

SENATE BILL REPORT

SB 5568

As Reported by Senate Committee On:
Law & Justice, January 27, 2022

Title: An act relating to preemption of municipal laws restricting the open carry of weapons.

Brief Description: Concerning preemption of municipal laws restricting the open carry of weapons.

Sponsors: Senators Kuderer, Dhingra, Keiser, Lovelett, Nguyen, Saldaña, Stanford and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 1/17/22, 1/27/22 [DPS, DNP].

Brief Summary of First Substitute Bill

- Permits local governments to enact laws and ordinances restricting the open carry of weapons at any public meeting; any building or facility owned or operated by a city, town, county, or other municipality; or any city or municipal park within their respective jurisdictions.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5568 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen and Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Honeyford and Wagoner.

Staff: Joe McKittrick (786-7287)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: General Restrictions. Weapons, including firearms, are prohibited statewide in the following places:

- the restricted access areas of a jail or law enforcement facility;
- courtrooms and other areas adjacent to or used in conjunction with court proceedings;
- the restricted access areas of a public mental health facility;
- taverns and other places made off-limits by Liquor and Cannabis Board rules to persons under the age of 21; and
- the restricted access areas of commercial service airports.

The perimeter of any such location must be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

Schools and Childcare Premises. Weapons, including firearms, are prohibited in any public or private school or secondary school premises, school provided transportation, or areas of facilities while being used exclusively by public or private schools.

It is unlawful for a person to carry onto, or possess on, licensed child care premises, child care center-provided transportation, or areas of facilities while being used exclusively by a child care center, any weapons, including firearms.

Demonstrations. It is unlawful for a person to knowingly open carry a firearm or any other weapon, whether on their person or in a vehicle, at any permitted demonstration, or within 250 feet of the perimeter of a permitted demonstration after an authorized law enforcement officer directs the person to leave until they no longer possess the weapon. This later prohibition does not apply to any individual possessing or controlling a weapon on private property that person owns or leases.

Penalty. A person who violates any of these prohibitions is guilty of a gross misdemeanor which carries with it a sentence of up to 365 days imprisonment in the county jail, a fine up to \$5,000, or both.

Local Ordinances. The state of Washington fully occupies and preempts the entire field of firearm regulation within the state. Local governments may enact only those laws and ordinances relating to firearms specifically authorized by state law, and any local law or ordinance inconsistent with, more restrictive than, or exceeds the requirements of state law must not be enacted and are preempted and repealed.

Under state law, cities, towns, counties, and other municipalities may enact laws and ordinances restricting the following:

- the discharge of a firearm where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized;
- the possession of firearms in any stadium or convention center, operated by the city, town, county, or other municipality; and
- the areas in their respective jurisdictions in which firearms may be sold.

Violation of any such local ordinances must have the same penalty as provided in state law.

Summary of Bill (First Substitute): Cities, towns, counties, and other municipalities may enact laws and ordinances restricting the open carry of firearms or other weapons at any public meeting, any building or facility owned or operated by a city, town, county, or other municipality, or any city or municipal park within their respective jurisdictions. If a city elects to prohibit the open carry of firearms at public meetings, buildings or facilities, or parks, the city, town, county, or other municipality must indicate by prominent signs providing notice that firearms and other weapons are prohibited. These allowances apply both to the current law that expires on July 1, 2022, and the mirror replacement law which takes effect on that same day.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Removes the permission for cities, towns, counties, and other municipalities to elect whether or not to restrict the open carry of a firearm or other weapon at a permitted demonstration within their respective jurisdictions.
- Permits cities, towns, counties, and other municipalities to restrict the open carry of a firearm or other weapon at city or municipal parks.
- Requires cities, towns, counties, and other municipalities to post signs clearly indicating that firearms and other weapons are prohibited at public meetings, buildings, facilities, or parks if the city, town, county, or municipality restricts the open carry of a firearm or other weapon in such areas.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill will let individual cities figure out what their needs are at their meetings and on their facilities. Give us the power to keep our meetings robust and fully involved. It is imperative that local governments have the ability to make decisions on where people can carry guns within their jurisdictions. In many spaces the open carrying of guns not only intimidates but endangers the public. Local decision making is a core principle for local governments in Washington. This bill allows local governments to decide the proper restrictions that are appropriate for them.

This bill would allow local governments to reject armed intimidation and protect their

citizens and public servants from gun violence. Extremist have shown up to protests and public meetings armed with assault weapons and local leaders could do nothing to stop the armed intimidation.

I worked with teachers to have a peaceful protest in Federal Way, individuals were on a nearby rooftop pointing weapons meant for war zones at us and there was nothing I could do. The message we are sending is that protecting property is more important than my child's and my safety. Last year the Legislature took an important first step in protecting Washingtonians, and this is a smart bill that will empower local leaders to decide how to keep their communities safe. This bill would prevent armed intimidation by extremists at public meetings and demonstrations. The threat of armed extremism extends to local government meetings and public demonstrations. This bill would allow local governments to be nimble in responding to emerging threats. Armed individuals have caused local government meetings to recess and adjourn to safe rooms, creating an air of fear and intimidation. No city council member or school board member should be in fear during their service to the public.

Firearms have no place at city hall or school district offices. One of the most concerning trends recently is the increased threat of armed intimidation. This bill would keep guns out of local meetings and allow municipalities to set their own rules regarding these matters. This is a matter of equity and one borne out of necessity. This bill builds on traditions in Washington ensuring democracy is not carried out at gun point. This bill would allow each community to decide what role, if any, a threat of violence should play in healthy public discussions. Carrying weapons does not further local government decision making. To solve our deepest problems we need everyone's ideas and passion and this often leads to conflict and this bill would allow local governments to address that conflict without the threat of serious injury or death.

CON: Violence against Asian communities has increased, and this bill would compromise those communities right to defend themselves. Gun laws can be very difficult to interpret, and any accidental violation could put an individual in serious and life-changing trouble. Bills like these disproportionately affect people of color. This bill would create a punitive checkerboard of laws across the state for individuals carrying firearms or carrying firearms to recreational activities. My experience has shown me that under this bill white protesters would not be stopped by law enforcement while people of color would be disproportionately target by law enforcement. Recently minority groups have been empowered by learning and investing in defending themselves, and instead of supporting the guardians of our families and communities this is an attempt to strip them of the ability to defend themselves.

Self defense is a right of the LGBTQ+ community, and this bill is another erosion of Washingtonian's protection against individuals who would threaten our lives. We are not scared to walk into a room where people might be armed, we are worried about walking into an area where everyone is armed but us. This bill does nothing to create safe spaces.

Firearms laws are extremely complex. This bill adds another level of complexity by allowing municipalities to further restrict firearms. Right now, a gun owner only needs to know federal and state gun laws, if this bill is passed all 39 counties and 281 cities and towns would be able to add additional regulations on gun owners. This is an unreasonable burden.

This is another attempt by this Legislature to further restrict our Second Amendment rights. This will lead to a confusing patchwork of local laws and will cause a chilling on a person's right to participate in the governmental process. While the ideas behind this bill are sound, as written, this bill leaves a lot to be desired. Throughout my life I have suffered intimidation with or without guns. You can be intimidated in thousands of ways. The elderly do not have the ability to defend themselves and the only way they can defend themselves is by leveling the playing field. Law enforcement is not there to protect citizens and thinking we can protect ourselves by disarming everyone is simply not true.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Sharon Swanson, Association of Washington Cities; Breean Beggs; Liz Hjelmseth; Camden Weber; Lyn Idahosa-Berry; Cherie Rowe Proctor; Bill Mowat; Dan Hammill; Niko Battle; Anne Francis Owen.

CON: Drew Rodman; Ronald Hardy; Miraj Desai; Don Quang Nguyen; Josh Sandoval; Sharyn Hinchcliffe, Pink Pistols of Seattle/Tacoma; Jeremy Ball; Aoibheann Cline, National Rifle Association.

Persons Signed In To Testify But Not Testifying: PRO: Bob Dondoyano, Washington Civil Rights Association; Dave Siewert, SonShine Acres—We need open carry to protect against criminals and bear and cougars; Tia Friesz; Diane Studley; Jeannie Shu; Ian Taylor; Paula Barnes; Leanne Kennedy; Brad Blackburn; Tremayne Edwards; Maureen McGregor; Kristen Ellingboe; Nelago Nuunyango; CS Wright; Sean Kent; Hazel Brown.

CON: Duncan Clark; Andy Thompson; Ivan Kiselev; Britney Lau; Doug Diaz; Jesse Ladd; John Heple Heple; Ryan Anzai; Changdong Wang; Nancy Keaton, DC Project; Camron Richardson; Bradley Boyse, Washington Civil Rights Association; Jessica Carithers; Michael Shear; Nathaniel Hall; Kenneth Vilaysack; Steve Earle; Morgan Floyd; Susan Phillips; Elias Carrillo; Zach Peterson; Connor Illian, Washington civil rights association; Triston Swenson; Max Mochylo, Washington Civil Rights Association; Serhiy Bidzilia; Michael Alimo; Cody Tapani; Kassi Ambach; Jeff Pederson; Justin Shirley; Jacob Ball; Niall James; Samuil Gaidaichul; Yelena Butylev; Cody Sutton; Kohen Marzolf, Washington Civil Rights Association; John Reid; Aidan Nickels; Jack Trinneer; Carter McKaughan, Montlake Investigations Group; Kenneth Howard; Anthony Antohe; Travis Smith; Daniel Yun; Crystal Hoke ; Yun Yun; Ivan Chongarov; Paul Milbourn.

OTHER: Andrew Furrer, No.