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**SUBSTITUTE SENATE BILL 5861**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Roach, Schow and Oke)

Read first time 03/05/97.

1 AN ACT Relating to exceeding statutory maximum penalties for crimes  
2 involving firearms and deadly weapons; amending RCW 9.92.010,  
3 9A.20.021, 9.94A.310, and 9.94A.470; creating a new section; and  
4 prescribing penalties.

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

6 **Sec. 1.** RCW 9.92.010 and 1996 c 44 s 2 are each amended to read as  
7 follows:

8 Every person convicted of a felony for which no maximum punishment  
9 is specially prescribed by any statutory provision in force at the time  
10 of conviction and sentence, shall be punished by confinement or fine  
11 which shall not exceed confinement in a state correctional institution  
12 for ((a term)) the sum of ten years plus any firearm or deadly weapon  
13 penalty enhancement imposed under RCW 9.94A.125, and either 9.94A.310  
14 (3) or (4), or by a fine in an amount fixed by the court of not more  
15 than twenty thousand dollars, or by both such confinement and fine and  
16 the offense shall be classified as a class B felony.

17 **Sec. 2.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to read  
18 as follows:

1 (1) Felony. No person convicted of a classified felony shall be  
2 punished by confinement or fine exceeding the following:

3 (a) For a class A felony, by confinement in a state correctional  
4 institution for a term of life imprisonment, or by a fine in an amount  
5 fixed by the court of fifty thousand dollars, or by both such  
6 confinement and fine;

7 (b) For a class B felony, by confinement in a state correctional  
8 institution for ~~((a term))~~ the sum of ten years plus any firearm or  
9 deadly weapon penalty enhancement imposed under RCW 9.94A.125, and  
10 either 9.94A.310 (3) or (4), or by a fine in an amount fixed by the  
11 court of twenty thousand dollars, or by both such confinement and fine;

12 (c) For a class C felony, by confinement in a state correctional  
13 institution for the sum of five years plus any firearm or deadly weapon  
14 penalty enhancement imposed under RCW 9.94A.125, and either 9.94A.310  
15 (3) or (4), or by a fine in an amount fixed by the court of ten  
16 thousand dollars, or by both such confinement and fine.

17 (2) Gross misdemeanor. Every person convicted of a gross  
18 misdemeanor defined in Title 9A RCW shall be punished by imprisonment  
19 in the county jail for a maximum term fixed by the court of not more  
20 than one year, or by a fine in an amount fixed by the court of not more  
21 than five thousand dollars, or by both such imprisonment and fine.

22 (3) Misdemeanor. Every person convicted of a misdemeanor defined  
23 in Title 9A RCW shall be punished by imprisonment in the county jail  
24 for a maximum term fixed by the court of not more than ninety days, or  
25 by a fine in an amount fixed by the court of not more than one thousand  
26 dollars, or by both such imprisonment and fine.

27 (4) This section applies to only those crimes committed on or after  
28 July 1, 1984.

29 **Sec. 3.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read  
30 as follows:

31 (1) TABLE 1  
32 Sentencing Grid  
33 SERIOUSNESS  
34 SCORE OFFENDER SCORE  
35  
36 0 1 2 3 4 5 6 7 8 9 or more

1											
2	XV	Life Sentence without Parole/Death Penalty									
3											
4	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
5		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
6		320	333	347	361	374	388	416	450	493	548
7											
8	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
9		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
10		164	178	192	205	219	233	260	288	342	397
11											
12	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
13		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
14		123	136	147	160	171	184	216	236	277	318
15											
16	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
17		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
18		102	114	125	136	147	158	194	211	245	280
19											
20	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
21		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
22		68	75	82	89	96	102	130	144	171	198
23											
24	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
25		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
26		41	48	54	61	68	75	102	116	144	171
27											
28	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
29		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
30		27	34	41	48	54	61	89	102	116	144
31											
32	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
33		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
34		20	27	34	41	48	54	75	89	102	116
35											
36	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
37		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
38		14	20	27	34	41	48	61	75	89	102
39											

1	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
2		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
3		12	14	17	20	29	43	54	68	82	96
4	<hr/>										
5	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
6		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
7		9	12	14	17	20	29	43	57	70	84
8	<hr/>										
9	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
10		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
11		3	8	12	12	16	22	29	43	57	68
12	<hr/>										
13	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
14		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
15		Days	6	9	12	14	18	22	29	43	57
16	<hr/>										
17	I			3m	4m	5m	8m	13m	16m	20m	2y2m
18		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
19		Days	Days	5	6	8	12	14	18	22	29
20	<hr/>										

21 NOTE: Numbers in the first horizontal row of each seriousness category  
22 represent sentencing midpoints in years(y) and months(m). Numbers in  
23 the second and third rows represent presumptive sentencing ranges in  
24 months, or in days if so designated. 12+ equals one year and one day.

25 (2) For persons convicted of the anticipatory offenses of criminal  
26 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
27 presumptive sentence is determined by locating the sentencing grid  
28 sentence range defined by the appropriate offender score and the  
29 seriousness level of the completed crime, and multiplying the range by  
30 75 percent.

31 (3) The following additional times shall be added to the  
32 presumptive sentence for felony crimes committed after July 23, 1995,  
33 if the offender or an accomplice was armed with a firearm as defined in  
34 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
35 listed in this subsection as eligible for any firearm enhancements  
36 based on the classification of the completed felony crime. If the  
37 offender or an accomplice was armed with a firearm as defined in RCW  
38 9.41.010 and the offender is being sentenced for an anticipatory  
39 offense under chapter 9A.28 RCW to commit one of the crimes listed in

1 this subsection as eligible for any firearm enhancements, the following  
2 additional times shall be added to the presumptive sentence determined  
3 under subsection (2) of this section based on the felony crime of  
4 conviction as classified under RCW 9A.28.020:

5 (a) Five years for any felony defined under any law as a class A  
6 felony or with a maximum sentence of at least twenty years, or both,  
7 and not covered under ~~((f))~~ (e) of this subsection.

8 (b) Three years for any felony defined under any law as a class B  
9 felony or with a maximum sentence of ten years, or both, and not  
10 covered under ~~((f))~~ (e) of this subsection.

11 (c) Eighteen months for any felony defined under any law as a  
12 class C felony or with a maximum sentence of five years, or both, and  
13 not covered under ~~((f))~~ (e) of this subsection.

14 (d) If the offender is being sentenced for any firearm  
15 enhancements under (a), (b), and/or (c) of this subsection and the  
16 offender has previously been sentenced for any deadly weapon  
17 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
18 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
19 both, any and all firearm enhancements under this subsection shall be  
20 twice the amount of the enhancement listed.

21 ~~((Notwithstanding any other provision of law, any and all  
22 firearm enhancements under this section are mandatory, shall be served  
23 in total confinement, and shall not run concurrently with any other  
24 sentencing provisions.~~

25 ~~(f))~~ The firearm enhancements in this section shall apply to all  
26 felony crimes except the following: Possession of a machine gun,  
27 possessing a stolen firearm, reckless endangerment in the first degree,  
28 theft of a firearm, unlawful possession of a firearm in the first and  
29 second degree, and use of a machine gun in a felony.

30 ~~((g))~~ (f) If the presumptive sentence under this section exceeds  
31 the statutory maximum for the offense, the statutory maximum sentence  
32 shall be the presumptive sentence unless the offender is a persistent  
33 offender as defined in RCW 9.94A.030.

34 (g) Notwithstanding any other provision of law, including the  
35 maximum term, any and all firearm enhancements under this section are  
36 mandatory, shall be served in total confinement, and shall run  
37 consecutive to any other sentencing provisions, including other firearm  
38 or deadly weapon enhancements, for all offenses sentenced under this  
39 chapter.

1 (4) The following additional times shall be added to the  
2 presumptive sentence for felony crimes committed after July 23, 1995,  
3 if the offender or an accomplice was armed with a deadly weapon as  
4 defined in this chapter other than a firearm as defined in RCW 9.41.010  
5 and the offender is being sentenced for one of the crimes listed in  
6 this subsection as eligible for any deadly weapon enhancements based on  
7 the classification of the completed felony crime. If the offender or  
8 an accomplice was armed with a deadly weapon other than a firearm as  
9 defined in RCW 9.41.010 and the offender is being sentenced for an  
10 anticipatory offense under chapter 9A.28 RCW to commit one of the  
11 crimes listed in this subsection as eligible for any deadly weapon  
12 enhancements, the following additional times shall be added to the  
13 presumptive sentence determined under subsection (2) of this section  
14 based on the felony crime of conviction as classified under RCW  
15 9A.28.020:

16 (a) Two years for any felony defined under any law as a class A  
17 felony or with a maximum sentence of at least twenty years, or both,  
18 and not covered under ~~((f))~~ (e) of this subsection.

19 (b) One year for any felony defined under any law as a class B  
20 felony or with a maximum sentence of ten years, or both, and not  
21 covered under ~~((f))~~ (e) of this subsection.

22 (c) Six months for any felony defined under any law as a class C  
23 felony or with a maximum sentence of five years, or both, and not  
24 covered under ~~((f))~~ (e) of this subsection.

25 (d) If the offender is being sentenced under (a), (b), and/or (c)  
26 of this subsection for any deadly weapon enhancements and the offender  
27 has previously been sentenced for any deadly weapon enhancements after  
28 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
29 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
30 all deadly weapon enhancements under this subsection shall be twice the  
31 amount of the enhancement listed.

32 ~~(e) ((Notwithstanding any other provision of law, any and all  
33 deadly weapon enhancements under this section are mandatory, shall be  
34 served in total confinement, and shall not run concurrently with any  
35 other sentencing provisions.~~

36 ~~(f))~~ The deadly weapon enhancements in this section shall apply  
37 to all felony crimes except the following: Possession of a machine  
38 gun, possessing a stolen firearm, reckless endangerment in the first

1 degree, theft of a firearm, unlawful possession of a firearm in the  
2 first and second degree, and use of a machine gun in a felony.

3 ~~((g))~~ (f) If the presumptive sentence under this section exceeds  
4 the statutory maximum for the offense, the statutory maximum sentence  
5 shall be the presumptive sentence unless the offender is a persistent  
6 offender as defined in RCW 9.94A.030.

7 (g) Notwithstanding any other provision of law, including the  
8 maximum term, any and all firearm enhancements under this section are  
9 mandatory, shall be served in total confinement, and shall run  
10 consecutive to any other sentencing provisions, including other firearm  
11 or deadly weapon enhancements, for all offenses sentenced under this  
12 chapter.

13 (5) The following additional times shall be added to the  
14 presumptive sentence if the offender or an accomplice committed the  
15 offense while in a county jail or state correctional facility as that  
16 term is defined in this chapter and the offender is being sentenced for  
17 one of the crimes listed in this subsection. If the offender or an  
18 accomplice committed one of the crimes listed in this subsection while  
19 in a county jail or state correctional facility as that term is defined  
20 in this chapter, and the offender is being sentenced for an  
21 anticipatory offense under chapter 9A.28 RCW to commit one of the  
22 crimes listed in this subsection, the following additional times shall  
23 be added to the presumptive sentence determined under subsection (2) of  
24 this section:

25 (a) Eighteen months for offenses committed under RCW  
26 69.50.401(a)(1) (i) or (ii) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW  
28 69.50.401(a)(1) (iii), (iv), and (v);

29 (c) Twelve months for offenses committed under RCW 69.50.401(d).

30 For the purposes of this subsection, all of the real property of  
31 a state correctional facility or county jail shall be deemed to be part  
32 of that facility or county jail.

33 (6) An additional twenty-four months shall be added to the  
34 presumptive sentence for any ranked offense involving a violation of  
35 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

36 **Sec. 4.** RCW 9.94A.470 and 1995 c 129 s 4 are each amended to read  
37 as follows:

1           Notwithstanding the current placement or listing of crimes in  
2 categories or classifications of prosecuting standards for deciding to  
3 prosecute under RCW 9.94A.440(2), any and all felony crimes involving  
4 any deadly weapon special verdict under RCW 9.94A.125, any deadly  
5 weapon enhancements under RCW 9.94A.310 (3) or (4), or both, and any  
6 and all felony crimes as defined in RCW 9.94A.310 (3)((+f+)) (e) or  
7 (4)((+f+)) (e), or both, which are excluded from the deadly weapon  
8 enhancements shall all be treated as crimes against a person and  
9 subject to the prosecuting standards for deciding to prosecute under  
10 RCW 9.94A.440(2) as crimes against persons.

11           NEW SECTION. **Sec. 5.** The amendments to RCW 9A.20.021 in section  
12 2 of this act apply to only those crimes committed after the effective  
13 date of this act.

--- END ---