

# SENATE BILL REPORT

## SB 5092

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As Reported By Senate Committee On:  
Judiciary, March 1, 1999

**Title:** An act relating to displaying a deadly weapon.

**Brief Description:** Defining the act of displaying a deadly weapon.

**Sponsors:** Senators Goings and Costa.

**Brief History:**

**Committee Activity:** Judiciary: 2/24/99, 3/1/99 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5092 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Johnson, McCaslin, Thibaudeau.

**Staff:** Harry Steinmetz (786-7421)

**Background:** Robbery in the first degree requires a person in the commission of a robbery (taking by force or fear) to be either armed with a deadly weapon; display what appears to be a firearm or other deadly weapon; or inflict bodily injury. In the theft and robbery chapter of the RCW there is no definition of "display."

It has been suggested that prosecutors are having a difficult time proving robbery in the first degree where the weapon is not actually seen by the victim. In situations when the perpetrator uses words to the effect of "I have a gun and will blow your head off" or manifests a weapon underneath his or her clothing, there have been questions of whether this constitutes displaying a weapon.

Under the brandishing statute, it is unlawful for a person to carry, exhibit, display, or draw a weapon under circumstances that manifest an intent to intimidate another or that warrant alarm for the safety of other persons. However, the term "display" is not defined.

**Summary of Substitute Bill:** Robbery in the first degree is amended to include a robber who accomplishes the robbery by faking a weapon. By conduct or speech, if the robber announces, implies or otherwise causes any person present at the robbery to reasonably believe that he may possess a firearm or other deadly weapon, then he is committing robbery in the first degree. It is not required that the robber actually have a weapon.

**Substitute Bill Compared to Original Bill:** The original bill created a new definition of the word "display" in the chapter of the RCW dealing with robbery and theft. The substitute bill describes the behavior in the robbery in the first degree statute.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** To a victim it makes no difference if he or she believes that a robber has a gun. The situation is terribly frightening. There is an anomaly in the law which will not allow prosecutors to prosecute robbers who fake having a gun as a first degree robbery. This bill will fix that problem. This problem could also be addressed by adding a prong to the Robbery 1 statute.

**Testimony Against:** None

**Testified:** PRO: Lilah Amos, Deputy Prosecutor, Pierce County, WAPA.