

Senator Patrice M. Arent proposes the following substitute bill:

**DANGEROUS WEAPONS AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael G. Waddoups**

**This act modifies provisions on dangerous weapons by providing clarification on the restriction of weapons at schools and restricting certain drug offenders from possessing a dangerous weapon. The act prohibits the carrying of concealed weapons on about school premises with certain exceptions.**

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 210, Laws of Utah 2002

**76-10-503**, as repealed and reenacted by Chapter 303, Laws of Utah 2000

**76-10-505.5**, as last amended by Chapters 10 and 289, 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:

(1) any secure area prescribed in Section 76-10-523.5 in which firearms are prohibited and notice of the prohibition posted;

(2) in any airport secure area as provided in Section 76-10-529; [or]

(3) in any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section 76-10-530[.]; or



26 (4) on or about school premises as defined in Subsections 76-3-203.2(1)(a)(i), (ii), (iii),  
27 except as otherwise provided in Subsection 76-10-505.5(3).

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

29 **53A-3-502. Dangerous materials in the public schools -- Class B misdemeanor --**  
30 **Exceptions.**

31 (1) [~~A~~] Except for those persons provided for in Subsections 76-10-523(1)(a), (b), (c),  
32 (d), and (e), a person who possesses [~~a weapon,~~] an explosive substance that is not an explosive  
33 as defined in Subsection 76-10-306(1), flammable material, or other material dangerous to  
34 persons or property in a public or private elementary or secondary school, on the grounds of the  
35 school, or in those parts of a building, park, or stadium which are being used for an activity  
36 sponsored by or through the school is guilty of a class B misdemeanor, unless a higher penalty  
37 is prescribed in Title 76, Criminal Code, in which case the penalty provisions of that title  
38 control.

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

40 (a) possession is approved by the responsible school administrator; [~~or~~] and

41 (b) the item or material is present or to be used in connection with a lawful, approved  
42 activity and is in the possession or under the control of the person responsible for its possession  
43 or use.

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

45 **53A-11-904. Grounds for suspension or expulsion from a public school.**

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

48 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive  
49 behavior, including the use of foul, profane, vulgar, or abusive language;

50 (b) willful destruction or defacing of school property;

51 (c) behavior or threatened behavior which poses an immediate and significant threat to  
52 the welfare, safety, or morals of other students or school personnel or to the operation of the  
53 school;

54 (d) possession, control, or use of an alcoholic beverage as defined in Section  
55 32A-1-105; or

56 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the

57 school or school property, to a person associated with the school, or property associated with  
58 that person, regardless of where it occurs.

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

61 (i) any serious violation affecting another student or a staff member, or any serious  
62 violation occurring in a school building, in or on school property, or in conjunction with any  
63 school activity, including:

64 (A) the possession, control, or actual or threatened use of a real weapon, explosive, or  
65 noxious or flammable material [~~under Section 53A-3-502~~];

66 (B) the actual or threatened use of a look alike weapon with intent to intimidate another  
67 person or to disrupt normal school activities; or

68 (C) the sale, control, or distribution of a drug or controlled substance as defined in  
69 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug  
70 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 or look  
74 alike weapon, explosive, or flammable material shall be expelled from school for a period of  
75 not less than one year subject to the following:

76 (i) within 45 days after the expulsion the student shall appear before the student's local  
77 school board superintendent or the superintendent's designee, accompanied by a parent or legal  
78 guardian; and

79 (ii) the superintendent shall determine:

80 (A) what conditions must be met by the student and the student's parent for the student  
81 to return to school;

82 (B) if the student should be placed on probation in a regular or alternative school  
83 setting consistent with Section 53A-11-907, and what conditions must be met by the student in  
84 order to ensure the safety of students and faculty at the school the student is placed in; and

85 (C) if it would be in the best interest of both the school district and the student to  
86 modify the expulsion term to less than a year, conditioned on approval by the local school  
87 board and giving highest priority to providing a safe school environment for all students.

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

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

92 (5) Each local school board shall prepare an annual report for the State Board of  
93 Education on:

94 (a) each violation committed under this section; and

95 (b) each action taken by the school district against a student who committed the  
96 violation.

97 Section 4. Section **76-10-503** is amended to read:

98 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**  
99 **dangerous weapons by certain persons.**

100 (1) For purposes of this section:

101 (a) A Category I restricted person is a person who:

102 (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

103 (ii) is on probation or parole for any felony;

104 (iii) is on parole from a secure facility as defined in Section 62A-7-101; or

105 (iv) within the last ten years has been adjudicated delinquent for an offense which if  
106 committed by an adult would have been a violent felony as defined in Section 76-3-203.5.

107 (b) A Category II restricted person is a person who:

108 (i) has been convicted of or is under indictment for any felony;

109 (ii) within the last seven years has been adjudicated delinquent for an offense which if  
110 committed by an adult would have been a felony;

111 (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

112 (iv) is in possession of a dangerous weapon and is knowingly and intentionally in  
113 unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

114 (v) has been found not guilty by reason of insanity for a felony offense;

115 (vi) has been found mentally incompetent to stand trial for a felony offense;

116 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun  
117 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed  
118 to a mental institution;

- 119 (viii) is an alien who is illegally or unlawfully in the United States;
- 120 (ix) has been dishonorably discharged from the armed forces; or
- 121 (x) has renounced his citizenship after having been a citizen of the United States.

122 (2) A Category I restricted person who purchases, transfers, possesses, uses, or has  
123 under his custody or control:

- 124 (a) any firearm is guilty of a second degree felony; or
- 125 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

126 (3) A Category II restricted person who purchases, transfers, possesses, uses, or has  
127 under his custody or control:

- 128 (a) any firearm is guilty of a third degree felony; or
- 129 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

130 (4) A person may be subject to the restrictions of both categories at the same time.

131 (5) If a higher penalty than is prescribed in this section is provided in another section  
132 for one who purchases, transfers, possesses, uses, or has under this custody or control any  
133 dangerous weapon, the penalties of that section control.

134 (6) It is an affirmative defense to a charge based on the definition in Subsection  
135 (1)(b)(iv) that the person was:

136 (a) in possession of a controlled substance pursuant to a lawful order of a practitioner  
137 for use of a member of the person's household or for administration to an animal owned by the  
138 person or a member of the person's household; or

139 (b) otherwise authorized by law to possess the substance.

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

141 **76-10-505.5. Possession of a dangerous weapon, firearm, or sawed-off shotgun on**  
142 **or about school premises -- Penalties.**

143 (1) A person may not possess any dangerous weapon, firearm, or sawed-off shotgun, as  
144 those terms are defined in Section 76-10-501, at a place that the person knows, or has  
145 reasonable cause to believe, is on or about school premises as defined in Subsections  
146 76-3-203.2(1)(a)(i), (ii), and (iii).

147 (2) (a) Possession of a dangerous weapon on or about school premises is a class B  
148 misdemeanor.

149 (b) Possession of a firearm or sawed-off shotgun on or about school premises is a class

150 A misdemeanor.

151 (3) This section [~~applies to any person, except persons~~] does not apply if:

152 (a) the person is authorized to possess a firearm as provided under [~~Sections 53-5-704,~~

153 ~~53-5-705, 53A-3-502,] Section 76-10-511, [~~76-10-523;~~ Subsection [~~76-10-504(2), and]~~~~

154 ~~76-10-523(1), or as otherwise authorized by law[-];~~

155 (b) (i) the possession is approved in advance by the responsible school administrator;

156 and

157 (ii) the dangerous weapon or firearm is present or to be used in connection with a

158 lawful, approved activity or purpose and is in the possession or under the control of the person

159 responsible for its possession or use; or

160 (c) the possession is:

161 (i) in any vehicle lawfully under the person's control, other than a vehicle owned by the

162 school or used by the school to transport students; or

163 (ii) on a person licensed to carry a concealed weapon under Section 53-5-704 or

164 53-5-705, whose presence on school premises is transitory for the purposes of bringing a

165 person to or taking a person from the school premises.

166 (4) This section does not prohibit prosecution of a more serious weapons offense that

167 may occur on or about school premises.