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ENGROSSED SUBSTITUTE SENATE BILL 5307

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State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Education (originally sponsored by Senators Pelz, A. Smith, McAuliffe, Bauer, Talmadge, Spanel, Haugen and Moyer; by request of Washington State School Directors Association, Board of Education and Superintendent of Public Instruction)

Read first time 02/24/93.

1 AN ACT Relating to student safety and discipline; amending RCW  
2 9.41.280, 10.31.100, and 28A.635.060; adding a new section to chapter  
3 28A.320 RCW; and prescribing penalties.

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

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

7 (1) It is unlawful for (~~(an elementary or secondary school student~~  
8 ~~under the age of twenty-one knowingly)~~) a person to carry onto public  
9 or private elementary or secondary school premises, school-provided  
10 transportation, or athletic facilities leased by public or private  
11 schools:

12 (a) Any firearm; or

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

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

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

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

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

6 Any violation of subsection (1) of this section by elementary or  
7 secondary school students constitutes grounds for expulsion from the  
8 state's public schools for the remainder of the school year in which  
9 the violation occurs.

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

11 (a) Any student or employee of a private military academy; or

12 (b) Any ~~((student))~~ person engaged in military, law enforcement, or  
13 school district security activities~~((, sponsored by the federal or~~  
14 ~~state governments while engaged in official duties))~~; or

15 (c) Any ~~((student))~~ person who is ~~((attending))~~ involved in a  
16 convention, showing, demonstration, lecture, or firearms safety course  
17 authorized by school authorities in which the firearms of collectors or  
18 instructors are handled or displayed; or

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

22 (e) Any ~~((student))~~ person while the ~~((student))~~ person is  
23 participating in a firearms or air gun competition approved by the  
24 school or school district;

25 (f) A parent, grandparent, or legal guardian who has been issued a  
26 license under RCW 9.41.070, while picking up or dropping off a student;

27 (g) Any person legally in possession of a firearm or dangerous  
28 weapon that is secured within an attended vehicle or concealed from  
29 view within a locked unattended vehicle;

30 (h) Any person who is in lawful possession of an unloaded, secured  
31 firearm in a vehicle;

32 (i) Any law enforcement officer of any federal, state, or local  
33 government agency; or

34 (j) Pursuant to 18 USC 922, "GUN-FREE ZONE" signs shall be posted  
35 around school facilities giving warning of the prohibition of the  
36 possession of firearms on school grounds.

37 NEW SECTION. Sec. 2. A new section is added to chapter 28A.320  
38 RCW to read as follows:

1 Each school district and private school shall report by January  
2 31st of each year all known incidents involving the possession of  
3 weapons on school premises, transportation systems, or athletic  
4 facilities in violation of RCW 9.41.280 in the year preceding the  
5 report. The superintendent shall compile the data and report it to the  
6 house of representatives, the senate, and the governor.

7 **Sec. 3.** RCW 28A.635.060 and 1989 c 269 s 6 are each amended to  
8 read as follows:

9 (1) Any pupil who shall deface or otherwise injure any school  
10 property, shall be liable to suspension and punishment. Any school  
11 district whose property has been lost or willfully cut, defaced, or  
12 injured, may withhold the grades, diploma, and transcripts of the pupil  
13 responsible for the damage or loss until the pupil or the pupil's  
14 parent or guardian has paid for the damages, unless the student is  
15 transferring to another elementary or secondary educational  
16 institution, in which case the student's permanent record shall be  
17 released promptly to the receiving school. When the pupil and parent  
18 or guardian are unable to pay for the damages, the school district  
19 shall provide a program of voluntary work for the pupil in lieu of the  
20 payment of monetary damages. Upon completion of voluntary work the  
21 grades, diploma, and transcripts of the pupil shall be released. The  
22 parent or guardian of such pupil shall be liable for damages as  
23 otherwise provided by law.

24 (2) Before any penalties are assessed under this section, a school  
25 district board of directors shall adopt procedures which insure that  
26 pupils' rights to due process are protected.

27 (3) If the department of social and health services or a child-  
28 placing agency licensed by the department has been granted custody of  
29 a child, that child's records, if requested by the department or  
30 agency, are not to be withheld for nonpayment of school fees or any  
31 other reason.

32 **Sec. 4.** RCW 10.31.100 and 1988 c 190 s 1 are each amended to read  
33 as follows:

34 A police officer having probable cause to believe that a person has  
35 committed or is committing a felony shall have the authority to arrest  
36 the person without a warrant. A police officer may arrest a person  
37 without a warrant for committing a misdemeanor or gross misdemeanor

1 only when the offense is committed in the presence of the officer,  
2 except as provided in subsections (1) through (~~(8)~~) (9) of this  
3 section.

4 (1) Any police officer having probable cause to believe that a  
5 person has committed or is committing a misdemeanor or gross  
6 misdemeanor, involving physical harm or threats of harm to any person  
7 or property or the unlawful taking of property or involving the use or  
8 possession of cannabis, or involving the acquisition, possession, or  
9 consumption of alcohol by a person under the age of twenty-one years  
10 under RCW 66.44.270 shall have the authority to arrest the person.

11 (2) A police officer shall arrest and take into custody, pending  
12 release on bail, personal recognizance, or court order, a person  
13 without a warrant when the officer has probable cause to believe that:

14 (a) An order has been issued of which the person has knowledge  
15 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26  
16 RCW, or chapter 26.50 RCW restraining the person and the person has  
17 violated the terms of the order restraining the person from acts or  
18 threats of violence or excluding the person from a residence or, in the  
19 case of an order issued under RCW 26.44.063, imposing any other  
20 restrictions or conditions upon the person; or

21 (b) The person is eighteen years or older and within the preceding  
22 four hours has assaulted that person's spouse, former spouse, or a  
23 person eighteen years or older with whom the person resides or has  
24 formerly resided and the officer believes: (i) A felonious assault has  
25 occurred; (ii) an assault has occurred which has resulted in bodily  
26 injury to the victim, whether the injury is observable by the  
27 responding officer or not; or (iii) that any physical action has  
28 occurred which was intended to cause another person reasonably to fear  
29 imminent serious bodily injury or death. Bodily injury means physical  
30 pain, illness, or an impairment of physical condition. When the  
31 officer has probable cause to believe that spouses, former spouses, or  
32 other persons who reside together or formerly resided together have  
33 assaulted each other, the officer is not required to arrest both  
34 persons. The officer shall arrest the person whom the officer believes  
35 to be the primary physical aggressor. In making this determination,  
36 the officer shall make every reasonable effort to consider: (i) The  
37 intent to protect victims of domestic violence under RCW 10.99.010;  
38 (ii) the comparative extent of injuries inflicted or serious threats

1 creating fear of physical injury; and (iii) the history of domestic  
2 violence between the persons involved.

3 (3) Any police officer having probable cause to believe that a  
4 person has committed or is committing a violation of any of the  
5 following traffic laws shall have the authority to arrest the person:

6 (a) RCW 46.52.010, relating to duty on striking an unattended car  
7 or other property;

8 (b) RCW 46.52.020, relating to duty in case of injury to or death  
9 of a person or damage to an attended vehicle;

10 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or  
11 racing of vehicles;

12 (d) RCW 46.61.502 or 46.61.504, relating to persons under the  
13 influence of intoxicating liquor or drugs;

14 (e) RCW 46.20.342, relating to driving a motor vehicle while  
15 operator's license is suspended or revoked;

16 (f) RCW 46.61.525, relating to operating a motor vehicle in a  
17 negligent manner.

18 (4) A law enforcement officer investigating at the scene of a motor  
19 vehicle accident may arrest the driver of a motor vehicle involved in  
20 the accident if the officer has probable cause to believe that the  
21 driver has committed in connection with the accident a violation of any  
22 traffic law or regulation.

23 (5) Any police officer having probable cause to believe that a  
24 person has committed or is committing a violation of RCW 88.12.100  
25 shall have the authority to arrest the person.

26 (6) An officer may act upon the request of a law enforcement  
27 officer in whose presence a traffic infraction was committed, to stop,  
28 detain, arrest, or issue a notice of traffic infraction to the driver  
29 who is believed to have committed the infraction. The request by the  
30 witnessing officer shall give an officer the authority to take  
31 appropriate action under the laws of the state of Washington.

32 (7) Any police officer having probable cause to believe that a  
33 person has committed or is committing any act of indecent exposure, as  
34 defined in RCW 9A.88.010, may arrest the person.

35 (8) A police officer may arrest and take into custody, pending  
36 release on bail, personal recognizance, or court order, a person  
37 without a warrant when the officer has probable cause to believe that  
38 an order has been issued of which the person has knowledge under  
39 chapter 10.14 RCW and the person has violated the terms of that order.

1       (9) A police officer having probable cause to believe that a person  
2 illegally possesses or illegally has possessed a firearm or other  
3 dangerous weapon on private or public elementary or secondary school  
4 premises shall have the authority to arrest the person.

5       (10) Except as specifically provided in subsections (2), (3), (4),  
6 and (6) of this section, nothing in this section extends or otherwise  
7 affects the powers of arrest prescribed in Title 46 RCW.

8       (~~(10)~~) (11) No police officer may be held criminally or civilly  
9 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the  
10 police officer acts in good faith and without malice.

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