

CHAPTER 214

CRIMINAL LAW AND PROCEDURE

SENATE BILL 93-38

BY SENATORS Gallagher, Bishop, Casey, Groff, Hopper, Johnson, Mares, Martinez, Norton, Pastore, Peterson, L. Powers, R. Powers, Rizzuto, Ruddick, Schroeder, Traylor, Trujillo, Weissmann, Wells, and Wham;
also REPRESENTATIVES R. Hernandez, Allen, Armstrong, Benavidez, Friednash, Hagedorn, T. Hernandez, June, Kaufman, Kerns, Lyle, Reeser, and Snyder.

AN ACT**CONCERNING WEAPONS IN SCHOOL ZONES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 18-12-105, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-12-105. Unlawfully carrying a concealed weapon - unlawful possession of weapons. (1) A person commits a class 2 misdemeanor if ~~he~~ **SUCH PERSON** knowingly and unlawfully:

(a) Carries a knife concealed on or about his OR HER person; or

(b) Carries a firearm concealed on or about his OR HER person; or

(c) Without legal authority, carries, brings, or has in ~~his~~ **SUCH PERSON'S** possession a firearm or any explosive, incendiary, or other dangerous device ON THE PROPERTY OF OR within any building in which the chambers, galleries, or offices of the general assembly, or either house thereof, are located, or in which a legislative hearing or meeting is being or is to be conducted, or in which the official offices of any member, officer, or employee of the general assembly are located.

(d) ~~Without legal authority, carries, brings, or has in his possession a deadly weapon as defined in section 18-1-901 (3) (c) in or on the real estate and all improvements erected thereon of any public or private elementary or secondary~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~school or any public or private college, university, or seminary except for the purpose of presenting an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class, for the purpose of carrying out the necessary duties and functions of an employee of an educational institution which require the use of a deadly weapon, or for the purpose of participation in an authorized extracurricular activity or athletic team. This paragraph (d) shall not apply to any unloaded weapon which remains inside a motor vehicle while upon the real estate of any public or private elementary or secondary school or any public or private college, university, or seminary. This paragraph (d) shall not apply to any person who is lawfully hunting upon any public land in this state so long as such person is not hunting in the immediate area where the facilities of any educational institution are located.~~

(2) It shall be an affirmative defense that the defendant was:

(a) A person in his OR HER own dwelling or place of business or on property owned or under his OR HER control at the time of the act of carrying; or

(b) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of his SUCH PERSON'S or another's person or property while traveling; or

(c) A person who, prior to the time of carrying a concealed weapon, has been issued a written permit pursuant to section 18-12-105.1 to carry the weapon by the chief of police of a city or city and county, or the sheriff of a county; or

(d) A peace officer, level I or level Ia, as defined in section 18-1-901 (3) (I) (I) or (3) (I) (II); or

(e) A peace officer, level II, as defined in section 18-1-901 (3) (I) (III), while on duty.

SECTION 2. Article 12 of title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

18-12-105.5. Unlawfully carrying a concealed weapon - unlawful possession of weapons - school, college or university grounds. (1) A PERSON COMMITS A CLASS 2 MISDEMEANOR IF SUCH PERSON KNOWINGLY AND UNLAWFULLY AND WITHOUT LEGAL AUTHORITY CARRIES, BRINGS, OR HAS IN SUCH PERSON'S POSSESSION A DEADLY WEAPON AS DEFINED IN SECTION 18-1-901 (3) (e) IN OR ON THE REAL ESTATE AND ALL IMPROVEMENTS ERECTED THEREON OF ANY PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL OR ANY PUBLIC OR PRIVATE COLLEGE, UNIVERSITY, OR SEMINARY, EXCEPT FOR THE PURPOSE OF PRESENTING AN AUTHORIZED PUBLIC DEMONSTRATION OR EXHIBITION PURSUANT TO INSTRUCTION IN CONJUNCTION WITH AN ORGANIZED SCHOOL OR CLASS, FOR THE PURPOSE OF CARRYING OUT THE NECESSARY DUTIES AND FUNCTIONS OF AN EMPLOYEE OF AN EDUCATIONAL INSTITUTION WHICH REQUIRE THE USE OF A DEADLY WEAPON, OR FOR THE PURPOSE OF PARTICIPATION IN AN AUTHORIZED EXTRACURRICULAR ACTIVITY OR ATHLETIC TEAM.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 18-1-106, UPON A

CONVICTION FOR A VIOLATION OF THIS SECTION EITHER WITHIN OR UPON THE GROUNDS OF ANY PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, SECONDARY, JUNIOR HIGH, HIGH SCHOOL, OR VOCATIONAL SCHOOL, THE DEFENDANT SHALL BE A SPECIAL OFFENDER AND THE COURT, IF IT DETERMINES THAT INCARCERATION IS APPROPRIATE, SHALL BE REQUIRED TO SENTENCE THE DEFENDANT TO A TERM THAT IS GREATER THAN THE TWELVE-MONTH MAXIMUM SENTENCE SPECIFIED FOR THE CLASS 2 MISDEMEANOR BUT NOT MORE THAN TWICE THE TWELVE-MONTH MAXIMUM TERM SPECIFIED FOR THE CLASS 2 MISDEMEANOR. IN ADDITION TO SUCH TERM OF IMPRISONMENT, THE COURT SHALL FINE THE DEFENDANT WITHOUT SUSPENSION AT LEAST THE MAXIMUM FINE OF ONE THOUSAND DOLLARS SPECIFIED FOR THE CLASS 2 MISDEMEANOR BUT NOT MORE THAN TEN TIMES THE ONE THOUSAND DOLLAR MAXIMUM FINE SPECIFIED FOR THE CLASS 2 MISDEMEANOR.

(3) IT SHALL NOT BE AN OFFENSE UNDER THIS SECTION IF:

(a) THE WEAPON IS UNLOADED AND REMAINS INSIDE A MOTOR VEHICLE WHILE UPON THE REAL ESTATE OF ANY PUBLIC OR PRIVATE COLLEGE, UNIVERSITY, OR SEMINARY; OR

(b) THE PERSON IS IN THAT PERSON'S OWN DWELLING OR PLACE OF BUSINESS OR ON PROPERTY OWNED OR UNDER HIS CONTROL AT THE TIME OF THE ACT OF CARRYING; OR

(c) THE PERSON IS IN A PRIVATE AUTOMOBILE OR OTHER PRIVATE MEANS OF CONVEYANCE AND IS CARRYING A WEAPON FOR LAWFUL PROTECTION OF THAT PERSON'S OR ANOTHER'S PERSON OR PROPERTY WHILE TRAVELING; OR

(d) THE PERSON, PRIOR TO THE TIME OF CARRYING A CONCEALED WEAPON, HAS BEEN ISSUED A WRITTEN PERMIT PURSUANT TO SECTION 18-12-105.1 TO CARRY THE WEAPON BY THE CHIEF OF POLICE OF A CITY OR CITY AND COUNTY OR THE SHERIFF OF A COUNTY; OR

(e) THE PERSON IS A PEACE OFFICER, LEVEL I OR LEVEL Ia, AS DEFINED IN SECTION 18-1-901 (3) (I) OR (3) (I) (II); OR

(f) THE PERSON IS A PEACE OFFICER, LEVEL II, AS DEFINED IN SECTION 18-1-901 (3) (I) (III), WHILE ON DUTY; OR

(g) THE PERSON IS A PEACE OFFICER, LEVEL IIIa, AS DEFINED IN SECTION 18-1-901 (3) (I) (IV.5), WHILE ON DUTY AND UNDER SUPERVISION; OR

(h) THE PERSON HAS POSSESSION OF THE WEAPON FOR USE IN AN EDUCATIONAL PROGRAM APPROVED BY A SCHOOL WHICH PROGRAM INCLUDES, BUT SHALL NOT BE LIMITED TO, ANY COURSE DESIGNED FOR THE REPAIR OR MAINTENANCE OF WEAPONS.

SECTION 3. Effective date. This act shall take effect July 1, 1993, and shall apply to all offenses committed on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1993