

SUBJECT: Creating weapons-free zones within 1,000 feet of school

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: *(On committee substitute for SB 840 — see NOTES)*

7 ayes — Talton, Farrar, Greenberg, Nixon, Pickett, Pitts, Solis

0 nays

2 absent — Place, Hudson

SENATE VOTE: On final passage, May 4 — 29-2 (Galloway, Harris)

WITNESSES: No public hearing

DIGEST: SB 840 would expand the places where firearms, illegal knives, clubs or prohibited weapons are prohibited to include:

- institutions of higher education and higher education transportation vehicles;
- premises where an official school function is taking place;
- premises where an University Interscholastic League event is taking place; and
- within 1,000 feet of a school.

The offense would be a third-degree felony punishable by two to 10 years in prison and an optional fine of up to \$10,000.

It would be a defense to prosecution for carrying a prohibited weapon within 1,000 feet of a school if it were:

- on private property that is not part of the school premises; for use in an approved school program; under a contract between the school and the carrier or an employer of the carrier; or while traveling to or from the carrier's work or in the discharge of duties as a member of the armed forces or national guard;

- not loaded and in a locked container or on a locked firearms rack in a motor vehicle;
- possessed by a peace officer; or
- possessed by a person licensed to carry a concealed handgun.

SB 840 would take effect September 1, 1995.

(See NOTES for information on author's floor substitute.)

**SUPPORTERS
SAY:**

Establishing penalties for violating weapons laws within 1,000 feet of a school would give law enforcement officers a strong tool to regain control over areas that have been troubled with gun violence. The establishment of this "weapons-free" zone would help protect children when they are at school and give police a tool to combat drug and gang violence. The prohibitions would also apply to school functions and college and universities because it is important to protect students and their families in these areas as well.

It is especially important that the state create these weapons-free zones since the U.S. Supreme Court has struck down a federal law that created gun-free zones near schools. Keeping schools safe is a state and local responsibility, and the Legislature should provide the tools needed to keep weapons away from school children trying to get an education.

These weapons-free zones would be similar to drug-free zones established by the 73rd Legislature that enhance penalties for drug violations near schools.

SB 840 contains adequate defenses to prosecution to ensure that innocent persons on private property, driving near a school, picking up children from school or carrying a handgun under a state license would not be committing an offense.

**OPPONENTS
SAY:**

The weapons-free zones set up in SB 840 would cast too wide a net and unnecessarily restrict the places where law abiding persons can take a firearm. Since the zones would be unmarked, they could be used for selective enforcement by police.

Persons may not know that weapons are prohibited near a school or where a school function is taking place, and all citizens have the right to be informed of the exact reach of a law that might apply to them. Persons, especially in rural areas, may not have a lockable firearms rack and could be subject to a penalty for driving to a high school football game with their deer rifle.

**OTHER
OPPONENTS
SAY:**

The defenses provided for violations within 1,000 feet of a school should apply to other situations as well.

NOTES:

The House Committee on Criminal Jurisprudence reported a committee substitute for SB 840 that was returned to the Calendars Committee on a point of order during floor consideration on May 15. The Senate engrossed version of the bill was ordered printed and distributed and was placed on today's calendar.

The companion bill, HB 439 by De La Garza et al., was analyzed in the May 8, 1995, *Daily Floor Report*.

Rep. De La Garza plans to offer a complete floor substitute which would increase punishments to the one for the next highest category for offenses under Penal Code Chapter 46 (Weapons) that were committed within 100 feet of a school, on a school bus, within 100 feet of an institution of higher education or certain other premises related to schools and school activities.