

HOUSE BILL REPORT

ESSB 5434

As Reported by House Committee On: Civil Rights & Judiciary

Title: An act relating to restricting possession of weapons in certain locations.

Brief Description: Restricting possession of weapons in certain locations.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Wilson, C., Hunt, Keiser, Kuderer, Nguyen and Pedersen).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/25/20, 2/28/20 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by Committee)

- With some exceptions, makes it unlawful for a person to possess a firearm and other weapons on child care center premises, center-provided transportation, or in areas of facilities being used exclusively by a child care center.
- Requires family day care providers to store any firearm, ammunition, or other dangerous weapon in a secure area inaccessible to children when children for whom the provider is licensed to provide care are present on the premises.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Kilduff, Chair; Thai, Vice Chair; Goodman, Hansen, Kirby, Orwall, Peterson, Valdez and Walen.

Minority Report: Do not pass. Signed by 6 members: Representatives Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham, Klippert, Rude and Ybarra.

Staff: Edie Adams (786-7180).

Background:

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

Locations Where Weapons Are Prohibited.

It is a gross misdemeanor for a person who knowingly possesses a weapon to enter certain locations. Weapons are prohibited in restricted areas of court facilities, jails, public mental health facilities, commercial airports, and in places classified as off-limits to persons under 21 years of age by the state Liquor and Cannabis Board. Law enforcement personnel, and military and security personnel while engaged in official business, are exempt from these restrictions and a number of other exceptions apply.

"Weapon" is defined as a firearm, explosive, or an instrument or weapon listed in another statute governing dangerous weapons. The dangerous weapon statute prohibits: (a) the possession of slung shots, sand clubs, metal knuckles, spring blade knives, and knives that open by a spring mechanism or by the force of gravity or a downward or outward thrust; (b) the furtive carrying, with intent to conceal, any dagger, dirk, pistol, or other dangerous weapon; and (c) the use of any device for suppressing the noise of a firearm.

The perimeter of any location where weapons are prohibited must be posted at reasonable intervals to alert the public that firearms are prohibited at the location.

Weapons on School Premises.

With several exceptions, it is a gross misdemeanor for a person to possess firearms or weapons on public or private elementary or secondary school premises, school-provided transportation, or areas of facilities that are being used exclusively by public or private schools. Prohibited weapons include: nun-chu-ka sticks; throwing stars; air guns; stun guns; devices intended to injure a person with an electric shock, charge, or impulse; and weapons listed under the dangerous weapons statute.

Exceptions from the prohibition on possession of firearms and weapons are provided for law enforcement, security or military personnel, persons involved in firearms or martial arts events or training, persons with concealed pistol licenses who are picking up or dropping off students, and nonstudents 18 years or older in lawful possession of a dangerous weapon that is secured in a vehicle.

Elementary and secondary schools are required to post "GUN-FREE ZONE" signs providing notice that firearms are prohibited on school premises.

Unsafe Storage of Firearms.

A person is guilty of Community Endangerment Due to Unsafe Storage of a Firearm if the person stores or leaves a firearm in a location where the person knows, or reasonably should know, that a prohibited person is likely to gain access, and the prohibited person accesses the firearm and either:

- causes personal injury or death with the firearm, in which case the offense is an unranked class C felony; or
- causes the firearm to discharge, carries or exhibits the firearm in a public place in a manner that manifests an intent to intimidate others or that warrants alarm for the safety of others, or uses the firearm in a crime, in which case the offense is a gross misdemeanor.

The crime does not apply under a number of circumstances, including if the firearm was in secure gun storage or secured with a trigger lock or similar device designed to prevent unauthorized use or discharge of a firearm. "Secure gun storage" means a locked box, gun safe, or other locked storage space designed to prevent unauthorized use or discharge of a firearm.

Child Care Centers.

The Department of Children, Youth, and Families (DCYF) is responsible for licensing and setting standards for child care providers, including child day care centers and family day care providers. Child day care centers are agencies that regularly provide early childhood education and early learning services for a group of children for periods of less than 24 hours. A family day care provider regularly provides child day care and early learning services to 12 or fewer children in the provider's home.

Child care licensing statutes do not address the issue of firearms or other weapons on child care center premises. However, they do require that licensing standards for child care centers include requirements to address and promote health and safety in child care settings. The DCYF has adopted safety rules that require licensed child care centers to maintain premises in a safe manner that protects children from injury hazards, including protecting children from gunshots by ensuring that no firearm or another weapon is on the premises. In addition, licensed family day care providers are required to store guns, ammunition, and other weapons in a locked gun safe or a locked room so that they are inaccessible to children. If stored in a locked room, each firearm must be stored unloaded and with a trigger lock or other disabling feature.

Summary of Amended Bill:

With some exceptions, it is unlawful for a person to possess a firearm and other weapons on child care center premises, center-provided transportation, or in areas of facilities being used exclusively by a child care center. "Child care center" means a child day care center as defined under child care licensing statutes. Prohibited weapons include: air guns; stun guns; devices intended to injure a person with an electric shock, charge, or impulse; and "dangerous weapons" listed under another statute as slung shots, sand clubs, metal knuckles, devices for suppressing the noise of a firearm, and certain knives, such as switchblades, dirks, and daggers.

A violation is a gross misdemeanor offense. A person convicted of a violation must have any concealed pistol license (CPL) revoked for a period of three years and may not apply for a CPL for three years from the date of conviction. The convicting court must order the person to immediately surrender any CPL and send notice to the Department of Licensing (DOL) of the required revocation of any CPL held by the person. The DOL must determine if the convicted person has a CPL, and if so, notify the local jurisdiction that issued the CPL, which must immediately revoke the CPL.

The offense does not apply to family day care providers or law enforcement officers. In addition, the offense does not apply to: a person in possession of a pistol who has a CPL, or

who is exempt from CPL requirements, while picking up or dropping off a child; or the legal possession of a firearm or weapon by an adult conducting business at the center if the firearm or weapon is secured within an attended vehicle or concealed from view within a locked unattended vehicle.

Child care centers must post "GUN-FREE ZONE" signs to provide warning of the prohibition on possessing firearms on center premises. Child care centers that are located on public or private primary or secondary school premises are subject to existing law restricting possession of firearms and weapons on school premises.

A new section is added to child care licensing statutes requiring a family day care provider to store any firearm, ammunition, or other dangerous weapon in a secure area when children for whom the provider is licensed to provide care are present on the premises. The secure area must be inaccessible to children when they are on the premises and must consist of a locked gun safe or a locked room. If firearms are stored in a locked room, they must be stored unloaded and with a trigger lock or other disabling feature. The Department of Children, Youth, and Families may deny, suspend, revoke, modify, or not renew the license of a child care provider in violation of these requirements.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill adds an exemption for persons who have a valid concealed pistol license (CPL) or are exempt from CPL requirements while picking up or dropping off a child at the child care center, and provides that the requirement for family day care providers to store weapons in a secure area applies while children for whom the family day care provider is licensed to provide care are present on the premises. The amended bill provides that the court must order the immediate surrender of the convicted person's CPL and, within three judicial days, send to the Department of Licensing (DOL) notice of the required revocation of any CPL held by the person. The DOL must determine if the person has a CPL, and if so, notify the license-issuing authority, which must immediately revoke the license upon receipt of the notification.

Appropriation: None.

Fiscal Note: Requested on February 5, 2020.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) When parents send their children to school, they expect those facilities to be safe and secure, and that is why the state prohibits people from possessing firearms on kindergarten through twelfth grade (K-12) school campuses. This bill simply extends that same common sense policy to child care facilities. This is not a change in policy, but rather a

closing of a gap in the law. It is paramount that we take all reasonable steps to maximize safety at facilities where our children are cared for and where they learn.

Children and guns do not mix. Small children are unpredictable and extremely curious. Even children who have received training to not touch a gun too often do so. The presence of a firearm in places where young children learn and play increases the risk of unintentional shootings. A momentary lapse of attention by a gun owner can result in a tragedy. Children gaining access to firearms has proven deadly over and over again.

No child should have to experience the physical and emotional trauma that comes from witnessing an act of gun violence. The state should do all it can to protect children from harm, and it can do this by extending the same protection to child care centers that is provided for K-12 schools. No right is absolute, not even a constitutional right. They all exist in balance with the rights of others.

It is important to keep guns out of schools and child care facilities. Some people opposed to this legislation see a good guy with a gun as a solution, but there is no evidence that the presence of armed security guards makes any difference. In fact, there is evidence suggesting the opposite. There are examples of shootings where armed security guards or law enforcement were present and did nothing to prevent the violence, and many cases where incidents of mishandled guns on school campuses have caused harm.

Allowing guns at child care centers creates a volatile and risky situation for survivors of domestic violence. Day care centers are places where a domestic violence abuser knows the survivor and the child will be. The bill will make young students, staff, and child care centers safer.

(Opposed) Gun free zones are a dismal failure and a blatant invitation for predators and criminals to do as they please. Gun free zones just guarantee that victims are unarmed and unable exercise their constitutional rights to defend themselves. Allowing concealed pistol license (CPL) holders in these areas makes the location a less desirable target for criminals. Gun free zones just give a false sense of security. If existing laws do not keep guns out of the hands of criminals, what difference will a gun free zone sign make?

Caregivers and parents should be able to protect themselves and their kids wherever they are. There have been instances where women were stalked and targeted in gun free zones. In one case, a woman had a protection order against an abuser who was required to surrender his firearms, and yet she was still gunned down in the parking lot of her child's school. The Legislature should be focusing on the broken judicial and mental health care systems rather than restricting the right of people to defend themselves and their children.

There will be a variety of unintended consequences from this legislation. It will prevent people who use alternative transportation from being able to protect themselves because they will not have a vehicle in which to lock up their weapons. This inequitably affects low income people in dangerous areas and people who choose sustainable transportation.

There is no current problem of children being shot in day care centers. This is just a solution looking for a problem. Concealed pistol license holders are responsible citizens who go

through an extensive background check. It is rare for a CPL holder to be involved in any type of firearm incident. They should not have to disarm and leave their guns in their cars.

Persons Testifying: (In support) Senator Wilson, prime sponsor; Colin English; Jane Weiss; Jennifer Dolan-Waldman, Grandmothers Against Gun Violence; Pat Griffith, League of Women Voters; Stacey Andersen; Meredith Goldstein; Sue Whitcomb; and Anne Frances Owen.

(Opposed) Arielle Farhner; Christine Price; Curtis Bingham, Adventure Protection; Heather Kinney; Kerry Sloane; Jon Conley; Sharyn Hinchcliffe, Pink Pistols of Seattle and Tacoma; Ira Moser; and David Westhaver.

Persons Signed In To Testify But Not Testifying: Cheryl Berensen; Emily Cantrill; Jennifer Dolan Waldman; Kim Gatbunton; Margaret Heldring; Annie Kennedy; Collum Liska; Martha Liska; Dory Nicpon, Board for Judicial Administration; Pati Otley; Michael Van Dyke; Eleanor Van Noppen; Gus Webster; and Katrina Wynkoop-Simmons.