

HOUSE BILL REPORT

ESSB 5307

As Reported By House Committee On:
Judiciary

Title: An act relating to student safety and discipline.

Brief Description: Prohibiting firearms and dangerous weapons on school premises, with limited exceptions.

Sponsors: 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).

Brief History:

Reported by House Committee on:
Judiciary, April 2, 1993, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 15 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; and Tate.

Minority Report: Do not pass. Signed by 1 member: Representative Wineberry.

Staff: Margaret Allen (786-7191).

Background: State law prohibits only elementary or secondary students under the age of 21 from carrying firearms or other dangerous weapons onto public or private school premises.

The law also creates exemptions to allow students to bring weapons onto school premises under specified circumstances. Those exemptions are for students of private military academies, students in government-sponsored military activities, students attending a convention or authorized firearms safety course in which firearms are handled or displayed, students who possess weapons to be used in martial arts classes on school premises, and students

participating in an approved firearms or air gun competition.

Violation of the statute is a gross misdemeanor. However, since school officials usually confiscate dangerous weapons students bring onto school grounds, there is some concern that a law enforcement officer lacks the authority to arrest such students without a warrant. As a general rule, unless the offense is committed in the officer's presence or an exception applies, an officer must first obtain a warrant before making an arrest for a misdemeanor or gross misdemeanor. Currently there is no exception to this general rule for a violation of the statute prohibiting dangerous weapons on school premises.

In addition to being subject to arrest, a student violating the statute may be expelled from school. Some school officials have expressed concern about whether a school district legally can refuse to admit a student expelled from another district for having violated the law prohibiting weapons on school grounds. School officials also say the new school district may not receive timely notice of the expulsion, due to a statute permitting a district whose property has been lost or willfully injured to withhold the transcripts of the responsible student until the student or the student's parent has paid for the loss or damage.

While current law only addresses the possession of weapons by students, several school districts have reported incidents of parents, youths who are not students, and other persons entering school property with weapons. No official statistics exist, however, since school districts and private schools are under no formal obligation to report such incidents.

The federal Gun-Free School Zones Act, with specified exceptions, bans possession and discharge of firearms by persons of all ages in a school zone. A school zone includes not only school premises, but also the area within a distance of 1,000 feet from the grounds of a public, parochial or private school. The federal act encourages federal, state, and local authorities to post signs around school zones warning firearms are prohibited in a school zone.

Summary of Amended Bill: The prohibition against possessing firearms or other specified weapons on school premises is extended to all persons. The areas in which it is illegal to possess weapons are extended as well, to include school-provided transportation and areas of facilities while being used exclusively by public or private schools.

Exemptions also are extended from students to all persons, except the exemption for students of private military academies, which is extended only to employees. This exemption applies only while students and employees are on academy property.

Other exemptions are modified. The requirement that military activities be sponsored by the federal or state governments is deleted. The exemption for attendance at a convention or authorized firearms safety course is changed to involvement in a convention, showing, demonstration, lecture, or authorized firearms safety course. Martial arts classes must be authorized.

Several new exemptions are added. Two exemptions cover law enforcement: (1) persons engaged in law enforcement or school district security activities; and (2) law enforcement officers of the federal, state, or local government. A third exemption covers persons with concealed pistol licenses while picking up or dropping off a student. Finally, several exemptions concern weapons in vehicles. A person conducting legitimate business at the school may have a firearm or other dangerous weapon if the weapon is: (1) secured in an attended vehicle; (2) concealed in a locked, unattended vehicle; or (3) unloaded and secured in a vehicle.

Unless one of the enumerated exceptions applies, firearms are not permitted in school buildings.

A student who possesses a weapon other than a firearm, in violation of the statute, may be expelled from the state's public schools in accordance with another statute concerning student expulsions and due process guarantees. If the student violates the statute by possessing a firearm, the student must be expelled. Further, law enforcement authorities and the student's parent or guardian must be promptly notified. If the student attempts to transfer to another school, the student's records must be released promptly to the new school, even if the student has not paid for losing or damaging school property.

A police officer having probable cause to believe a person has illegally possessed a dangerous weapon on school premises may arrest the person without first obtaining a warrant.

Signs must be posted around school facilities giving notice that firearms are prohibited on school grounds.

Each school district and approved private school must report, by January 31 of every year, all known incidents

involving violations of the statute during the preceding year. The report is to be made to the superintendent of public instruction, who must compile the data and report it to the House of Representatives, the Senate, and the governor.

Amended Bill Compared to Engrossed Substitute Bill: Three exceptions are modified. First, the exception for students or employees of a private military academy applies only when they are on academy property. Second, the exception for parents, grandparents or guardians who have concealed pistol licenses, while picking up or dropping off a student, is changed to all persons while conducting legitimate business at the school. Third, the exception for law enforcement officers of any federal, state or local governmental agency is reworded to an exception for law enforcement officers of the federal, state or local government.

That firearms are not permitted in school buildings unless one of the specified exceptions applies is emphasized.

A student possessing a firearm in violation of the statute must be expelled, and the parent or guardian of the student, as well as law enforcement authorities, must be promptly notified. A statute concerning due process guarantees and student suspensions is referenced, and a statement that a student may be expelled for the remainder of the year is deleted.

A citation to the federal Gun-Free School Zones Act is removed.

School districts and approved private schools are to report annually to the superintendent of public instruction concerning violations of the prohibition against weapons on school premises.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (on striking amendment) This amendment is a workable compromise between competing interests. It sends a clear message that guns do not belong in schools, and keeps educators from having to make law enforcement decisions. It will promote student, employee and public safety.

Testimony Against: None.

Witnesses: Al Woodbridge, Washington State Rifle and Pistol Association; J.K. Johnson, Washington State Muzzleloaders

Association; Walter Ball, Association of Washington School Principals; Dwayne Slate, Washington State School Directors Association; Joan Yoshitomi, Seattle School District; and Chris Townley, Public School Employees Association.