malicious reporting of child abuse or neglect; amending RCW 26-.44.060; reenacting and amending RCW 26.4.020 and 26.44.030; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 13, Laws of 1965 as last amended by section 2, chapter 206, Laws of 1987 and by section 9, chapter 524, Laws of 1987 and RCW 26.44.020 are each reenacted and amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing