
SUBSTITUTE SENATE BILL 5038

State of Washington

67th Legislature

2021 Regular Session

By Senate Law & Justice (originally sponsored by Senators Kuderer, Das, Carlyle, Darneille, Dhingra, Hunt, Liias, Lovelett, Nguyen, Pedersen, Rolfes, Saldaña, Salomon, Wellman, and Wilson, C.)

1 AN ACT Relating to prohibiting the open carry of certain weapons
2 at public permitted demonstrations and the state capitol; reenacting
3 and amending RCW 9.41.300; adding a new section to chapter 9.41 RCW;
4 and prescribing penalties.

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

6 **Sec. 1.** RCW 9.41.300 and 2018 c 201 s 9003 and 2018 c 201 s 6007
7 are each reenacted and amended to read as follows:

8 (1) It is unlawful for any person to enter the following places
9 when he or she knowingly possesses or knowingly has under his or her
10 control a weapon:

11 (a) The restricted access areas of a jail, or of a law
12 enforcement facility, or any place used for the confinement of a
13 person (i) arrested for, charged with, or convicted of an offense,
14 (ii) held for extradition or as a material witness, or (iii)
15 otherwise confined pursuant to an order of a court, except an order
16 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
17 include common areas of egress or ingress open to the general public;

18 (b) Those areas in any building which are used in connection with
19 court proceedings, including courtrooms, jury rooms, judge's
20 chambers, offices and areas used to conduct court business, waiting
21 areas, and corridors adjacent to areas used in connection with court

1 proceedings. The restricted areas do not include common areas of
2 ingress and egress to the building that is used in connection with
3 court proceedings, when it is possible to protect court areas without
4 restricting ingress and egress to the building. The restricted areas
5 shall be the minimum necessary to fulfill the objective of this
6 subsection (1)(b).

7 For purposes of this subsection (1)(b), "weapon" means any
8 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
9 kind usually known as slungshot, sand club, or metal knuckles, or any
10 knife, dagger, dirk, or other similar weapon that is capable of
11 causing death or bodily injury and is commonly used with the intent
12 to cause death or bodily injury.

13 In addition, the local legislative authority shall provide either
14 a stationary locked box sufficient in size for pistols and key to a
15 weapon owner for weapon storage, or shall designate an official to
16 receive weapons for safekeeping, during the owner's visit to
17 restricted areas of the building. The locked box or designated
18 official shall be located within the same building used in connection
19 with court proceedings. The local legislative authority shall be
20 liable for any negligence causing damage to or loss of a weapon
21 either placed in a locked box or left with an official during the
22 owner's visit to restricted areas of the building.

23 The local judicial authority shall designate and clearly mark
24 those areas where weapons are prohibited, and shall post notices at
25 each entrance to the building of the prohibition against weapons in
26 the restricted areas;

27 (c) The restricted access areas of a public mental health
28 facility licensed or certified by the department of health for
29 inpatient hospital care and state institutions for the care of the
30 mentally ill, excluding those facilities solely for evaluation and
31 treatment. Restricted access areas do not include common areas of
32 egress and ingress open to the general public;

33 (d) That portion of an establishment classified by the state
34 liquor and cannabis board as off-limits to persons under (~~twenty-~~
35 ~~one~~) 21 years of age; or

36 (e) The restricted access areas of a commercial service airport
37 designated in the airport security plan approved by the federal
38 transportation security administration, including passenger screening
39 checkpoints at or beyond the point at which a passenger initiates the
40 screening process. These areas do not include airport drives, general

1 parking areas and walkways, and shops and areas of the terminal that
2 are outside the screening checkpoints and that are normally open to
3 unscreened passengers or visitors to the airport. Any restricted
4 access area shall be clearly indicated by prominent signs indicating
5 that firearms and other weapons are prohibited in the area.

6 (2)(a) Unless exempted in (c) of this subsection, it is unlawful
7 for any person to knowingly open carry a firearm or any weapon as
8 described in this chapter while participating in or attending any
9 permitted demonstration being held at a public place. This subsection
10 (2)(a) applies whether the person carries the weapon on his or her
11 person or in a vehicle.

12 (b) It is unlawful for any person to knowingly open carry a
13 firearm or any weapon within 250 feet of a permitted demonstration at
14 a public place after a duly authorized state or local law enforcement
15 officer advises the person of the permitted demonstration and directs
16 the person to leave until he or she no longer possesses or controls a
17 weapon. This subsection (2)(b) does not apply to any person
18 possessing or controlling any weapon inside a private dwelling,
19 building, or structure.

20 (c) Duly authorized federal, state, and local law enforcement
21 officers and personnel are exempt from the provisions of this section
22 when carrying a firearm in conformance with their employing agency's
23 policy, or any member of the armed forces of the United States or the
24 state of Washington in the discharge of official duty or traveling to
25 or from official duty.

26 (d) For purposes of this subsection, the following definitions
27 apply:

28 (i) "Permitted demonstration" means conduct by one or more
29 persons communicating or expressing views or grievances which has the
30 effect, intent, or likelihood of attracting a crowd. "Permitted
31 demonstration" includes, but is not limited to, a march, rally,
32 vigil, sit-in, or picketing. "Permitted demonstration" does not
33 include casual use of property by visitors or tourists which does not
34 have an intent or likelihood of attracting a crowd.

35 (ii) "Public place" means any site accessible to the general
36 public for business, entertainment, or other lawful purpose. A
37 "public place" includes, but is not limited to, the front, immediate
38 area, or parking lot of any store, shop, restaurant, tavern, shopping
39 center, or other place of business; any public building, its grounds,

1 or surrounding area; or any public parking lot, street, right-of-way,
2 sidewalk, public park, or other public grounds.

3 (3) Cities, towns, counties, and other municipalities may enact
4 laws and ordinances:

5 (a) Restricting the discharge of firearms in any portion of their
6 respective jurisdictions where there is a reasonable likelihood that
7 humans, domestic animals, or property will be jeopardized. Such laws
8 and ordinances shall not abridge the right of the individual
9 guaranteed by Article I, section 24 of the state Constitution to bear
10 arms in defense of self or others; and

11 (b) Restricting the possession of firearms in any stadium or
12 convention center, operated by a city, town, county, or other
13 municipality, except that such restrictions shall not apply to:

14 (i) Any pistol in the possession of a person licensed under RCW
15 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

16 (ii) Any showing, demonstration, or lecture involving the
17 exhibition of firearms.

18 ~~((3))~~ (4)(a) Cities, towns, and counties may enact ordinances
19 restricting the areas in their respective jurisdictions in which
20 firearms may be sold, but, except as provided in (b) of this
21 subsection, a business selling firearms may not be treated more
22 restrictively than other businesses located within the same zone. An
23 ordinance requiring the cessation of business within a zone shall not
24 have a shorter grandfather period for businesses selling firearms
25 than for any other businesses within the zone.

26 (b) Cities, towns, and counties may restrict the location of a
27 business selling firearms to not less than ~~((five hundred))~~ 500 feet
28 from primary or secondary school grounds, if the business has a
29 storefront, has hours during which it is open for business, and posts
30 advertisements or signs observable to passersby that firearms are
31 available for sale. A business selling firearms that exists as of the
32 date a restriction is enacted under this subsection ~~((3))~~ (4)(b)
33 shall be grandfathered according to existing law.

34 ~~((4))~~ (5) Violations of local ordinances adopted under
35 subsection ~~((2))~~ (3) of this section must have the same penalty as
36 provided for by state law.

37 ~~((5))~~ (6) The perimeter of the premises of any specific
38 location covered by subsection (1) of this section shall be posted at
39 reasonable intervals to alert the public as to the existence of any
40 law restricting the possession of firearms on the premises.

1 (~~(6)~~) (7) Subsection (1) of this section does not apply to:
2 (a) A person engaged in military activities sponsored by the
3 federal or state governments, while engaged in official duties;
4 (b) Law enforcement personnel, except that subsection (1)(b) of
5 this section does apply to a law enforcement officer who is present
6 at a courthouse building as a party to an action under chapter 10.14,
7 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
8 has alleged the existence of domestic violence as defined in RCW
9 26.50.010; or
10 (c) Security personnel while engaged in official duties.
11 (~~(7)~~) (8) Subsection (1)(a), (b), (c), and (e) of this section
12 does not apply to correctional personnel or community corrections
13 officers, as long as they are employed as such, who have completed
14 government-sponsored law enforcement firearms training, except that
15 subsection (1)(b) of this section does apply to a correctional
16 employee or community corrections officer who is present at a
17 courthouse building as a party to an action under chapter 10.14,
18 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
19 has alleged the existence of domestic violence as defined in RCW
20 26.50.010.
21 (~~(8)~~) (9) Subsection (1)(a) of this section does not apply to a
22 person licensed pursuant to RCW 9.41.070 who, upon entering the place
23 or facility, directly and promptly proceeds to the administrator of
24 the facility or the administrator's designee and obtains written
25 permission to possess the firearm while on the premises or checks his
26 or her firearm. The person may reclaim the firearms upon leaving but
27 must immediately and directly depart from the place or facility.
28 (~~(9)~~) (10) Subsection (1)(c) of this section does not apply to
29 any administrator or employee of the facility or to any person who,
30 upon entering the place or facility, directly and promptly proceeds
31 to the administrator of the facility or the administrator's designee
32 and obtains written permission to possess the firearm while on the
33 premises.
34 (~~(10)~~) (11) Subsection (1)(d) of this section does not apply to
35 the proprietor of the premises or his or her employees while engaged
36 in their employment.
37 (~~(11)~~) (12) Government-sponsored law enforcement firearms
38 training must be training that correctional personnel and community
39 corrections officers receive as part of their job requirement and

1 reference to such training does not constitute a mandate that it be
2 provided by the correctional facility.

3 ~~((12))~~ (13) Any person violating subsection (1) or (2) of this
4 section is guilty of a gross misdemeanor.

5 ~~((13))~~ (14) "Weapon" as used in this section means any firearm,
6 explosive as defined in RCW 70.74.010, or instrument or weapon listed
7 in RCW 9.41.250.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW
9 to read as follows:

10 (1) Unless exempt under subsection (4) of this section, it is
11 unlawful for any person to knowingly open carry a firearm or other
12 weapon described in this chapter on the west state capitol campus
13 grounds, in any buildings on the state capitol grounds, in any state
14 legislative office, or at any location of a public legislative
15 hearing or meeting during the hearing or meeting.

16 (2) "Buildings on the state capitol grounds" means the following
17 buildings located on the state capitol grounds, commonly known as
18 Legislative, Temple of Justice, John L. O'Brien, John A. Cherberg,
19 Irving R. Newhouse, Joel M. Pritchard, Helen Sommers, Insurance,
20 Governor's mansion, Visitor Information Center, Carlyon House, Ayer
21 House, General Administration, 1500 Jefferson, James M. Dolliver, Old
22 Capitol, Capitol Court, State Archives, Natural Resources, Office
23 Building #2, Highway-License, Transportation, Employment Security,
24 Child Care Center, Union Avenue, Washington Street, Professional
25 Arts, State Farm, and Powerhouse buildings.

26 (3) "West state capitol campus grounds" means areas of the campus
27 south of Powerhouse Rd. SW, south of Union Avenue SW as extended
28 westward to Powerhouse Rd. SW, west of Capitol Way, north of 15th
29 Avenue SW between Capitol Way S. and Water Street SW, west of Water
30 Street between 15th Avenue SW and 16th Avenue SW, north of 16th
31 Avenue SW between Water Street SW and the east banks of Capitol Lake,
32 and east of the banks of Capitol Lake.

33 (4) Duly authorized federal, state, or local law enforcement
34 officers or personnel are exempt from this section when carrying a
35 firearm in conformance with their employing agency's policy, or any
36 member of the armed forces of the United States or the state of
37 Washington in the discharge of official duty or traveling to or from
38 official duty.

1 (5) A person violating this section is guilty of a gross
2 misdemeanor.

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