

SB 707: CHANGES TO THE GUN FREE SCHOOL ZONE ACT EFFECTIVE JANUARY 1, 2016

Effective January 1, 2016, SB 707 (Chapter 766, Statutes of 2015) amended the Gun-Free School Zone Act of 1995 to restrict the ability of a person carrying a valid license to carry a concealed firearm on the grounds of a K-12 school or the campus of a college or university.

BACKGROUND

California's Gun-Free School Zone Act was enacted in 1995. It provided that any person who possesses a firearm in a place that the person knows or reasonably should know is a school zone is subject to punishment of up to five years imprisonment. The law defines a school zone as the area on the grounds of or within 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1-12.

As originally written, the law contained numerous exceptions:

- Possession of a firearm in a school zone with the written permission of the school district superintendent, his or her designee, or equivalent school authority;
- The otherwise lawful possession of a firearm at a residence, place of business or private property within 1,000 feet of school grounds, but not on school grounds;
- When the firearm is an unloaded pistol, revolver or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle;
- The lawful transportation of any firearm, other than a pistol, revolver or other firearm capable of being concealed on the person;
- When the person possessing the firearm reasonably believes him or herself to be in grave danger because of circumstances forming the basis of a current restraining order (but not a mutual restraining order issued by the Family Court absent a finding of a specific threat to the person's life or safety);
- When the person is exempt from the prohibition against carrying a concealed firearm pursuant to Penal Code Sections 25615 (possession or transportation of unloaded firearms as merchandise by a licensed dealer), 25625 (carrying of unloaded firearms by duly authorized military or civilian organizations while parading or going to and from organization meetings), 25630 (guards or messengers of common carriers, banks or other financial institutions while transporting currency or other items of value), or 25645 (transporting unloaded firearms by a licensed common carrier when firearms are transported in conformance with federal law).

In addition to these exceptions, the Gun-Free School Zone Act of 1995 does not apply to duly appointed peace officers, a person summoned by a peace officer to assist in making an arrest or preserving the peace, a member of the military engaged in the performance of his or her duties, an armored vehicle guard engaged in his or her

duties, a security guard authorized to carry a loaded firearm, an honorably retired police officer authorized to carry a concealed or loaded firearm, or a person holding a valid license to carry a concealed firearm. It also does not apply to an existing shooting range at a public or private school or university or college campus.

With regard to ammunition, the California Penal Code generally prohibited carrying ammunition or reloaded ammunition onto school grounds except with the written permission of the school district superintendent, his or her designee, or equivalent school authority. The law provides exceptions for peace officers, persons summoned by peace officers for assistance, members of the military and armored vehicle guards, similar to those for firearms. Prior to the passage of SB 707, there was an exception in the law for a person licensed to carry a concealed firearm.

CHANGES MADE BY SB 707 EFFECTIVE JANUARY 1, 2016

SB 707 made two changes to the Gun-Free School Zone law:

- It deleted the exemption in the law that allowed a person holding a valid license to carry a concealed firearm to possess a firearm on the campus of a university or college.
- It limited the ability of a person holding a valid concealed carry license to carry a firearm in a school zone. As amended by SB 707, the law now states a person with a concealed carry license may not carry a firearm on the grounds of a K-12 school, but may carry a firearm in the area that is within 1,000 feet of the grounds.

SB 707 also recast the existing exceptions and specified several further exceptions to the prohibition on carrying ammunition on school grounds. As amended by SB 707, the law exempts active and honorably retired peace officers, persons carrying ammunition onto school grounds in a locked container within the trunk of a motor vehicle, and retired reserve peace officers authorized to carry a concealed or loaded firearm. There is no longer a blanket exception for a non-law-enforcement civilian with a concealed carry license.

FREQUENTLY ASKED QUESTIONS

Who can carry a firearm on school grounds or on a college campus?

Anyone who fits within one of the exceptions in the statute can carry a firearm on school grounds or a college campus. Moreover, for a K-12 school, anyone given written permission by the Superintendent, his or her designee, or equivalent school authority, may carry a firearm on school grounds. For a college, anyone given written permission by the university or college president, his or her designee, or equivalent university or college authority may carry a firearm on college grounds. SB 707 did not change these exceptions in the law.

What is an “equivalent school/university/college authority”?

There is no regulatory guidance on this, nor has this question been addressed in any reported cases. In the absence of official guidance, school districts and colleges may wish to limit such authority to persons acting in the capacity of an official with authority to grant written permission.

What is considered a “firearm”?

A “firearm” for purposes of the Gun-Free School Zone Act is defined in California Penal Code sections 16520(a) through (d). Under those sections, a “firearm” is a device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. It also includes rockets, rocket launchers, or similar devices containing an explosive or incendiary material, whether or not the device is designed for emergency or distress signaling purposes. It does not include antique firearms.

Are air rifles considered firearms?

No, but California Penal Code § 626.10 prohibits possessing “any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun” on the grounds of any K-12 school. To do so is a public offense, punishable by up to one year in the county jail. This prohibition does not apply to someone bringing such a weapon onto the grounds of a K-12 school if the person has the written permission of the school principal or his or her designee. Nor does it apply to colleges.

SUMMARY

In light of these recent revisions to the Gun Free School Zone Act, K-12 schools and college districts should review their school firearms policies to ensure they comply with the changes to the law enacted with SB 707.

Please contact your Keenan Account Manager for questions regarding this *Briefing*.

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