



City of Federal Way  
Department of Public Safety  
**TRAINING BULLETIN**  
**06-004**

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**TOPIC:** Open Carry of a Firearm in Washington

**PURPOSE:** To provide guidance in calls for services that involve a person who possesses a firearm that is exposed to public view

**DATE:** July 14, 2006

**APPROVED:**

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Washington is an "open carry" state for firearms. This means there is a presumption that carrying a handgun in an exposed holster, for instance, is legal except where it is specifically *illegalized*. Open carry does not require a license. On the other hand, *concealed* carry of a firearm out in public is generally illegal without government authority (such as a state license or a police commission).

It is a felony crime to carry or possess *any* firearm (concealed *or* in the open) by most convicted felons and convicted domestic violence offenders (see RCW 9.441.040). In addition to that, below are portions of selected laws that specifically *illegalize* the carrying of firearms. Underlines were added for emphasis. In order to save space, several large portions of the laws were not included; therefore, officers should refer to the complete RCWs and be familiar with the details of each.

Except for possessing a firearm on school grounds, these misdemeanor crimes regarding *possessing* firearms are not exceptions to the misdemeanor presence rule. In other words, except for violations at schools, in order to arrest the suspect the violation must occur in the officer's presence. Non-presence violations can be written up and forwarded to the prosecutor.

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**RCW 9.41.040(2)(a)(iii).** Illegalizes possessing firearms (openly or concealed) by juveniles, unless the circumstances meet an exception described in **RCW 9.41.042.**

**RCW 9.41.050.** (1)(a) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol.

(2)(a) A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and:

- The pistol is on the licensee's person, [or]
- The licensee is within the vehicle at all times that the pistol is there, or
- The licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3)(a) A person at least eighteen years of age who is in possession of an *unloaded* pistol shall not leave the pistol in a vehicle unless the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(4) Nothing in this section permits the possession of illegal firearms under state or federal law.

**RCW 9.41.270.** It shall be unlawful for any person to carry, exhibit, display, or draw any firearm or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

- In this law, *mere possession* of an openly carried handgun is not illegalized. In order to support an enforcement action under this law the officer must be able to articulate (describe in a convincing manner) *malicious* intent by the suspect or circumstances that *reasonably* cause alarm to the public. In either case, because open carry in Washington is presumably legal, the articulation must include something beyond mere, open possession.
- An example of illegal open carry under this law would be: a man argues with a store manager or at a meeting of the homeowner's association; he leaves angry; he returns to the premises and resumes the dispute, having a pistol openly carried in an exposed holster.

(3) Subsection (1) of this section shall not apply to or affect the following: (a) Any act committed by a person while in his or her place of abode or fixed place of business; (b) Any person who by virtue of his or her office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses, while in the performance of such duty; (c) Any person acting for the purpose of protecting himself or herself against the use of presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by a third person; (d) Any person making or assisting in making a lawful arrest for the commission of a felony; or (e) Any person engaged in military activities sponsored by the federal or state governments.

**RCW 9.41.280.** (1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools: (a) Any firearm...

(5) Except as provided in subsection (3)(b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

- With some exceptions (such as police and school security), this law illegalizes mere possession on school grounds, whether concealed or in the open.

**RCW 9.41.300.** (1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon: (a) The restricted access areas of a jail, or of a law enforcement facility; (b) Those areas in any building which are used in connection with court proceedings; (c) The restricted access areas of a public mental health facility; (d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age; or (e) The restricted access areas of a commercial service airport.

- This illegalizes mere possession at these places, including open carry, unless an exception applies (see subsections 6-9).

(2) Cities, towns, counties, and other municipalities may enact laws and ordinances: (a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and (b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to: (i) Any pistol in the possession of a person who is licensed or exempt from the licensing requirement.

(6) Subsection (1) of this section does not apply to: (a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties; (b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under DV law; or (c) Security personnel while engaged in official duties.

(7) Subsection (1)(a) of this section does not apply to a licensed person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(9) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(11) "Weapon" as used in this section means any firearm, explosive, or weapon listed in RCW 9.41.250.

**Federal Way City Code 6-138.** It is a misdemeanor for anyone to carry in any manner any firearm on or in any premises in the city where alcoholic beverages are dispensed by the drink.

- With some exceptions (such as a person while in his or her fixed place of business or to law enforcement officers) this illegalizes mere possession, whether licensed or not, whether concealed or open.

**Federal Way City Code 6-139.** It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a firearm: ...

(5) The council chambers of the city council.

This illegalizes mere possession, which includes open carry, with some exceptions (such as law enforcement personnel; or security personnel while engaged in official duties).

Prepared By:

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