
SECOND SUBSTITUTE SENATE BILL 5041

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators McCaslin and Kline)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to discretionary weapons enhancements for sentence
2 ranges; amending RCW 9.94A.533; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read
5 as follows:

6 (1) The provisions of this section apply to the standard sentence
7 ranges determined by RCW 9.94A.510 or 9.94A.517.

8 (2) For persons convicted of the anticipatory offenses of criminal
9 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
10 standard sentence range is determined by locating the sentencing grid
11 sentence range defined by the appropriate offender score and the
12 seriousness level of the completed crime, and multiplying the range by
13 seventy-five percent.

14 (3) The following additional times shall be added to the standard
15 sentence range for felony crimes committed after July 23, 1995, if the
16 offender or an accomplice was armed with a firearm as defined in RCW
17 9.41.010 and the offender is being sentenced for one of the crimes
18 listed in this subsection as eligible for any firearm enhancements
19 based on the classification of the completed felony crime. If the

1 offender is being sentenced for more than one offense, the firearm
2 enhancement or enhancements must be added to the total period of
3 confinement for all offenses, regardless of which underlying offense is
4 subject to a firearm enhancement. If the offender or an accomplice was
5 armed with a firearm as defined in RCW 9.41.010 and the offender is
6 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
7 commit one of the crimes listed in this subsection as eligible for any
8 firearm enhancements, the following additional times shall be added to
9 the standard sentence range determined under subsection (2) of this
10 section based on the felony crime of conviction as classified under RCW
11 9A.28.020:

12 (a) (~~Five~~) Four to six years for any felony defined under any law
13 as a class A felony or with a statutory maximum sentence of at least
14 twenty years, or both, and not covered under (f) of this subsection;

15 (b) (~~Three~~) Two to four years for any felony defined under any
16 law as a class B felony or with a statutory maximum sentence of ten
17 years, or both, and not covered under (f) of this subsection;

18 (c) (~~Eighteen~~) Nine to twenty-seven months for any felony defined
19 under any law as a class C felony or with a statutory maximum sentence
20 of five years, or both, and not covered under (f) of this subsection;

21 (d) If the offender is being sentenced for any firearm enhancements
22 under (a), (b), and/or (c) of this subsection and the offender has
23 previously been sentenced for any deadly weapon enhancements after July
24 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
25 (4)(a), (b), and/or (c) of this section, or both, all firearm
26 enhancements under this subsection shall be twice the amount of the
27 enhancement listed;

28 (e) Notwithstanding any other provision of law, all firearm
29 enhancements under this section are mandatory, shall be served in total
30 confinement, and shall run consecutively to all other sentencing
31 provisions, including other firearm or deadly weapon enhancements, for
32 all offenses sentenced under this chapter. However, whether or not a
33 mandatory minimum term has expired, an offender serving a sentence
34 under this subsection may be granted an extraordinary medical placement
35 when authorized under RCW 9.94A.728(4);

36 (f) The firearm enhancements in this section shall apply to all
37 felony crimes except the following: Possession of a machine gun,

1 possessing a stolen firearm, drive-by shooting, theft of a firearm,
2 unlawful possession of a firearm in the first and second degree, and
3 use of a machine gun in a felony;

4 (g) If the standard sentence range under this section exceeds the
5 statutory maximum sentence for the offense, the statutory maximum
6 sentence shall be the presumptive sentence unless the offender is a
7 persistent offender. If the addition of a firearm enhancement
8 increases the sentence so that it would exceed the statutory maximum
9 for the offense, the portion of the sentence representing the
10 enhancement may not be reduced.

11 (4) The following additional times shall be added to the standard
12 sentence range for felony crimes committed after July 23, 1995, if the
13 offender or an accomplice was armed with a deadly weapon other than a
14 firearm as defined in RCW 9.41.010 and the offender is being sentenced
15 for one of the crimes listed in this subsection as eligible for any
16 deadly weapon enhancements based on the classification of the completed
17 felony crime. If the offender is being sentenced for more than one
18 offense, the deadly weapon enhancement or enhancements must be added to
19 the total period of confinement for all offenses, regardless of which
20 underlying offense is subject to a deadly weapon enhancement. If the
21 offender or an accomplice was armed with a deadly weapon other than a
22 firearm as defined in RCW 9.41.010 and the offender is being sentenced
23 for an anticipatory offense under chapter 9A.28 RCW to commit one of
24 the crimes listed in this subsection as eligible for any deadly weapon
25 enhancements, the following additional times shall be added to the
26 standard sentence range determined under subsection (2) of this section
27 based on the felony crime of conviction as classified under RCW
28 9A.28.020:

29 (a) (~~Two~~) One to three years for any felony defined under any law
30 as a class A felony or with a statutory maximum sentence of at least
31 twenty years, or both, and not covered under (f) of this subsection;

32 (b) (~~One year~~) Six to eighteen months for any felony defined
33 under any law as a class B felony or with a statutory maximum sentence
34 of ten years, or both, and not covered under (f) of this subsection;

35 (c) (~~Six~~) Three to nine months for any felony defined under any
36 law as a class C felony or with a statutory maximum sentence of five
37 years, or both, and not covered under (f) of this subsection;

1 (d) If the offender is being sentenced under (a), (b), and/or (c)
2 of this subsection for any deadly weapon enhancements and the offender
3 has previously been sentenced for any deadly weapon enhancements after
4 July 23, 1995, under (a), (b), and/or (c) of this subsection or
5 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
6 weapon enhancements under this subsection shall be twice the amount of
7 the enhancement listed;

8 (e) Notwithstanding any other provision of law, all deadly weapon
9 enhancements under this section are mandatory, shall be served in total
10 confinement, and shall run consecutively to all other sentencing
11 provisions, including other firearm or deadly weapon enhancements, for
12 all offenses sentenced under this chapter. However, whether or not a
13 mandatory minimum term has expired, an offender serving a sentence
14 under this subsection may be granted an extraordinary medical placement
15 when authorized under RCW 9.94A.728(4);

16 (f) The deadly weapon enhancements in this section shall apply to
17 all felony crimes except the following: Possession of a machine gun,
18 possessing a stolen firearm, drive-by shooting, theft of a firearm,
19 unlawful possession of a firearm in the first and second degree, and
20 use of a machine gun in a felony;

21 (g) If the standard sentence range under this section exceeds the
22 statutory maximum sentence for the offense, the statutory maximum
23 sentence shall be the presumptive sentence unless the offender is a
24 persistent offender. If the addition of a deadly weapon enhancement
25 increases the sentence so that it would exceed the statutory maximum
26 for the offense, the portion of the sentence representing the
27 enhancement may not be reduced.

28 (5) The following additional times shall be added to the standard
29 sentence range if the offender or an accomplice committed the offense
30 while in a county jail or state correctional facility and the offender
31 is being sentenced for one of the crimes listed in this subsection. If
32 the offender or an accomplice committed one of the crimes listed in
33 this subsection while in a county jail or state correctional facility,
34 and the offender is being sentenced for an anticipatory offense under
35 chapter 9A.28 RCW to commit one of the crimes listed in this
36 subsection, the following additional times shall be added to the
37 standard sentence range determined under subsection (2) of this
38 section:

- 1 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
2 (a) or (b) or 69.50.410;
3 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
4 (c), (d), or (e);
5 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

9 (6) An additional twenty-four months shall be added to the standard
10 sentence range for any ranked offense involving a violation of chapter
11 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
12 9.94A.605.

13 (7) An additional two years shall be added to the standard sentence
14 range for vehicular homicide committed while under the influence of
15 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
16 prior offense as defined in RCW 46.61.5055.

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