

ESSB 5038 - H COMM AMD

By Committee on Civil Rights & Judiciary

ADOPTED AS AMENDED 03/28/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 9.41.300 and 2018 c 201 s 9003 and 2018 c 201 s
4 6007 are each reenacted and amended to read as follows:

5 (1) It is unlawful for any person to enter the following places
6 when he or she knowingly possesses or knowingly has under his or her
7 control a weapon:

8 (a) The restricted access areas of a jail, or of a law
9 enforcement facility, or any place used for the confinement of a
10 person (i) arrested for, charged with, or convicted of an offense,
11 (ii) held for extradition or as a material witness, or (iii)
12 otherwise confined pursuant to an order of a court, except an order
13 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
14 include common areas of egress or ingress open to the general public;

15 (b) Those areas in any building which are used in connection with
16 court proceedings, including courtrooms, jury rooms, judge's
17 chambers, offices and areas used to conduct court business, waiting
18 areas, and corridors adjacent to areas used in connection with court
19 proceedings. The restricted areas do not include common areas of
20 ingress and egress to the building that is used in connection with
21 court proceedings, when it is possible to protect court areas without
22 restricting ingress and egress to the building. The restricted areas
23 shall be the minimum necessary to fulfill the objective of this
24 subsection (1)(b).

25 For purposes of this subsection (1)(b), "weapon" means any
26 firearm, explosive as defined in RCW 70.74.010, or any weapon of the
27 kind usually known as slungshot, sand club, or metal knuckles, or any
28 knife, dagger, dirk, or other similar weapon that is capable of
29 causing death or bodily injury and is commonly used with the intent
30 to cause death or bodily injury.

31 In addition, the local legislative authority shall provide either
32 a stationary locked box sufficient in size for pistols and key to a

1 weapon owner for weapon storage, or shall designate an official to
2 receive weapons for safekeeping, during the owner's visit to
3 restricted areas of the building. The locked box or designated
4 official shall be located within the same building used in connection
5 with court proceedings. The local legislative authority shall be
6 liable for any negligence causing damage to or loss of a weapon
7 either placed in a locked box or left with an official during the
8 owner's visit to restricted areas of the building.

9 The local judicial authority shall designate and clearly mark
10 those areas where weapons are prohibited, and shall post notices at
11 each entrance to the building of the prohibition against weapons in
12 the restricted areas;

13 (c) The restricted access areas of a public mental health
14 facility licensed or certified by the department of health for
15 inpatient hospital care and state institutions for the care of the
16 mentally ill, excluding those facilities solely for evaluation and
17 treatment. Restricted access areas do not include common areas of
18 egress and ingress open to the general public;

19 (d) That portion of an establishment classified by the state
20 liquor and cannabis board as off-limits to persons under (~~twenty-~~
21 ~~one~~) 21 years of age; or

22 (e) The restricted access areas of a commercial service airport
23 designated in the airport security plan approved by the federal
24 transportation security administration, including passenger screening
25 checkpoints at or beyond the point at which a passenger initiates the
26 screening process. These areas do not include airport drives, general
27 parking areas and walkways, and shops and areas of the terminal that
28 are outside the screening checkpoints and that are normally open to
29 unscreened passengers or visitors to the airport. Any restricted
30 access area shall be clearly indicated by prominent signs indicating
31 that firearms and other weapons are prohibited in the area.

32 (2)(a) Except as provided in (c) of this subsection, it is
33 unlawful for any person to openly carry a firearm or other weapon at
34 any permitted demonstration. This subsection (2)(a) applies whether
35 the person carries the firearm or other weapon on his or her person
36 or in a vehicle.

37 (b) It is unlawful for any person to openly carry a firearm or
38 other weapon within 250 feet of a permitted demonstration after a
39 duly authorized state or local law enforcement officer advises the
40 person of the permitted demonstration and directs the person to leave

1 until he or she no longer possesses or controls the firearm or other
2 weapon. This subsection (2)(b) does not apply to any person
3 possessing or controlling any firearm or other weapon on private
4 property owned or leased by that person.

5 (c) Duly authorized federal, state, and local law enforcement
6 officers and personnel are exempt from the provisions of this
7 subsection (2) when carrying a firearm or other weapon in conformance
8 with their employing agency's policy. Members of the armed forces of
9 the United States or the state of Washington are exempt from the
10 provisions of this subsection (2) when carrying a firearm or other
11 weapon in the discharge of official duty or traveling to or from
12 official duty.

13 (d) For purposes of this subsection, the following definitions
14 apply:

15 (i) "Permitted demonstration" means either: (A) A gathering for
16 which a permit has been issued by a federal agency, state agency, or
17 local government; or (B) a gathering of 15 or more people who are
18 assembled for a single event at a public place that has been declared
19 as permitted by the chief executive, sheriff, or chief of police of a
20 local government in which the gathering occurs. A "gathering" means a
21 demonstration, march, rally, vigil, sit-in, protest, picketing, or
22 similar public assembly.

23 (ii) "Public place" means any site accessible to the general
24 public for business, entertainment, or another lawful purpose. A
25 "public place" includes, but is not limited to, the front, immediate
26 area, or parking lot of any store, shop, restaurant, tavern, shopping
27 center, or other place of business; any public building, its grounds,
28 or surrounding area; or any public parking lot, street, right-of-way,
29 sidewalk, public park, or other public grounds.

30 (iii) "Weapon" has the same meaning given in subsection (1)(b) of
31 this section.

32 (3) Cities, towns, counties, and other municipalities may enact
33 laws and ordinances:

34 (a) Restricting the discharge of firearms in any portion of their
35 respective jurisdictions where there is a reasonable likelihood that
36 humans, domestic animals, or property will be jeopardized. Such laws
37 and ordinances shall not abridge the right of the individual
38 guaranteed by Article I, section 24 of the state Constitution to bear
39 arms in defense of self or others; and

1 (b) Restricting the possession of firearms in any stadium or
2 convention center, operated by a city, town, county, or other
3 municipality, except that such restrictions shall not apply to:

4 (i) Any pistol in the possession of a person licensed under RCW
5 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

6 (ii) Any showing, demonstration, or lecture involving the
7 exhibition of firearms.

8 ~~((3))~~ (4) (a) Cities, towns, and counties may enact ordinances
9 restricting the areas in their respective jurisdictions in which
10 firearms may be sold, but, except as provided in (b) of this
11 subsection, a business selling firearms may not be treated more
12 restrictively than other businesses located within the same zone. An
13 ordinance requiring the cessation of business within a zone shall not
14 have a shorter grandfather period for businesses selling firearms
15 than for any other businesses within the zone.

16 (b) Cities, towns, and counties may restrict the location of a
17 business selling firearms to not less than ~~((five hundred))~~ 500 feet
18 from primary or secondary school grounds, if the business has a
19 storefront, has hours during which it is open for business, and posts
20 advertisements or signs observable to passersby that firearms are
21 available for sale. A business selling firearms that exists as of the
22 date a restriction is enacted under this subsection ~~((3))~~ (4) (b)
23 shall be grandfathered according to existing law.

24 ~~((4))~~ (5) Violations of local ordinances adopted under
25 subsection ~~((2))~~ (3) of this section must have the same penalty as
26 provided for by state law.

27 ~~((5))~~ (6) The perimeter of the premises of any specific
28 location covered by subsection (1) of this section shall be posted at
29 reasonable intervals to alert the public as to the existence of any
30 law restricting the possession of firearms on the premises.

31 ~~((6))~~ (7) Subsection (1) of this section does not apply to:

32 (a) A person engaged in military activities sponsored by the
33 federal or state governments, while engaged in official duties;

34 (b) Law enforcement personnel, except that subsection (1)(b) of
35 this section does apply to a law enforcement officer who is present
36 at a courthouse building as a party to an action under chapter 10.14,
37 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
38 has alleged the existence of domestic violence as defined in RCW
39 26.50.010; or

40 (c) Security personnel while engaged in official duties.

1 (~~(7)~~) (8) Subsection (1)(a), (b), (c), and (e) of this section
2 does not apply to correctional personnel or community corrections
3 officers, as long as they are employed as such, who have completed
4 government-sponsored law enforcement firearms training, except that
5 subsection (1)(b) of this section does apply to a correctional
6 employee or community corrections officer who is present at a
7 courthouse building as a party to an action under chapter 10.14,
8 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
9 has alleged the existence of domestic violence as defined in RCW
10 26.50.010.

11 (~~(8)~~) (9) Subsection (1)(a) of this section does not apply to a
12 person licensed pursuant to RCW 9.41.070 who, upon entering the place
13 or facility, directly and promptly proceeds to the administrator of
14 the facility or the administrator's designee and obtains written
15 permission to possess the firearm while on the premises or checks his
16 or her firearm. The person may reclaim the firearms upon leaving but
17 must immediately and directly depart from the place or facility.

18 (~~(9)~~) (10) Subsection (1)(c) of this section does not apply to
19 any administrator or employee of the facility or to any person who,
20 upon entering the place or facility, directly and promptly proceeds
21 to the administrator of the facility or the administrator's designee
22 and obtains written permission to possess the firearm while on the
23 premises.

24 (~~(10)~~) (11) Subsection (1)(d) of this section does not apply to
25 the proprietor of the premises or his or her employees while engaged
26 in their employment.

27 (~~(11)~~) (12) Government-sponsored law enforcement firearms
28 training must be training that correctional personnel and community
29 corrections officers receive as part of their job requirement and
30 reference to such training does not constitute a mandate that it be
31 provided by the correctional facility.

32 (~~(12)~~) (13) Any person violating subsection (1) or (2) of this
33 section is guilty of a gross misdemeanor.

34 (~~(13)~~) (14) "Weapon" as used in this section means any firearm,
35 explosive as defined in RCW 70.74.010, or instrument or weapon listed
36 in RCW 9.41.250.

37 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW
38 to read as follows:

1 (1) Unless exempt under subsection (4) of this section, it is
2 unlawful for any person to knowingly open carry a firearm or other
3 weapon, as defined in RCW 9.41.300(1)(b), on the west state capitol
4 campus grounds, in any buildings on the state capitol grounds, in any
5 state legislative office, or at any location of a public legislative
6 hearing or meeting during the hearing or meeting.

7 (2) "Buildings on the state capitol grounds" means the following
8 buildings located on the state capitol grounds, commonly known as
9 Legislative, Temple of Justice, John L. O'Brien, John A. Cherberg,
10 Irving R. Newhouse, Joel M. Pritchard, Helen Sommers, Insurance,
11 Governor's mansion, Visitor Information Center, Carlyon House, Ayer
12 House, General Administration, 1500 Jefferson, James M. Dolliver, Old
13 Capitol, Capitol Court, State Archives, Natural Resources, Office
14 Building #2, Highway-License, Transportation, Employment Security,
15 Child Care Center, Union Avenue, Washington Street, Professional
16 Arts, State Farm, and Powerhouse buildings.

17 (3) "West state capitol campus grounds" means areas of the campus
18 south of Powerhouse Rd. SW, south of Union Avenue SW as extended
19 westward to Powerhouse Rd. SW, west of Capitol Way, north of 15th
20 Avenue SW between Capitol Way S. and Water Street SW, west of Water
21 Street between 15th Avenue SW and 16th Avenue SW, north of 16th
22 Avenue SW between Water Street SW and the east banks of Capitol Lake,
23 and east of the banks of Capitol Lake.

24 (4) Duly authorized federal, state, or local law enforcement
25 officers or personnel are exempt from this section when carrying a
26 firearm or other weapon in conformance with their employing agency's
27 policy. Members of the armed forces of the United States or the state
28 of Washington are exempt from this section when carrying a firearm or
29 other weapon in the discharge of official duty or traveling to or
30 from official duty.

31 (5) A person violating this section is guilty of a gross
32 misdemeanor.

33 NEW SECTION. **Sec. 3.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected."

37 Correct the title.

EFFECT: Provides that "weapon" has the same meaning provided under the statute that prohibits weapons in court facilities, which is "any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slungshot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury." Revises the definition of "permitted demonstration" by adding that a "gathering" means a demonstration, march, rally, vigil, sit-in, protest, picketing, or similar public assembly. Revises the law enforcement and armed forces exemption language in the provision governing open carry on the capitol campus or legislative facilities for consistency with similar exemption language applicable to permitted demonstrations. Adds a severability clause.

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