
ENGROSSED SUBSTITUTE SENATE BILL 5038

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

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.)

READ FIRST TIME 01/29/21.

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 prescribing penalties; and declaring an emergency.

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) Except as provided in (c) of this subsection, it is
7 unlawful for any person to knowingly open carry a firearm or other
8 weapon while knowingly at any permitted demonstration. This
9 subsection (2)(a) applies whether the person carries the firearm or
10 other weapon on his or her person or in a vehicle.

11 (b) It is unlawful for any person to knowingly open carry a
12 firearm or other weapon while knowingly within 250 feet of the
13 perimeter of a permitted demonstration after a duly authorized state
14 or local law enforcement officer advises the person of the permitted
15 demonstration and directs the person to leave until he or she no
16 longer possesses or controls the firearm or other weapon. This
17 subsection (2)(b) does not apply to any person possessing or
18 controlling any firearm or other weapon on private property owned or
19 leased by that person.

20 (c) Duly authorized federal, state, and local law enforcement
21 officers and personnel are exempt from the provisions of this
22 subsection (2) when carrying a firearm or other weapon in conformance
23 with their employing agency's policy. Members of the armed forces of
24 the United States or the state of Washington are exempt from the
25 provisions of this subsection (2) when carrying a firearm or other
26 weapon in the discharge of official duty or traveling to or from
27 official duty.

28 (d) For purposes of this subsection, the following definitions
29 apply:

30 (i) "Permitted demonstration" means either: (A) A gathering for
31 which a permit has been issued by a federal agency, state agency, or
32 local government; or (B) a gathering of 15 or more people who are
33 assembled for a single event at a public place that has been declared
34 as permitted by the chief executive, sheriff, or chief of police of a
35 local government in which the gathering occurs. A "gathering" means a
36 demonstration, march, rally, vigil, sit-in, protest, picketing, or
37 similar public assembly.

38 (ii) "Public place" means any site accessible to the general
39 public for business, entertainment, or another lawful purpose. A
40 "public place" includes, but is not limited to, the front, immediate

1 area, or parking lot of any store, shop, restaurant, tavern, shopping
2 center, or other place of business; any public building, its grounds,
3 or surrounding area; or any public parking lot, street, right-of-way,
4 sidewalk, public park, or other public grounds.

5 (iii) "Weapon" has the same meaning given in subsection (1)(b) of
6 this section.

7 (e) Nothing in this subsection applies to the lawful concealed
8 carry of a firearm by a person who has a valid concealed pistol
9 license.

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

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

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

21 (i) Any pistol in the possession of a person licensed under RCW
22 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

23 (ii) Any showing, demonstration, or lecture involving the
24 exhibition of firearms.

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

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

1 ~~((4))~~ (5) Violations of local ordinances adopted under
2 subsection ~~((2))~~ (3) of this section must have the same penalty as
3 provided for by state law.

4 ~~((5))~~ (6) The perimeter of the premises of any specific
5 location covered by subsection (1) of this section shall be posted at
6 reasonable intervals to alert the public as to the existence of any
7 law restricting the possession of firearms on the premises.

8 ~~((6))~~ (7) Subsection (1) of this section does not apply to:

9 (a) A person engaged in military activities sponsored by the
10 federal or state governments, while engaged in official duties;

11 (b) Law enforcement personnel, except that subsection (1)(b) of
12 this section does apply to a law enforcement officer who is present
13 at a courthouse building as a party to an action under chapter 10.14,
14 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
15 has alleged the existence of domestic violence as defined in RCW
16 26.50.010; or

17 (c) Security personnel while engaged in official duties.

18 ~~((7))~~ (8) Subsection (1)(a), (b), (c), and (e) of this section
19 does not apply to correctional personnel or community corrections
20 officers, as long as they are employed as such, who have completed
21 government-sponsored law enforcement firearms training, except that
22 subsection (1)(b) of this section does apply to a correctional
23 employee or community corrections officer who is present at a
24 courthouse building as a party to an action under chapter 10.14,
25 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
26 has alleged the existence of domestic violence as defined in RCW
27 26.50.010.

28 ~~((8))~~ (9) Subsection (1)(a) of this section does not apply to a
29 person licensed pursuant to RCW 9.41.070 who, upon entering the place
30 or facility, directly and promptly proceeds to the administrator of
31 the facility or the administrator's designee and obtains written
32 permission to possess the firearm while on the premises or checks his
33 or her firearm. The person may reclaim the firearms upon leaving but
34 must immediately and directly depart from the place or facility.

35 ~~((9))~~ (10) Subsection (1)(c) of this section does not apply to
36 any administrator or employee of the facility or to any person who,
37 upon entering the place or facility, directly and promptly proceeds
38 to the administrator of the facility or the administrator's designee
39 and obtains written permission to possess the firearm while on the
40 premises.

1 (~~(10)~~) (11) Subsection (1)(d) of this section does not apply to
2 the proprietor of the premises or his or her employees while engaged
3 in their employment.

4 (~~(11)~~) (12) Government-sponsored law enforcement firearms
5 training must be training that correctional personnel and community
6 corrections officers receive as part of their job requirement and
7 reference to such training does not constitute a mandate that it be
8 provided by the correctional facility.

9 (~~(12)~~) (13) Any person violating subsection (1) or (2) of this
10 section is guilty of a gross misdemeanor.

11 (~~(13)~~) (14) "Weapon" as used in this section means any firearm,
12 explosive as defined in RCW 70.74.010, or instrument or weapon listed
13 in RCW 9.41.250.

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

16 (1) Unless exempt under subsection (4) of this section, it is
17 unlawful for any person to knowingly open carry a firearm or other
18 weapon, as defined in RCW 9.41.300(1)(b), while knowingly being in
19 the following locations: The west state capitol campus grounds; any
20 buildings on the state capitol grounds; any state legislative office;
21 or any location of a public legislative hearing or meeting during the
22 hearing or meeting.

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

33 (3) "West state capitol campus grounds" means areas of the campus
34 south of Powerhouse Rd. SW, south of Union Avenue SW as extended
35 westward to Powerhouse Rd. SW, west of Capitol Way, north of 15th
36 Avenue SW between Capitol Way S. and Water Street SW, west of Water
37 Street between 15th Avenue SW and 16th Avenue SW, north of 16th
38 Avenue SW between Water Street SW and the east banks of Capitol Lake,
39 and east of the banks of Capitol Lake.

1 (4) Duly authorized federal, state, or local law enforcement
2 officers or personnel are exempt from this section when carrying a
3 firearm or other weapon in conformance with their employing agency's
4 policy. Members of the armed forces of the United States or the state
5 of Washington are exempt from this section when carrying a firearm or
6 other weapon in the discharge of official duty or traveling to or
7 from official duty.

8 (5) A person violating this section is guilty of a gross
9 misdemeanor.

10 (6) Nothing in this section applies to the lawful concealed carry
11 of a firearm by a person who has a valid concealed pistol license.

12 NEW SECTION. **Sec. 3.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of
18 the state government and its existing public institutions, and takes
19 effect immediately.

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