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**SENATE BILL 5038**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Kuderer and Das

Prefiled 12/24/20.

1 AN ACT Relating to prohibiting the open carry of certain weapons  
2 at public demonstrations and the state capitol; reenacting and  
3 amending RCW 9.41.300; adding a new section to chapter 9.41 RCW; and  
4 prescribing penalties.

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

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

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

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

18 (b) Those areas in any building which are used in connection with  
19 court proceedings, including courtrooms, jury rooms, judge's  
20 chambers, offices and areas used to conduct court business, waiting  
21 areas, and corridors adjacent to areas used in connection with court

1 proceedings. The restricted areas do not include common areas of  
2 ingress and egress to the building that is used in connection with  
3 court proceedings, when it is possible to protect court areas without  
4 restricting ingress and egress to the building. The restricted areas  
5 shall be the minimum necessary to fulfill the objective of this  
6 subsection (1)(b).

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

13 In addition, the local legislative authority shall provide either  
14 a stationary locked box sufficient in size for pistols and key to a  
15 weapon owner for weapon storage, or shall designate an official to  
16 receive weapons for safekeeping, during the owner's visit to  
17 restricted areas of the building. The locked box or designated  
18 official shall be located within the same building used in connection  
19 with court proceedings. The local legislative authority shall be  
20 liable for any negligence causing damage to or loss of a weapon  
21 either placed in a locked box or left with an official during the  
22 owner's visit to restricted areas of the building.

23 The local judicial authority shall designate and clearly mark  
24 those areas where weapons are prohibited, and shall post notices at  
25 each entrance to the building of the prohibition against weapons in  
26 the restricted areas;

27 (c) The restricted access areas of a public mental health  
28 facility licensed or certified by the department of health for  
29 inpatient hospital care and state institutions for the care of the  
30 mentally ill, excluding those facilities solely for evaluation and  
31 treatment. Restricted access areas do not include common areas of  
32 egress and ingress open to the general public;

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

36 (e) The restricted access areas of a commercial service airport  
37 designated in the airport security plan approved by the federal  
38 transportation security administration, including passenger screening  
39 checkpoints at or beyond the point at which a passenger initiates the  
40 screening process. These areas do not include airport drives, general

1 parking areas and walkways, and shops and areas of the terminal that  
2 are outside the screening checkpoints and that are normally open to  
3 unscreened passengers or visitors to the airport. Any restricted  
4 access area shall be clearly indicated by prominent signs indicating  
5 that firearms and other weapons are prohibited in the area.

6 (2)(a) Unless exempted in (c) of this subsection, it is unlawful  
7 for any person to knowingly open carry a firearm or any weapon as  
8 described in this chapter while participating in or attending any  
9 demonstration being held at a public place. This subsection (2)(a)  
10 applies whether the person carries the weapon on his or her person or  
11 in a vehicle.

12 (b) It is unlawful for any person to knowingly open carry a  
13 firearm or any weapon within 1,000 feet of a demonstration at a  
14 public place after a duly authorized state or local law enforcement  
15 officer advises the person of the demonstration and directs the  
16 person to leave until he or she no longer possesses or controls a  
17 weapon. This subsection (2)(b) does not apply to any person  
18 possessing or controlling any weapon inside a private dwelling,  
19 building, or structure.

20 (c) Duly authorized state and local law enforcement officers and  
21 personnel are exempt from the provisions of this section when  
22 carrying a firearm in conformance with their employing agency's  
23 policy.

24 (d) For purposes of this subsection, the following definitions  
25 apply:

26 (i) "Demonstration" means conduct by one or more persons  
27 communicating or expressing views or grievances which has the effect,  
28 intent, or likelihood of attracting a crowd. "Demonstration"  
29 includes, but is not limited to, a march, rally, vigil, sit-in, or  
30 picketing. "Demonstration" does not include casual use of property by  
31 visitors or tourists which does not have an intent or likelihood of  
32 attracting a crowd.

33 (ii) "Public place" means any site accessible to the general  
34 public for business, entertainment, or other lawful purpose. A  
35 "public place" includes, but is not limited to, the front, immediate  
36 area, or parking lot of any store, shop, restaurant, tavern, shopping  
37 center, or other place of business; any public building, its grounds,  
38 or surrounding area; or any public parking lot, street, right-of-way,  
39 sidewalk, public park, or other public grounds.

1       (3) Cities, towns, counties, and other municipalities may enact  
2 laws and ordinances:

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

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

12       (i) Any pistol in the possession of a person licensed under RCW  
13 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

14       (ii) Any showing, demonstration, or lecture involving the  
15 exhibition of firearms.

16       (~~(3)~~) (4) (a) Cities, towns, and counties may enact ordinances  
17 restricting the areas in their respective jurisdictions in which  
18 firearms may be sold, but, except as provided in (b) of this  
19 subsection, a business selling firearms may not be treated more  
20 restrictively than other businesses located within the same zone. An  
21 ordinance requiring the cessation of business within a zone shall not  
22 have a shorter grandfather period for businesses selling firearms  
23 than for any other businesses within the zone.

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

32       (~~(4)~~) (5) Violations of local ordinances adopted under  
33 subsection (~~(2)~~) (3) of this section must have the same penalty as  
34 provided for by state law.

35       (~~(5)~~) (6) The perimeter of the premises of any specific  
36 location covered by subsection (1) of this section shall be posted at  
37 reasonable intervals to alert the public as to the existence of any  
38 law restricting the possession of firearms on the premises.

39       (~~(6)~~) (7) Subsection (1) of this section does not apply to:

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

3 (b) Law enforcement personnel, except that subsection (1)(b) of  
4 this section does apply to a law enforcement officer who is present  
5 at a courthouse building as a party to an action under chapter 10.14,  
6 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party  
7 has alleged the existence of domestic violence as defined in RCW  
8 26.50.010; or

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

10 ~~((7))~~ (8) Subsection (1)(a), (b), (c), and (e) of this section  
11 does not apply to correctional personnel or community corrections  
12 officers, as long as they are employed as such, who have completed  
13 government-sponsored law enforcement firearms training, except that  
14 subsection (1)(b) of this section does apply to a correctional  
15 employee or community corrections officer who is present at a  
16 courthouse building as a party to an action under chapter 10.14,  
17 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party  
18 has alleged the existence of domestic violence as defined in RCW  
19 26.50.010.

20 ~~((8))~~ (9) Subsection (1)(a) of this section does not apply to a  
21 person licensed pursuant to RCW 9.41.070 who, upon entering the place  
22 or facility, directly and promptly proceeds to the administrator of  
23 the facility or the administrator's designee and obtains written  
24 permission to possess the firearm while on the premises or checks his  
25 or her firearm. The person may reclaim the firearms upon leaving but  
26 must immediately and directly depart from the place or facility.

27 ~~((9))~~ (10) Subsection (1)(c) of this section does not apply to  
28 any administrator or employee of the facility or to any person who,  
29 upon entering the place or facility, directly and promptly proceeds  
30 to the administrator of the facility or the administrator's designee  
31 and obtains written permission to possess the firearm while on the  
32 premises.

33 ~~((10))~~ (11) Subsection (1)(d) of this section does not apply to  
34 the proprietor of the premises or his or her employees while engaged  
35 in their employment.

36 ~~((11))~~ (12) Government-sponsored law enforcement firearms  
37 training must be training that correctional personnel and community  
38 corrections officers receive as part of their job requirement and  
39 reference to such training does not constitute a mandate that it be  
40 provided by the correctional facility.

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

3        (~~(13)~~) (14) "Weapon" as used in this section means any firearm,  
4 explosive as defined in RCW 70.74.010, or instrument or weapon listed  
5 in RCW 9.41.250.

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

8        (1) Unless exempt under subsection (2) of this section, it is  
9 unlawful for any person to knowingly open carry a firearm or other  
10 weapon described in this chapter on the state capitol grounds, in any  
11 building on the state capitol grounds, in any state legislative  
12 office, or at any location of a public legislative hearing or meeting  
13 during the hearing or meeting.

14        (2) Duly authorized state or local law enforcement officers or  
15 personnel are exempt from this section when carrying a firearm in  
16 conformance with their employing agency's policy.

17        (3) A person violating this section is guilty of a gross  
18 misdemeanor.

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