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**SENATE BILL 5035**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Padden, Fortunato, Short, J. Wilson, , , Schoesler, Warnick, Dozier, and Wagoner

Prefiled 12/08/22.

1 AN ACT Relating to possession of controlled substances; amending  
2 RCW 69.50.4011; repealing RCW 10.31.115; repealing 2021 c 311 ss 15  
3 and 16; repealing 2021 c 311 s 29 (uncodified); and prescribing  
4 penalties.

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

6 **Sec. 1.** RCW 69.50.4011 and 2021 c 311 s 8 are each amended to  
7 read as follows:

8 (1) Except as authorized by this chapter, it is unlawful for:

9 (a) Any person to create or deliver a counterfeit substance; or

10 (b) Any person to knowingly possess a counterfeit substance.

11 (2) Any person who violates subsection (1)(a) of this section  
12 with respect to:

13 (a) A counterfeit substance classified in Schedule I or II which  
14 is a narcotic drug, or flunitrazepam classified in Schedule IV, is  
15 guilty of a class B felony and upon conviction may be imprisoned for  
16 not more than ten years, fined not more than twenty-five thousand  
17 dollars, or both;

18 (b) A counterfeit substance which is methamphetamine, is guilty  
19 of a class B felony and upon conviction may be imprisoned for not  
20 more than ten years, fined not more than twenty-five thousand  
21 dollars, or both;

1 (c) Any other counterfeit substance classified in Schedule I, II,  
2 or III, is guilty of a class C felony punishable according to chapter  
3 9A.20 RCW;

4 (d) A counterfeit substance classified in Schedule IV, except  
5 flunitrazepam, is guilty of a class C felony punishable according to  
6 chapter 9A.20 RCW;

7 (e) A counterfeit substance classified in Schedule V, is guilty  
8 of a class C felony punishable according to chapter 9A.20 RCW.

9 (3) A violation of subsection (1)(b) of this section is a  
10 (~~misdemeanor~~) class C felony. The prosecutor is encouraged to  
11 divert such cases for assessment, treatment, or other services for a  
12 person's first two violations under this subsection.

13 NEW SECTION. Sec. 2. The following acts or parts of acts are  
14 each repealed:

15 (1) RCW 10.31.115 (Drug possession—Referral to assessment and  
16 services) and 2021 c 311 s 13;

17 (2) 2021 c 311 s 15;

18 (3) 2021 c 311 s 16; and

19 (4) 2021 c 311 s 29 (uncodified).

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