
SENATE BILL 5063

State of Washington

53rd Legislature

1993 Regular Session

By Senators Nelson, McCaslin, Winsley and Oke

Read first time 01/11/93. Referred to Committee on Education.

1 AN ACT Relating to weapons on school premises; amending RCW
2 9.41.280 and 9.41.098; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.41.280 and 1989 c 219 s 1 are each amended to read
5 as follows:

6 (1) It is unlawful for an elementary or secondary school student
7 under the age of twenty-one knowingly to carry onto public or private
8 elementary or secondary school premises:

9 (a) Any firearm; or

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

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

14 (d) Any device, commonly known as "throwing stars", which are
15 multi-pointed, metal objects designed to embed upon impact from any
16 aspect; or

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

1 (2)(a) Any such student violating subsection (1) of this section is
2 guilty of a gross misdemeanor.

3 (~~Any violation of subsection (1) of this section constitutes~~
4 ~~grounds for expulsion.~~) (b) The board of directors of each school
5 district shall adopt procedures, including a hearing, for the expulsion
6 for at least thirty days of any student violating subsection (1) of
7 this section. The school shall notify the student's parents or
8 guardian and the local law enforcement agency of the violation. Any
9 school official who fails to comply with this subsection (2)(b) is
10 guilty of a misdemeanor.

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

12 (a) Any student of a private military academy; or

13 (b) Any student engaged in military activities, sponsored by the
14 federal or state governments while engaged in official duties; or

15 (c) Any student who is attending a convention or firearms safety
16 course authorized by school authorities in which the firearms of
17 collectors or instructors are handled or displayed; or

18 (d) Any student who possesses nun-chu-ka sticks, throwing stars, or
19 other dangerous weapons to be used in martial arts classes conducted on
20 the school premises; or

21 (e) Any student while the student is participating in a firearms or
22 air gun competition approved by the school or school district.

23 **Sec. 2.** RCW 9.41.098 and 1989 c 222 s 8 are each amended to read
24 as follows:

25 (1) The superior courts and the courts of limited jurisdiction of
26 the state may order forfeiture of a firearm which is proven to be:

27 (a) Found concealed on a person not authorized by RCW 9.41.060 or
28 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute
29 defense to forfeiture if the person possessed a valid Washington
30 concealed pistol license within the preceding two years and has not
31 become ineligible for a concealed pistol license in the interim.
32 Before the firearm may be returned, the person must pay the past due
33 renewal fee and the current renewal fee;

34 (b) Commercially sold to any person without an application as
35 required by RCW 9.41.090;

36 (c) Found in the possession or under the control of a person at the
37 time the person committed or was arrested for committing a crime of
38 violence or a crime in which a firearm was used or displayed or a

1 felony violation of the uniform controlled substances act, chapter
2 69.50 RCW;

3 (d) Found concealed on a person who is in any place in which a
4 concealed pistol license is required, and who is under the influence of
5 any drug or under the influence of intoxicating liquor, having 0.10
6 grams or more of alcohol per two hundred ten liters of breath or 0.10
7 percent or more by weight of alcohol in the person's blood, as shown by
8 analysis of the person's breath, blood, or other bodily substance;

9 (e) Found in the possession of a person prohibited from possessing
10 the firearm under RCW 9.41.040;

11 (f) Found in the possession of a person free on bail or personal
12 recognizance pending trial, appeal, or sentencing for a crime of
13 violence or a crime in which a firearm was used or displayed, except
14 that violations of Title 77 RCW shall not result in forfeiture under
15 this section;

16 (g) Found in the possession of a person found to have been mentally
17 incompetent while in possession of a firearm when apprehended or who is
18 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

19 (h) Known to have been used or displayed by a person in the
20 violation of a proper written order of a court of general jurisdiction;
21 ((or))

22 (i) Known to have been used in the commission of a crime of
23 violence or a crime in which a firearm was used or displayed or a
24 felony violation of the uniformed controlled substances act, chapter
25 69.50 RCW; or

26 (j) Found in the possession of a person at the time the person
27 committed a violation of RCW 9.41.280(1).

28 (2) Upon order of forfeiture, the court in its discretion shall
29 order destruction of any firearm that is illegal for any person to
30 possess. All firearms legal for citizen possession that are judicially
31 forfeited or forfeited due to failure to make a claim under RCW
32 63.32.010, 63.40.010, or 63.35.020 shall be submitted for auction to
33 commercial sellers once a year if the submitting agency has accumulated
34 at least ten firearms authorized for sale. Law enforcement agencies
35 may conduct joint auctions for the purpose of maximizing efficiency.
36 A maximum of ten percent of such firearms may be retained for use by
37 local law enforcement agencies and the Washington state patrol. Before
38 submission for auction, a court may temporarily retain forfeited
39 firearms if needed for evidence. The proceeds from any sale shall be

1 divided as follows: The local jurisdiction and the Washington state
2 patrol shall retain its costs, including actual costs of storage and
3 sale, and shall forward the remainder to the state department of
4 wildlife for use in its firearms training program pursuant to RCW
5 77.32.155.

6 If a firearm is delivered to a law enforcement agency and the
7 agency no longer requires use of the firearm, the agency shall dispose
8 of the firearm by auction as provided by this subsection. The public
9 auctioning agency shall, as a minimum, maintain a record of all
10 forfeited firearms by manufacturer, model, caliber, serial number, date
11 and circumstances of forfeiture, and final disposition. The records
12 shall be open to public inspection and copying.

13 (3) The court shall order the firearm returned to the owner upon a
14 showing that there is no probable cause to believe a violation of
15 subsection (1) of this section existed or the firearm was stolen from
16 the owner or the owner neither had knowledge of nor consented to the
17 act or omission involving the firearm which resulted in its forfeiture.

18 (4) A law enforcement officer of the state or of any county or
19 municipality may confiscate a firearm found to be in the possession of
20 a person under circumstances specified in subsection (1) of this
21 section. After confiscation, the firearm shall not be surrendered
22 except: (a) To the prosecuting attorney for use in subsequent legal
23 proceedings; (b) for disposition according to an order of a court
24 having jurisdiction as provided in subsection (1) of this section; or
25 (c) to the owner if the proceedings are dismissed or as directed in
26 subsection (3) of this section.

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