



SPONSOR: Sen. Pettyjohn

DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE AMENDMENT NO. 1  
TO  
HOUSE BILL NO. 201

1 AMEND House Bill No. 201, as amended, by deleting lines 3 through 60 in their entirety and inserting in lieu  
2 thereof the following:

3 “§ 1457. Possession of a ~~weapon~~ firearm in a Safe School and Recreation Zone; class D, E, or F felony; ~~class A or~~  
4 ~~B unclassified~~ misdemeanor.

5 (a) Any person who commits any of the offenses described in subsection (b) of this section, or any juvenile who  
6 possesses a firearm ~~or other deadly weapon~~, and does so while in or on a “Safe School and Recreation Zone” shall be guilty  
7 of the crime of possession of a ~~weapon~~ firearm in a Safe School and Recreation Zone.

8 (c) For the purpose of this ~~section~~, section:

9 (1) “Constable” means an individual who licensed under Chapter 56 of Title 24.

10 (2) “Firearm” means as defined in § 222 of this title and includes a destructive weapon as defined in § 1444(a)  
11 and (c) of this title and includes BB guns.

12 (3) “Police officer” means as defined in § 8401 of this title.

13 (4) “Safe School and Recreation Zone” shall mean:

14 (1) ~~Any building, structure, athletic field, sports stadium or real property owned, operated, leased or rented by~~  
15 ~~any public or private school including, but not limited to, any kindergarten, elementary, secondary or vocational-~~  
16 ~~technical school or any college or university, within 1,000 feet thereof; or~~

17 (2) ~~Any motor vehicle owned, operated, leased or rented by any public or private school including, but not~~  
18 ~~limited to, any kindergarten, elementary, secondary, or vocational technical school or any college or university; or~~

19 (3) ~~Any~~ means any building or structure owned, operated, leased or rented by any county or municipality, or  
20 by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private  
21 organization, which is utilized as a recreation center, athletic field or sports stadium.

22 (g) ~~It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place~~  
23 ~~entirely within a private residence, and that no person under the age of 18 was present in such private residence at any time~~

24 during the commission of the offense. The affirmative defense established in this section shall be proved by the defendant  
25 by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a  
26 prosecution for an offense defined in any other section of this chapter. [Repealed.]

27 (h) This section shall does not apply to any ~~law enforcement or police officer, or to any “private security guard”~~  
28 ~~defined in § 1302(20) of Title 24. of the following:~~

29 (1) A police officer.

30 (2) A constable employed by a recreation zone who is acting in that capacity within a Safe Recreation Zone.

31 (i) ~~For purposes of this section only, “deadly weapon” shall include any object described in § 222(6) or (13) of this~~  
32 ~~title or BB guns. [Repealed.]~~

33 (j) The penalty for possession of a weapon in a Safe ~~School and~~ Recreation Zone shall be:

34 (1) If the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

35 (2) If the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

36 (3) If the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the  
37 underlying offense.

38 (4) If the underlying offense is a class D felony, the crime shall also be a class D felony. [Repealed.]

39 (5) ~~In the event that an elementary or secondary school student possesses a firearm in a Safe School and~~  
40 ~~Recreation Zone in addition to any other penalties contained in this section, the student shall be expelled by the local~~  
41 ~~school board or charter school board of directors for a period of not less than 180 days unless otherwise provided for in~~  
42 ~~federal or state law. The local school board or charter school board of directors may, on a case by case basis, modify~~  
43 ~~the terms of the expulsion. [Repealed.]~~

44 (6) ~~In the event that an elementary or secondary school student possesses a deadly weapon other than a~~  
45 ~~firearm in a Safe School and Recreation Zone in addition or as an alternative to any other penalties contained in this~~  
46 ~~section, the student may be suspended for a period of not less than 30 days unless otherwise provided for in federal or~~  
47 ~~state law. The local school board or charter school board of directors may, on a case by case basis, modify the terms of~~  
48 ~~the suspension. [Repealed.]”.~~

49 FURTHER AMEND House Bill No. 201, as amended, on lines 61, 67, 76, 77, 83, and 93 by deleting “and  
50 Recreation”.

51 FURTHER AMEND House Bill No. 201, as amended, by deleting lines 73 through 75 in their entirety.

52 FURTHER AMEND House Bill No. 201, as amended, on line 92 by deleting “guilty of a class E felony.” and  
53 inserting in lieu thereof the following:

54 “punished as follows:

55 (1) For a first offense, an unclassified misdemeanor.

56 (2) For a second or subsequent offense, a class E felony.”.

57 FURTHER AMEND House Bill No. 201, as amended, on line 99 by deleting “repeal” and inserting in lieu thereof

58 “Act”.

#### SYNOPSIS

This Amendment does all of the following:

1. Revises § 1457 of Title 11 to create the offense of possession of a firearm in a Safe Recreation Zone.
2. Makes the first violation of possession of a firearm in a Safe School Zone an unclassified misdemeanor.

This Amendment does not change the violation of possession of a firearm in a Safe School Zone as established under this Act.

Author: Senator Pettyjohn