

SENATE BILL 6744

State of Washington 56th Legislature 2000 Regular Session

By Senators Goings and Costa

Read first time 01/26/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to sentencing enhancements for armor piercing
2 ammunition and body armor; amending RCW 9.94A.125; reenacting and
3 amending RCW 9.94A.310; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 Sec. 1. RCW 9.94A.310 and 1999 c 352 s 2 and 1999 c 324 s 3 are
6 each reenacted and amended to read as follows:

7 (1) TABLE 1

8 Sentencing Grid

9 SERIOUSNESS

LEVEL	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XVI	Life Sentence without Parole/Death Penalty									
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m36y	40y	
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-

1		320	333	347	361	374	388	416	450	493	548
2											
3	XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
4		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
5		220	234	244	254	265	275	295	316	357	397
6											
7	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
8		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
9		164	178	192	205	219	233	260	288	342	397
10											
11	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
12		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
13		123	136	147	160	171	184	216	236	277	318
14											
15	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
16		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
17		102	114	125	136	147	158	194	211	245	280
18											
19	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
20		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
21		68	75	82	89	96	102	130	144	171	198
22											
23	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
24		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
25		41	48	54	61	68	75	102	116	144	171
26											
27	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
28		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
29		27	34	41	48	54	61	89	102	116	144
30											
31	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
32		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
33		20	27	34	41	48	54	75	89	102	116
34											
35	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
36		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
37		14	20	27	34	41	48	61	75	89	102
38											

1	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
2		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
3		12	14	17	20	29	43	54	68	82	96
4	<hr/>										
5	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
6		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
7		9	12	14	17	20	29	43	57	70	84
8	<hr/>										
9	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
10		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
11		3	8	12	12	16	22	29	43	57	68
12	<hr/>										
13	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
14		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
15		Days	6	9	12	14	18	22	29	43	57
16	<hr/>										
17	I			3m	4m	5m	8m	13m	16m	20m	2y2m
18		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
19		Days	Days	5	6	8	12	14	18	22	29
20	<hr/>										

21 NOTE: Numbers in the first horizontal row of each seriousness category
22 represent sentencing midpoints in years(y) and months(m). Numbers in
23 the second and third rows represent presumptive sentencing ranges in
24 months, or in days if so designated. 12+ equals one year and one day.

25 (2) For persons convicted of the anticipatory offenses of criminal
26 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
27 presumptive sentence is determined by locating the sentencing grid
28 sentence range defined by the appropriate offender score and the
29 seriousness level of the completed crime, and multiplying the range by
30 75 percent.

31 (3) The following additional times shall be added to the
32 presumptive sentence for felony crimes committed after July 23, 1995,
33 if the offender or an accomplice was armed with a firearm as defined in
34 RCW 9.41.010 and the offender is being sentenced for one of the crimes
35 listed in this subsection as eligible for any firearm enhancements
36 based on the classification of the completed felony crime. If the
37 offender is being sentenced for more than one offense, the firearm
38 enhancement or enhancements must be added to the total period of
39 confinement for all offenses, regardless of which underlying offense is

1 subject to a firearm enhancement. If the offender or an accomplice was
2 armed with a firearm as defined in RCW 9.41.010 and the offender is
3 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
4 commit one of the crimes listed in this subsection as eligible for any
5 firearm enhancements, the following additional times shall be added to
6 the presumptive sentence determined under subsection (2) of this
7 section based on the felony crime of conviction as classified under RCW
8 9A.28.020:

9 (a) Five years for any felony defined under any law as a class A
10 felony or with a maximum sentence of at least twenty years, or both,
11 and not covered under (f) of this subsection.

12 (b) Three years for any felony defined under any law as a class B
13 felony or with a maximum sentence of ten years, or both, and not
14 covered under (f) of this subsection.

15 (c) Eighteen months for any felony defined under any law as a class
16 C felony or with a maximum sentence of five years, or both, and not
17 covered under (f) of this subsection.

18 (d) If the offender is being sentenced for any firearm enhancements
19 under (a), (b), and/or (c) of this subsection and the offender has
20 previously been sentenced for any deadly weapon enhancements after July
21 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
22 (4)(a), (b), and/or (c) of this section, or both, any and all firearm
23 enhancements under this subsection shall be twice the amount of the
24 enhancement listed.

25 (e) Notwithstanding any other provision of law, any and all firearm
26 enhancements under this section are mandatory, shall be served in total
27 confinement, and shall run consecutively to all other sentencing
28 provisions, including other firearm ~~((or))~~, deadly weapon, armor
29 piercing ammunition, or body armor enhancements, for all offenses
30 sentenced under this chapter. However, whether or not a mandatory
31 minimum term has expired, an offender serving a sentence under this
32 subsection may be granted an extraordinary medical placement when
33 authorized under RCW 9.94A.150(4).

34 (f) The firearm enhancements in this section shall apply to all
35 felony crimes except the following: Possession of a machine gun,
36 possessing a stolen firearm, drive-by shooting, theft of a firearm,
37 unlawful possession of a firearm in the first and second degree, and
38 use of a machine gun in a felony.

1 (g) If the presumptive sentence under this section exceeds the
2 statutory maximum for the offense, the statutory maximum sentence shall
3 be the presumptive sentence unless the offender is a persistent
4 offender as defined in RCW 9.94A.030. If the addition of a firearm
5 enhancement increases the sentence so that it would exceed the
6 statutory maximum for the offense, the portion of the sentence
7 representing the enhancement may not be reduced.

8 (4) The following additional times shall be added to the
9 presumptive sentence for felony crimes committed after July 23, 1995,
10 if the offender or an accomplice was armed with a deadly weapon as
11 defined in this chapter other than a firearm as defined in RCW 9.41.010
12 and the offender is being sentenced for one of the crimes listed in
13 this subsection as eligible for any deadly weapon enhancements based on
14 the classification of the completed felony crime. If the offender is
15 being sentenced for more than one offense, the deadly weapon
16 enhancement or enhancements must be added to the total period of
17 confinement for all offenses, regardless of which underlying offense is
18 subject to a deadly weapon enhancement. If the offender or an
19 accomplice was armed with a deadly weapon other than a firearm as
20 defined in RCW 9.41.010 and the offender is being sentenced for an
21 anticipatory offense under chapter 9A.28 RCW to commit one of the
22 crimes listed in this subsection as eligible for any deadly weapon
23 enhancements, the following additional times shall be added to the
24 presumptive sentence determined under subsection (2) of this section
25 based on the felony crime of conviction as classified under RCW
26 9A.28.020:

27 (a) Two years for any felony defined under any law as a class A
28 felony or with a maximum sentence of at least twenty years, or both,
29 and not covered under (f) of this subsection.

30 (b) One year for any felony defined under any law as a class B
31 felony or with a maximum sentence of ten years, or both, and not
32 covered under (f) of this subsection.

33 (c) Six months for any felony defined under any law as a class C
34 felony or with a maximum sentence of five years, or both, and not
35 covered under (f) of this subsection.

36 (d) If the offender is being sentenced under (a), (b), and/or (c)
37 of this subsection for any deadly weapon enhancements and the offender
38 has previously been sentenced for any deadly weapon enhancements after
39 July 23, 1995, under (a), (b), and/or (c) of this subsection or

1 subsection (3)(a), (b), and/or (c) of this section, or both, any and
2 all deadly weapon enhancements under this subsection shall be twice the
3 amount of the enhancement listed.

4 (e) Notwithstanding any other provision of law, any and all deadly
5 weapon enhancements under this section are mandatory, shall be served
6 in total confinement, and shall run consecutively to all other
7 sentencing provisions, including other firearm ~~((or))~~, deadly weapon,
8 armor piercing ammunition, or body armor enhancements, for all offenses
9 sentenced under this chapter. However, whether or not a mandatory
10 minimum term has expired, an offender serving a sentence under this
11 subsection may be granted an extraordinary medical placement when
12 authorized under RCW 9.94A.150(4).

13 (f) The deadly weapon enhancements in this section shall apply to
14 all felony crimes except the following: Possession of a machine gun,
15 possessing a stolen firearm, drive-by shooting, theft of a firearm,
16 unlawful possession of a firearm in the first and second degree, and
17 use of a machine gun in a felony.

18 (g) If the presumptive sentence under this section exceeds the
19 statutory maximum for the offense, the statutory maximum sentence shall
20 be the presumptive sentence unless the offender is a persistent
21 offender as defined in RCW 9.94A.030. If the addition of a deadly
22 weapon enhancement increases the sentence so that it would exceed the
23 statutory maximum for the offense, the portion of the sentence
24 representing the enhancement may not be reduced.

25 (5) The following additional times shall be added to the
26 presumptive sentence if the offender or an accomplice committed the
27 offense while in a county jail or state correctional facility as that
28 term is defined in this chapter and the offender is being sentenced for
29 one of the crimes listed in this subsection. If the offender or an
30 accomplice committed one of the crimes listed in this subsection while
31 in a county jail or state correctional facility as that term is defined
32 in this chapter, and the offender is being sentenced for an
33 anticipatory offense under chapter 9A.28 RCW to commit one of the
34 crimes listed in this subsection, the following additional times shall
35 be added to the presumptive sentence determined under subsection (2) of
36 this section:

37 (a) Eighteen months for offenses committed under RCW
38 69.50.401(a)(1) (i) or (ii) or 69.50.410;

1 (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)
2 (iii), (iv), and (v);

3 (c) Twelve months for offenses committed under RCW 69.50.401(d).

4 For the purposes of this subsection, all of the real property of a
5 state correctional facility or county jail shall be deemed to be part
6 of that facility or county jail.

7 (6) An additional twenty-four months shall be added to the
8 presumptive sentence for any ranked offense involving a violation of
9 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

10 (7) An additional two years shall be added to the presumptive
11 sentence for vehicular homicide committed while under the influence of
12 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
13 prior offense as defined in RCW 46.61.5055.

14 (8) The following additional times shall be added to the
15 presumptive sentence for felony crimes committed on or after the
16 effective date of this section if the offender or an accomplice, while
17 armed with a firearm as defined in RCW 9.41.010, has in his or her
18 immediate possession ammunition for the firearm designed primarily to
19 penetrate metal or armor, and the offender is being sentenced for one
20 of the crimes listed in this subsection as eligible for any armor
21 piercing ammunition enhancements based on the classification of the
22 completed felony crime. If the offender is being sentenced for more
23 than one offense, the armor piercing ammunition enhancement or
24 enhancements must be added to the total period of confinement for all
25 offenses, regardless of which underlying offense is subject to an armor
26 piercing ammunition enhancement. If the offender or an accomplice was
27 found to be eligible for the armor piercing ammunition enhancement and
28 the offender is being sentenced for an anticipatory offense under
29 chapter 9A.28 RCW to commit one of the crimes listed in this subsection
30 as eligible for any armor piercing ammunition enhancements, the
31 following additional times shall be added to the presumptive sentence
32 determined under subsection (2) of this section based on the felony
33 crime of conviction as classified under RCW 9A.28.020:

34 (a) Eighteen months for any felony defined under any law as a class
35 A felony or with a maximum sentence of at least twenty years, or both.

36 (b) One year for any felony defined under any law as a class B
37 felony or with a maximum sentence of ten years, or both.

38 (c) Six months for any felony defined under any law as a class C
39 felony or with a maximum sentence of five years, or both.

1 (d) Notwithstanding any other provision of law, any and all armor
2 piercing ammunition enhancements under this section are mandatory,
3 shall be served in total confinement, and shall run consecutively to
4 all other sentencing provisions, including other firearm, deadly
5 weapon, armor piercing ammunition, or body armor enhancements, for all
6 offenses sentenced under this chapter. However, whether or not a
7 mandatory minimum term has expired, an offender serving a sentence
8 under this subsection may be granted an extraordinary medical placement
9 when authorized under RCW 9.94A.150(4).

10 (e) If the presumptive sentence under this section exceeds the
11 statutory maximum for the offense, the statutory maximum sentence shall
12 be the presumptive sentence unless the offender is a persistent
13 offender as defined in RCW 9.94A.030. If the addition of an armor
14 piercing ammunition enhancement increases the sentence so that it would
15 exceed the statutory maximum for the offense, the portion of the
16 sentence representing the enhancement may not be reduced.

17 (9) The following additional times shall be added to the
18 presumptive sentence for felony crimes committed on or after the
19 effective date of this section if the offender or an accomplice wears
20 body armor in the commission of the felony and the offender is being
21 sentenced for one of the crimes listed in this subsection as eligible
22 for any body armor enhancements based on the classification of the
23 completed felony crime. If the offender is being sentenced for more
24 than one offense, the body armor enhancement or enhancements must be
25 added to the total period of confinement for all offenses, regardless
26 of which underlying offense is subject to a body armor enhancement. If
27 the offender or an accomplice was found to be eligible for the body
28 armor enhancement and the offender is being sentenced for an
29 anticipatory offense under chapter 9A.28 RCW to commit one of the
30 crimes listed in this subsection as eligible for any body armor
31 enhancements, the following additional times shall be added to the
32 presumptive sentence determined under subsection (2) of this section
33 based on the felony crime of conviction as classified under RCW
34 9A.28.020:

35 (a) Eighteen months for any felony defined under any law as a class
36 A felony or with a maximum sentence of at least twenty years, or both.

37 (b) One year for any felony defined under any law as a class B
38 felony or with a maximum sentence of ten years, or both.

1 (c) Six months for any felony defined under any law as a class C
2 felony or with a maximum sentence of five years, or both.

3 (d) Notwithstanding any other provision of law, any and all body
4 armor enhancements under this section are mandatory, shall be served in
5 total confinement, and shall run consecutively to all other sentencing
6 provisions, including other firearm, deadly weapon, armor piercing
7 ammunition, or body armor enhancements, for all offenses sentenced
8 under this chapter. However, whether or not a mandatory minimum term
9 has expired, an offender serving a sentence under this subsection may
10 be granted an extraordinary medical placement when authorized under RCW
11 9.94A.150(4).

12 (e) If the presumptive sentence under this section exceeds the
13 statutory maximum for the offense, the statutory maximum sentence shall
14 be the presumptive sentence unless the offender is a persistent
15 offender as defined in RCW 9.94A.030. If the addition of a body armor
16 enhancement increases the sentence so that it would exceed the
17 statutory maximum for the offense, the portion of the sentence
18 representing the enhancement may not be reduced.

19 (f) As used in this subsection, "body armor" means any bullet-
20 resistant material intended to provide ballistic and trauma protection
21 for the wearer.

22 **Sec. 2.** RCW 9.94A.125 and 1983 c 163 s 3 are each amended to read
23 as follows:

24 (1) In a criminal case wherein there has been a special allegation
25 and evidence establishing that the accused or an accomplice was armed
26 with a deadly weapon at the time of the commission of the crime, the
27 court shall make a finding of fact of whether or not the accused or an
28 accomplice was armed with a deadly weapon at the time of the commission
29 of the crime, or if a jury trial is had, the jury shall, if it
30 ((find{s})) finds the defendant guilty, also find a special verdict as
31 to whether or not the defendant or an accomplice was armed with a
32 deadly weapon at the time of the commission of the crime.

33 For purposes of this section, a deadly weapon is an implement or
34 instrument which has the capacity to inflict death and from the manner
35 in which it is used, is likely to produce or may easily and readily
36 produce death. The following instruments are included in the term
37 deadly weapon: Blackjack, sling shot, billy, sand club, sandbag, metal
38 knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any

1 knife having a blade longer than three inches, any razor with an
2 unguarded blade, any metal pipe or bar used or intended to be used as
3 a club, any explosive, and any weapon containing poisonous or injurious
4 gas.

5 (2) In a criminal case wherein there has been a special allegation
6 and evidence establishing that the accused or an accomplice has in his
7 or her immediate possession ammunition for the firearm designed
8 primarily to penetrate metal or armor at the time of the commission of
9 the crime, the court shall make a finding of fact of whether or not the
10 accused or an accomplice had in his or her possession armor piercing
11 ammunition at the time of the commission of the crime, or if a jury
12 trial is had, the jury shall, if it finds the defendant guilty, also
13 find a special verdict as to whether or not the defendant or an
14 accomplice had in his or her possession armor piercing ammunition at
15 the time of the commission of the crime.

16 (3)(a) In a criminal case wherein there has been a special
17 allegation and evidence establishing that the accused or an accomplice
18 was wearing body armor at the time of the commission of the crime, the
19 court shall make a finding of fact of whether or not the accused or an
20 accomplice was wearing body armor at the time of the commission of the
21 crime, or if a jury trial is had, the jury shall, if it finds the
22 defendant guilty, also find a special verdict as to whether or not the
23 defendant or an accomplice was wearing body armor at the time of the
24 commission of the crime.

25 (b) As used in this subsection, "body armor" means any bullet-
26 resistant material intended to provide ballistic and trauma protection
27 for the wearer.

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