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**HOUSE BILL 1038**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Walsh, Shea, and Eslick

AN ACT Relating to allowing public school districts and private schools to adopt a policy authorizing permanent employees to possess firearms on school grounds under certain conditions; amending RCW 9.41.280; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.195 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that recent acts of mass violence across the nation have threatened the safety of children at school. Thus, the legislature intends to implement short and long-term strategies that empower school districts to protect our students and provide a safe and secure learning environment. The legislature further intends to adopt policies that support our schools and enable them to increase security, provide greater protections for students and staff, and develop local strategies to identify and intervene against potential threats. The legislature finds that law enforcement, including many school resource officers, receive intensive training on defensive firearm tactics and responses to acts of mass violence. However, the legislature also finds that in an emergency situation, seconds count and the best response to an act of mass violence is immediate. The legislature finds that existing school staff can be a further security resource when they receive training that is equivalent to training received by law enforcement. Therefore, it is the intent of the legislature to bolster school security by allowing school districts to adopt policies for trained and certified staff to conceal, carry, and further protect our students from harm.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.320 RCW to read as follows:

(1) The board of directors of a school district may adopt a written policy authorizing one or more permanent employees of a school located within the school district to possess firearms on school grounds. The written policy must address:

(a) A procedure for implementing the written policy within the school district, including a process for authorizing permanent employees to possess firearms under the written policy and determining that the requirements of the written policy are met;

(b) The training and eligibility requirements that will apply to permanent employees who are authorized to possess firearms under the written policy. The training and eligibility requirements must include, at a minimum, a requirement that the employee successfully complete firearms training that is equivalent to the firearms training received by commissioned law enforcement officers;

(c) The types of firearms and ammunition that may be possessed on school grounds; and

(d) Standards specifying the manner in which firearms shall be possessed and stored. The written policy shall require that permanent employees who are authorized to possess firearms must keep the firearm concealed while on school grounds except in circumstances authorized under the written policy.

(2) The written policy may specify the number and types of permanent employees who will be authorized to possess firearms at schools within the school district;

(3) A board that adopts a written policy authorizing permanent employees to possess firearms on school grounds must notify local law enforcement agencies within the school district of the adoption of the policy.

(4) A permanent employee is not authorized to possess a firearm on school grounds under this section unless the permanent employee has:

(a) Obtained a valid concealed pistol license issued under RCW 9.41.070;

(b) Successfully completed a firearms training program that is equivalent to the firearms training received by commissioned law enforcement officers; and

(c) Been approved by the board as authorized to possess a firearm on school grounds under the written policy.

(5) Permanent employees who are authorized under this section to possess firearms on school grounds are responsible for obtaining an approved firearm and ammunition, and paying the costs of the firearms training program required under this section. The board may elect to provide reimbursement to permanent employees for these expenses.

(6) The school district, the board, and permanent employees who are authorized to possess firearms on school grounds pursuant to a written policy that complies with the requirements of this section are not liable for damages in any action arising from acts or omissions in responding to an incident that threatens the safety or security of the school or its students or employees, other than acts or omissions constituting recklessness or willful or wanton misconduct.

(7) For the purposes of this section:

(a) "Board" means the board of directors of a school district;

(b) "Permanent employee" means a teacher, administrator, or other person under a continuing or renewable employment contract with the school district for a period of not less than one school year, but does not include a person who is in provisional or temporary status; and

(c) "School grounds" means elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by schools.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.195 RCW to read as follows:

(1) Private schools are authorized to adopt a written policy allowing permanent employees to possess firearms on school grounds if done in accordance with the standards established in section 2 of this act.

(2) For the purposes of this section:

(a) "Permanent employee" means a teacher, administrator, or other person under a continuing or renewable employment contract with the school for a period of not less than one school year, but does not include a person who is in provisional or temporary status; and

(b) "School grounds" has the meaning provided in section 2 of this act.

**Sec.**  RCW 9.41.280 and 2016 sp.s. c 29 s 403 are each amended to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm;

(b) Any other dangerous weapon as defined in RCW 9.41.250;

(c) Any device commonly known as "nun-chu-ka sticks," consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;

(d) Any device, commonly known as "throwing stars," which are multipointed, metal objects designed to embed upon impact from any aspect;

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; or

(f)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

Upon the arrest of a person at least twelve years of age and not more than twenty-one years of age for violating subsection (1)(a) of this section, the person shall be detained or confined in a juvenile or adult facility for up to seventy-two hours. The person shall not be released within the seventy-two hours until after the person has been examined and evaluated by the designated crisis responder unless the court in its discretion releases the person sooner after a determination regarding probable cause or on probation bond or bail.

Within twenty-four hours of the arrest, the arresting law enforcement agency shall refer the person to the designated crisis responder for examination and evaluation under chapter 71.05 or 71.34 RCW and inform a parent or guardian of the person of the arrest, detention, and examination. The designated crisis responder shall examine and evaluate the person subject to the provisions of chapter 71.05 or 71.34 RCW. The examination shall occur at the facility in which the person is detained or confined. If the person has been released on probation, bond, or bail, the examination shall occur wherever is appropriate.

Upon completion of any examination by the designated crisis responder, the results of the examination shall be sent to the court, and the court shall consider those results in making any determination about the person.

The designated crisis responder shall, to the extent permitted by law, notify a parent or guardian of the person that an examination and evaluation has taken place and the results of the examination. Nothing in this subsection prohibits the delivery of additional, appropriate mental health examinations to the person while the person is detained or confined.

If the designated crisis responder determines it is appropriate, the designated crisis responder may refer the person to the local behavioral health organization for follow-up services or the ((~~department of social and health services~~)) health care authority or other community providers for other services to the family and individual.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities. However, a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator may not possess a device listed in subsection (1)(f) of this section unless he or she has successfully completed training in the use of such devices that is equivalent to the training received by commissioned law enforcement officers;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a student;

(f) Any nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; ((~~or~~))

(h) Any law enforcement officer of the federal, state, or local government agency; or

(i) Any permanent employee who is authorized to possess a firearm on school grounds under section 2 or 3 of this act.

(4) Subsections (1)(c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Subsection (1)(f)(i) of this section does not apply to any person who possesses a device listed in subsection (1)(f)(i) of this section, if the device is possessed and used solely for the purpose approved by a school for use in a school authorized event, lecture, or activity conducted on the school premises.

(6) Except as provided in subsection (3)(b), (c), (f), ((~~and~~)) (h) and (i) of this section, firearms are not permitted in a public or private school building.

(7) "GUN-FREE ZONE" signs ((~~shall~~)) may be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

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

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