

DANGEROUS WEAPON AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Utah Criminal Code regarding the definition of "on or about school premises" regarding the use of a dangerous weapon.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "on or about school premises" to mean in a public or private elementary or secondary school or on the grounds of any one of those schools as related to:
 - sentencing enhancements for the use of a dangerous weapon; and
 - those locations where a person may not possess a dangerous weapon, firearm, or sawed-off shotgun; and
- ▶ makes certain technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.2, as last amended by Laws of Utah 2007, Chapter 339



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

29 Section 1. Section **76-3-203.2** is amended to read:

30 **76-3-203.2. Definitions -- Use of dangerous weapon in offenses committed on or**
31 **about school premises -- Enhanced penalties.**

32 (1) (a) As used in this section and Section 76-10-505.5, "on or about school premises"
33 means ~~[any of the following]:~~

34 (i) in a public or private elementary~~;~~ or secondary~~;~~ school; or

35 (ii) on the grounds of any of those schools~~;~~.

36 ~~[(ii) in a public or private vocational school or postsecondary institution or on the~~
37 ~~grounds of any of those schools or institutions;]~~

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

41 ~~[(iv) in or on the grounds of a preschool or child-care facility; and]~~

42 ~~[(v) within 1,000 feet of any structure, facility, or grounds included in Subsections~~
43 ~~(1)(a)(i), (ii), (iii), and (iv).]~~

44 (b) As used in this section:

45 (i) "Dangerous weapon" has the same definition as in Section 76-1-601.

46 (ii) "Educator" means ~~[any]~~ a person who is:

47 (A) employed by a public school district; and ~~[who is]~~

48 (B) required to hold a certificate issued by the State Board of Education in order to
49 perform duties of employment.

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

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

56 (3) (a) ~~[Any]~~ A person who commits an offense against an educator when the educator
57 is acting within the course of employment is subject to an enhanced degree of offense as
58 provided in Subsection (4).

59 (b) As used in Subsection (3)(a), "offense" means:

60 (i) an offense under Title 76, Chapter 5, Offenses Against the Person; and

61 (ii) an offense under Title 76, Chapter 6, Part 3, Robbery.

62 (4) If the trier of fact finds beyond a reasonable doubt that the defendant, while on or
63 about school premises, commits ~~[any]~~ an offense and in the commission of the offense uses or
64 threatens to use a dangerous weapon, or that the defendant committed an offense against an
65 educator when the educator was acting within the course of ~~[his]~~ the educator's employment,
66 the enhanced penalty for a:

67 (a) class B misdemeanor is a class A misdemeanor;

68 (b) class A misdemeanor is a third degree felony;

69 (c) third degree felony is a second degree felony; or

70 (d) second degree felony is a first degree felony.

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

72 (a) is imprisonment for a term of not less than five years and which may be for life, and
73 imposition or execution of the sentence may not be suspended unless the court finds that the
74 interests of justice would be best served and states the specific circumstances justifying the
75 disposition on the record; and

76 (b) is subject also to the dangerous weapon enhancement provided in Section
77 76-3-203.8, except for an offense committed under Subsection (3) that does not involve a
78 firearm.

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

82 (7) In cases where an offense is enhanced ~~[pursuant to]~~ under Subsection (4)~~[(a), (b),~~
83 ~~(c), or (d)]~~, or under Subsection (5)(a) for an offense committed under Subsection (2) that does
84 not involve a firearm, the convicted person is not subject to the dangerous weapon
85 enhancement in Section 76-3-203.8.

86 (8) The sentencing enhancement described in this section does not apply if:

87 (a) the offense for which the person is being sentenced is:

88 (i) a grievous sexual offense;

89 (ii) child kidnapping~~[-]~~ under Section 76-5-301.1;

- 90 (iii) aggravated kidnapping[;] under Section 76-5-302; or
91 (iv) forcible sexual abuse[;] under Section 76-5-404; and
92 (b) applying the sentencing enhancement provided for in this section would result in a
93 lower maximum penalty than the penalty provided for under the section that describes the
94 offense for which the person is being sentenced.

Legislative Review Note
as of 11-30-10 2:00 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 75

SHORT TITLE: **Dangerous Weapon Amendments**

SPONSOR: **Oda, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.