

Senator Lane Beattie proposes to substitute the following bill:

**RESTRICTIONS ON WEAPONS -  
ELEMENTARY AND SECONDARY SCHOOLS**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lane Beattie**

AN ACT RELATING TO WEAPONS; PROVIDING CROSS REFERENCES TO RESTRICTED  
AREAS FOR CONCEALED FIREARM PERMIT HOLDERS; PROVIDING DEFINITIONS;  
AMENDING RESTRICTIONS ON A PERSON, INCLUDING A CONCEALED FIREARM  
PERMIT HOLDER, ON ELEMENTARY AND SECONDARY SCHOOL PREMISES;  
PRESCRIBING EXCEPTIONS; PROVIDING FOR CONFIDENTIALITY AND  
NONDISCRIMINATION REGARDING NOTIFICATION; PRESCRIBING PENALTIES; AND  
MAKING CONFORMING AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**53-5-710**, as last amended by Chapter 366, Laws of Utah 1999

**53A-3-502**, as enacted by Chapter 2, Laws of Utah 1988

**53A-11-904**, as last amended by Chapter 74, Laws of Utah 1996

**76-3-203.2**, as last amended by Chapter 289, Laws of Utah 1997

**76-10-505.5**, as last amended by Chapters 10 and 289, Laws of Utah 1997

**76-10-523**, as last amended by Chapters 57 and 144, Laws of Utah 1997

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-5-710** is amended to read:

**53-5-710. Cross-references to concealed firearm permit restrictions.**

A person with a permit to carry a concealed firearm may not carry a concealed firearm in  
the following locations:

- 26 (1) on school premises in violation of Section 75-10-505.5;
- 27 ~~[(+)]~~ (2) any secure area prescribed in Section 76-10-523.5 in which firearms are
- 28 prohibited and notice of the prohibition posted;
- 29 ~~[(2)]~~ (3) in any airport secure area as provided in Section 76-10-529;
- 30 ~~[(3)]~~ (4) in any house of worship or in any private residence where dangerous weapons are
- 31 prohibited as provided in Section 76-10-530; or
- 32 ~~[(4)]~~ (5) at an Olympic venue secure area in violation of Section 76-10-531.

33 Section 2. Section **53A-3-502** is amended to read:

34 **53A-3-502. Dangerous materials in the public schools -- Class B misdemeanor --**  
35 **Exceptions.**

36 (1) A person who possesses [~~a weapon, explosive, flammable material, or other~~] material  
37 dangerous to persons or property, other than a dangerous weapon restricted under Section  
38 76-10-505.5 or an explosive, chemical, or incendiary device restricted under Section 76-10-306,  
39 in a public or private elementary or secondary school, on the grounds of the school, or in those  
40 parts of a building, park, or stadium which are being used for an activity sponsored by or through  
41 the school is guilty of a class B misdemeanor, unless a higher penalty is prescribed in Title 76,  
42 Criminal Code, in which case the penalty provisions of that title control.

43 (2) Subsection (1) does not apply under the following circumstances:

- 44 (a) possession is approved by the responsible school administrator; or
- 45 (b) the item or material is present or to be used in connection with a lawful, approved
- 46 activity and is in the possession or under the control of the person responsible for its possession
- 47 or use.

48 Section 3. Section **53A-11-904** is amended to read:

49 **53A-11-904. Grounds for suspension or expulsion from a public school.**

50 (1) A student may be suspended or expelled from a public school for any of the following  
51 reasons:

- 52 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive
- 53 behavior, including the use of foul, profane, vulgar, or abusive language;
- 54 (b) willful destruction or defacing of school property;
- 55 (c) behavior or threatened behavior which poses an immediate and significant threat to the
- 56 welfare, safety, or morals of other students or school personnel or to the operation of the school;

57 (d) possession, control, or use of an alcoholic beverage as defined in Section 32A-1-105;  
58 or

59 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the  
60 school or school property, to a person associated with the school, or property associated with any  
61 such person, regardless of where it occurs.

62 (2) (a) A student shall be suspended or expelled from a public school for any of the  
63 following reasons:

64 (i) any serious violation affecting another student or a staff member, or any serious  
65 violation occurring in a school building, in or on school property, or in conjunction with any  
66 school activity, including the possession, control, or actual or threatened use of a real, look alike,  
67 or pretend weapon, explosive, or noxious or flammable material under ~~[Section]~~ Sections  
68 53A-3-502, 76-10-306, or 76-10-505.5, or the sale, control, or distribution of a drug or controlled  
69 substance as defined in Section 58-37-2, an imitation controlled substance defined in Section  
70 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

71 (ii) the commission of an act involving the use of force or the threatened use of force  
72 which if committed by an adult would be a felony or class A misdemeanor.

73 (b) A student who commits a violation of Subsection (2)(a) involving a real, look alike,  
74 or pretend firearm, explosive, or flammable material shall be expelled from school for a period of  
75 not less than one year, unless the district superintendent determines, on a case-by-case basis, that  
76 a lesser penalty would be more appropriate.

77 (3) A student may be denied admission to a public school on the basis of having been  
78 expelled from that or any other school during the preceding 12 months.

79 (4) A suspension or expulsion under this section is not subject to the age limitations under  
80 Subsection 53A-11-102(1).

81 Section 4. Section **76-3-203.2** is amended to read:

82 **76-3-203.2. Definitions -- Use of dangerous weapon in offenses committed on or**  
83 **about school premises -- Enhanced penalties.**

84 (1) For purposes of this section:

85 (a) "On or about school premises" as used in this section [~~and Section 76-10-505.5~~] means  
86 any of the following:

87 (i) in a public or private elementary, secondary, or on the grounds of any of those schools;

88 (ii) in a public or private vocational school or postsecondary institution or on the grounds  
89 of any of those schools or institutions;

90 (iii) in those portions of any building, park, stadium, or other structure or grounds which  
91 are, at the time of the act, being used for an activity sponsored by or through a school or institution  
92 under Subsections (1)(a)(i) and (ii);

93 (iv) in or on the grounds of a preschool or child-care facility; and

94 (v) within 1,000 feet of any structure, facility, or grounds included in Subsections (1)(a)(i),  
95 (ii), (iii), and (iv).

96 (b) As used in this section:

97 (i) "Educator" means any person who is employed by a public school district and who is  
98 required to hold a certificate issued by the State Board of Education in order to perform duties of  
99 employment.

100 (ii) "Within the course of employment" means that an educator is providing services or  
101 engaging in conduct required by the educator's employer to perform the duties of employment.

102 (2) Any person who, on or about school premises, commits any offense and uses or  
103 threatens to use a dangerous weapon, as defined in Section 76-1-601, in the commission of the  
104 offense is subject to an enhanced degree of offense as provided in ~~[Subsection]~~ Subsections (4)  
105 and (5).

106 (3) (a) Any person who commits an offense against an educator when the educator is  
107 acting within the course of employment is subject to an enhanced degree of offense as provided  
108 in ~~[Subsection]~~ Subsections (4) and (5).

109 (b) As used in Subsection (3)(a), "offense" means ~~[an]~~ any offense:

110 (i) under Title 76, Chapter 5, Offenses Against The Person; ~~[and]~~ or  
111 ~~[(c) an offense]~~ (ii) under Title 76, Chapter 6, Part 3, Robbery.

112 (4) The enhanced degree of offense for offenses committed under this section are:

113 (a) if the offense is otherwise a class B misdemeanor, it is a class A misdemeanor;

114 (b) if the offense is otherwise a class A misdemeanor, it is a third degree felony;

115 (c) if the offense is otherwise a third degree felony, it is a second degree felony; or

116 (d) if the offense is otherwise a second degree felony, it is a first degree felony.

117 (5) The enhanced penalty for a first degree felony offense of a convicted person:

118 (a) shall be imprisonment for a term of not less than five years and which may be for life,

119 and imposition or execution of the sentence may not be suspended unless the court:

120 (i) finds that the interests of justice would be best served; and

121 (ii) states the specific circumstances justifying the disposition on the record; and

122 (b) shall ~~be~~ subject the person also to the dangerous weapon enhancement provided in  
123 Section 76-3-203 except for an offense committed under Subsection (3) that does not involve a  
124 firearm.

125 (6) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide  
126 notice upon the information or indictment that the defendant is subject to the enhanced degree of  
127 offense or penalty under Subsection (4) or (5).

128 (b) The notice shall be in a clause separate from and in addition to the substantive offense  
129 charged.

130 ~~(b)~~ (c) If the notice is not included initially, the court may subsequently allow the  
131 prosecutor to amend the charging documents to include the notice if the court finds:

132 (i) the charging document, including any statement of probable cause, provide notice to  
133 the defendant of the allegation he committed the offense on or about school premises~~;~~; or ~~if the~~  
134 ~~court finds]~~

135 (ii) the defendant has not otherwise been substantially prejudiced by the omission.

136 (7) ~~It~~ The convicted person may not be subject to the dangerous weapon enhancement  
137 in Section 76-3-203:

138 (a) in cases where an offense is enhanced pursuant to Subsection (4)(a), (b), (c), or (d)~~;~~;

139 or

140 (b) under Subsection (5)(a) for an offense committed under Subsection (2) that does not  
141 involve a firearm~~;~~ ~~the convicted person shall not be subject to the dangerous weapon enhancement~~  
142 ~~in Section 76-3-203].~~

143 Section 5. Section **76-10-505.5** is amended to read:

144 **76-10-505.5. Possession of a dangerous weapon or firearm on school premises --**

145 **Penalties -- Exceptions -- Concealed firearm provisions.**

146 (1) For purposes of this section:

147 (a) "On school premises" means:

148 (i) in a public or private elementary or secondary school building;

149 (ii) the clearly identifiable grounds of the school; or

150 (iii) those parts of any other building, facility, or real property that may be used for other  
151 functions but are, at the time in question, being used exclusively for an activity sponsored by or  
152 through the school.

153 (b) "Regular school day" includes one hour before the beginning of regularly scheduled  
154 classroom instruction through one hour after the end of regularly scheduled classroom instruction.

155 ~~[(1) A]~~ (2) Except as provided in Subsection (4), a person may not knowingly and  
156 intentionally possess any dangerous weapon, including a firearm, [or sawed-off shotgun,] as those  
157 terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause  
158 to believe, is on ~~[or about]~~ school premises.

159 ~~[(2)]~~ (3) (a) Possession of a dangerous weapon which is not a firearm on ~~[or about]~~ school  
160 premises is a class B misdemeanor.

161 (b) Possession of a firearm ~~[or sawed-off shotgun]~~ on ~~[or about]~~ school premises is a class  
162 A misdemeanor, except as provided in Subsections (4) and (6).

163 ~~[(3) This section]~~ (4) The prohibition in Subsection (2) applies to any person[;] except  
164 ~~[persons authorized to possess a firearm as provided under Sections 53-5-704, 53-5-705,~~  
165 ~~53A-3-502, 76-10-511, 76-10-523, Subsection 76-10-504(2), and as otherwise authorized by law.]~~  
166 as follows:

167 (a) a person who is authorized to possess a firearm at his place of residence by Section  
168 76-10-511;

169 (b) a sworn, full-time law enforcement officer defined in Section 53-13-103;

170 (c) a person listed in Subsections 76-10-523(1)(a) through (1)(e), other than a sworn,  
171 full-time law enforcement officer, so long as the person prior to or immediately upon entering a  
172 school building during the regular school day goes to the principal's office to notify the principal,  
173 or his designee if the principal is unavailable, that he is carrying a firearm, unless he is a peace  
174 officer responding to a public safety need and acting within the scope of his authority under Title  
175 53, Chapter 13, Peace Officer Classifications; and

176 (d) a person licensed to carry a concealed firearm is permitted to possess a firearm:

177 (i) regardless of whether it is during the regular school day, on parking lots, streets,  
178 sidewalks, or walkways that:

179 (A) are adjacent to, or cross school property; and

180 (B) are freely accessible to, and intended for use by, the general public for public and

181 private purposes; or

182 (ii) in a school building or on school premises, other than those locations permitted by  
 183 Subsection (4)(d)(i), during the regular school day so long as the person, prior to entering or  
 184 immediately upon entering on school premises, notifies the principal, or his designee if the  
 185 principal is unavailable, that he is carrying a concealed firearm.

186 (5) (a) The person may indicate to the principal or his designee during the notification in  
 187 Subsection (4)(d)(ii) how often and under what types of circumstances he might be carrying a  
 188 concealed firearm on school premises.

189 (b) The person shall repeat the notification required in Subsection (4)(d)(ii) to each new  
 190 principal.

191 (6) A person who knowingly and intentionally fails to notify as required by Subsections  
 192 (4)(d)(ii) and (5) is guilty of § [a class C misdemeanor] AN INFRACTION § .

193 (7) (a) The notification by a person pursuant to Subsections (4) and (5) to the school  
 194 principal or his designee shall be kept confidential by the principal or his designee except that the  
 195 principal or his designee may notify law enforcement personnel if the principal or his designee  
 196 reasonably believes it is the intent of the person to bring harm to himself or others.

197 (b) A person employed by the administration of a school or school district who is  
 198 convicted for identifying or discriminating in any way against any person who has notified the  
 199 administration pursuant to this section:

200 (i) upon the first conviction of violating § [Subsections (5) and (6)] SUBSECTION (7) § , is  
 200a guilty of an infraction;

201 and

202 (ii) upon a second conviction of violating § [Subsections (5) and (6)] SUBSECTION (7) § , is  
 202a guilty of a class C  
 203 misdemeanor.

204 ~~[(4)]~~ (8) This section does not prohibit prosecution of a more serious weapons offense that  
 205 may occur on or about school premises.

206 Section 6. Section **76-10-523** is amended to read:

207 **76-10-523. Persons exempt from weapons laws.**

208 (1) ~~[This]~~ Except as provided in Section 76-10-505.5, this part and Title 53, Chapter 5,  
 209 Part 7, Concealed Weapon Act, do not apply to any of the following:

210 (a) a United States marshal while engaged in the performance of his official duties;

211 (b) a federal official required to carry a firearm while engaged in the performance of his

212 official duties;

213 (c) a peace officer of this or any other jurisdiction while engaged in the performance of his

214 official duties;

215 (d) a law enforcement official as defined and qualified under Section 53-5-711;

216 (e) a judge as defined and qualified in Section 53-5-711;

217 (f) a common carrier while engaged in the regular and ordinary transport of firearms as

218 merchandise; or

219 (g) a nonresident traveling in or through the state, provided that any firearm is:

220 (i) unloaded; and

221 (ii) securely encased as defined in Section 76-10-501.

222 (2) The provisions of Subsections 76-10-504(1)(a), (1)(b), and Section 76-10-505 do not

223 apply to any person to whom a permit to carry a concealed firearm has been issued:

224 (a) pursuant to Section 53-5-704; or

225 (b) by another state whose requirements for issuance of a concealed firearm permit have

226 been determined annually by the Department of Public Safety to meet or exceed the requirements

227 for issuance of a concealed firearm permit in this state.