
HOUSE BILL 1038

State of Washington

66th Legislature

2019 Regular Session

By Representatives Walsh, Shea, and Eslick

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1 AN ACT Relating to allowing public school districts and private
2 schools to adopt a policy authorizing permanent employees to possess
3 firearms on school grounds under certain conditions; amending RCW
4 9.41.280; adding a new section to chapter 28A.320 RCW; adding a new
5 section to chapter 28A.195 RCW; creating a new section; and declaring
6 an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that recent acts of
9 mass violence across the nation have threatened the safety of
10 children at school. Thus, the legislature intends to implement short
11 and long-term strategies that empower school districts to protect our
12 students and provide a safe and secure learning environment. The
13 legislature further intends to adopt policies that support our
14 schools and enable them to increase security, provide greater
15 protections for students and staff, and develop local strategies to
16 identify and intervene against potential threats. The legislature
17 finds that law enforcement, including many school resource officers,
18 receive intensive training on defensive firearm tactics and responses
19 to acts of mass violence. However, the legislature also finds that in
20 an emergency situation, seconds count and the best response to an act
21 of mass violence is immediate. The legislature finds that existing

1 school staff can be a further security resource when they receive
2 training that is equivalent to training received by law enforcement.
3 Therefore, it is the intent of the legislature to bolster school
4 security by allowing school districts to adopt policies for trained
5 and certified staff to conceal, carry, and further protect our
6 students from harm.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.320
8 RCW to read as follows:

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

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

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

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

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

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

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

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

1 (a) Obtained a valid concealed pistol license issued under RCW
2 9.41.070;

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

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

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

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

21 (7) For the purposes of this section:

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

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

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

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.195
32 RCW to read as follows:

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

37 (2) For the purposes of this section:

38 (a) "Permanent employee" means a teacher, administrator, or other
39 person under a continuing or renewable employment contract with the

1 school for a period of not less than one school year, but does not
2 include a person who is in provisional or temporary status; and

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

5 **Sec. 4.** RCW 9.41.280 and 2016 sp.s. c 29 s 403 are each amended
6 to read as follows:

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

11 (a) Any firearm;

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

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

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

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

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

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

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

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

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

15 Within twenty-four hours of the arrest, the arresting law
16 enforcement agency shall refer the person to the designated crisis
17 responder for examination and evaluation under chapter 71.05 or 71.34
18 RCW and inform a parent or guardian of the person of the arrest,
19 detention, and examination. The designated crisis responder shall
20 examine and evaluate the person subject to the provisions of chapter
21 71.05 or 71.34 RCW. The examination shall occur at the facility in
22 which the person is detained or confined. If the person has been
23 released on probation, bond, or bail, the examination shall occur
24 wherever is appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (5) Subsection (1)(f)(i) of this section does not apply to any
38 person who possesses a device listed in subsection (1)(f)(i) of this
39 section, if the device is possessed and used solely for the purpose

1 approved by a school for use in a school authorized event, lecture,
2 or activity conducted on the school premises.

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

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

9 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of
11 the state government and its existing public institutions, and takes
12 effect immediately.

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