

Representative Judy Ann Buffmire 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 modifies notice requirements related to prohibiting firearms in a house of worship.

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76-10-503, as repealed and reenacted by Chapter 303, Laws of Utah 2000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

76-10-530, as enacted by Chapter 366, Laws of Utah 1999

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]



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

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

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

31 **53A-3-502. Dangerous materials in the public schools -- Class B misdemeanor --**
32 **Exceptions.**

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

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

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

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

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

47 **53A-11-904. Grounds for suspension or expulsion from a public school.**

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

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

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

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

56 (d) possession, control, or use of an alcoholic beverage as defined in Section

57 32A-1-105; or

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

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

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

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

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

70 (C) the sale, control, or distribution of a drug or controlled substance as defined in
71 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug
72 paraphernalia as defined in Section 58-37a-3; or

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

75 (b) A student who commits a violation of Subsection (2)(a) involving a real or look
76 alike weapon, explosive, or flammable material shall be expelled from school for a period of
77 not less than one year subject to the following:

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

81 (ii) the superintendent shall determine:

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

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

87 (C) if it would be in the best interest of both the school district and the student to

88 modify the expulsion term to less than a year, conditioned on approval by the local school
89 board and giving highest priority to providing a safe school environment for all students.

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

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

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

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

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

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

100 **76-10-503. Restrictions on possession, purchase, transfer, and ownership of**
101 **dangerous weapons by certain persons.**

102 (1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

118 (vii) has been adjudicated as mentally defective as provided in the Brady Handgun

119 Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed
120 to a mental institution;

121 (viii) is an alien who is illegally or unlawfully in the United States;

122 (ix) has been dishonorably discharged from the armed forces; or

123 (x) has renounced his citizenship after having been a citizen of the United States.

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

126 (a) any firearm is guilty of a second degree felony; or

127 (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

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

130 (a) any firearm is guilty of a third degree felony; or

131 (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

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

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

136 (6) It is an affirmative defense to a charge based on the definition in Subsection

137 (1)(b)(iv) that the person was:

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

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

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

143 **76-10-505.5. Possession of a dangerous weapon, firearm, or sawed-off shotgun on**
144 **or about school premises -- Penalties.**

145 (1) A person may not possess any dangerous weapon, firearm, or sawed-off shotgun, as
146 those terms are defined in Section 76-10-501, at a place that the person knows, or has
147 reasonable cause to believe, is on or about school premises as defined in Subsections
148 76-3-203.2(1)(a)(i), (ii), and (iii).

149 (2) (a) Possession of a dangerous weapon on or about school premises is a class B

150 misdemeanor.

151 (b) Possession of a firearm or sawed-off shotgun on or about school premises is a class
152 A misdemeanor.

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

154 (a) the person is authorized to possess a firearm as provided under [Sections 53-5-704,
155 53-5-705, 53A-3-502,] Section 76-10-511, [76-10-523,] Subsection [76-10-504(2), and]
156 76-10-523(1), or as otherwise authorized by law[-];

157 (b) (i) the possession is approved in advance by the responsible school administrator;
158 and

159 (ii) the dangerous weapon or firearm is present or to be used in connection with a
160 lawful, approved activity or purpose and is in the possession or under the control of the person
161 responsible for its possession or use; or

162 (c) the possession is:

163 (i) in any vehicle lawfully under the person's control, other than a vehicle owned by the
164 school or used by the school to transport students; or

165 (ii) on a person licensed to carry a concealed weapon under Section 53-5-704 or
166 53-5-705, whose presence on school premises is transitory for the purposes of bringing a
167 person to or taking a person from the school premises.

168 (4) This section does not prohibit prosecution of a more serious weapons offense that
169 may occur on or about school premises.

170 Section 6. Section **76-10-530** is amended to read:

171 **76-10-530. Trespass with a firearm in a house of worship or private residence --**
172 **Notice -- Penalty.**

173 (1) A person, including a person licensed to carry a concealed firearm pursuant to Title
174 53, Chapter 5, Part 7, Concealed Weapon Act, after [~~having received~~] notice has been given as
175 provided in Subsection (2) that firearms are prohibited, may not knowingly and intentionally:

176 (a) transport a firearm into:

177 (i) a house of worship; or

178 (ii) a private residence; or

179 (b) while in possession of a firearm, enter or remain in:

180 (i) a house of worship; or

181 (ii) a private residence.
182 (2) Notice that firearms are prohibited may be ~~made~~ given by:
183 (a) personal communication to the actor by:
184 (i) the church or organization operating the house of worship;
185 (ii) the owner, lessee, or person with lawful right of possession of the private
186 residence; or
187 (iii) a person with authority to act for the person or entity in Subsections (2)(a)(i) and
188 (ii); ~~or~~
189 (b) posting of signs reasonably likely to come to the attention of persons entering the
190 house of worship or private residence[-];
191 (c) announcement, by a person with authority to act for the church or organization
192 operating the house of worship, in a regular congregational meeting in the house of worship;
193 (d) publication in a bulletin, newsletter, worship program or similar document
194 generally circulated or available to the members of the congregation regularly meeting in the
195 house of worship; or
196 (e) publication in a newspaper of general circulation in the county in which the house
197 of worship is located or the church or organization operating the house of worship has its
198 principal office in this state.
199 (3) A church or organization operating a house of worship and giving notice that
200 firearms are prohibited may:
201 (a) revoke the notice, with or without supersedure, by giving further notice in any
202 manner provided in Subsection (2); and
203 (b) provide or allow exceptions to the prohibition as the church or organization
204 considers advisable.
205 (4) (a) Within 30 days of giving or revoking any notice pursuant to Subsection (2)(c),
206 (2)(d), or (2)(e), a church or organization operating a house of worship shall notify the division
207 on a form and in a manner as the division shall prescribe.
208 (b) Any notice given pursuant to Subsection (2)(c), (2)(d), or (2)(e) shall remain in
209 effect until revoked or for a period of five years from the date the notice was originally given,
210 whichever occurs first.
211 ~~(3)~~ (5) Nothing in this section permits an owner who has granted the lawful right of

212 possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm
213 in the residence.
214 [~~4~~] 6 A violation of this section is an infraction.