

ORDINANCE No. 112238

COUNCIL BILL No. 104829

UP Law Department

The City of

AN ORDINANCE prohibiting the carrying or possession on the person of a firearm while under the influence of any drug or under the influence of intoxicating liquor, declaring a penalty, authorizing forfeiture of concealed firearms, and adding new Section 12A.14.140 and 12A.14.150 to the Seattle Municipal Code.

4/9/85 - DO PASS (3-0)

Honorable President:

Your Committee on Public Safety

to which was referred the within Council report that we have considered the same

DO

COMPTROLLER FILE No. _____

Introduced: MAR 25 1985	By: <i>Benson</i>
Referred: MAR 23 1985	To: <i>Rub</i>
Referred:	To:
Referred:	To:
Reported: APR 15 1985	Second Reading: APR 15 1985
Third Reading: APR 15 1985	Signed: APR 15 1985
Presented to Mayor: APR 16 1985	Approved: APR 23 1985
Returned to City Clerk: APR 23 1985	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

REC'D ONE APR 16 1985

[Signature]

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

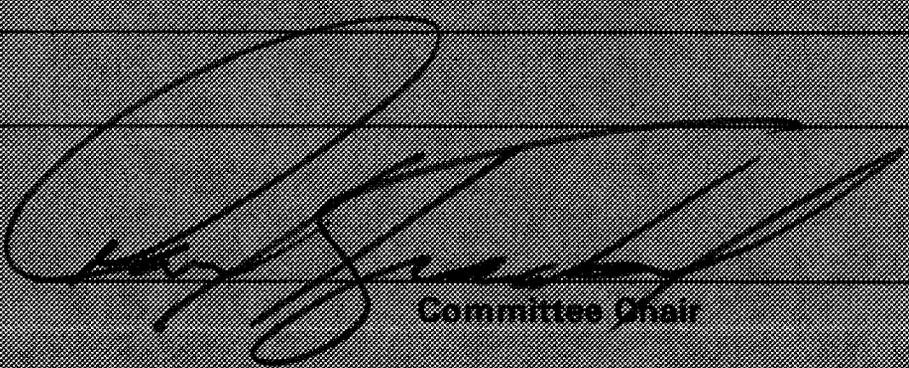
Public Safety

was referred the within Council Bill No.

104822

we have considered the same and respectfully recommend that the same:

DO PASS



Committee Chair

ORDINANCE 112238

1 AN ORDINANCE prohibiting the carrying or possession on the
2 person of a firearm while under the influence of any drug
3 or under the influence of intoxicating liquor, declaring
a penalty, authorizing forfeiture of concealed firearms,
and adding new Section 12A.14.140 and 12A.14.150 to the
Seattle Municipal Code.

4 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

5 Section 1. There is added to Seattle Municipal Code Chapter
6 12A.14 (Ordinance 102843; the Criminal Code) a new section
7 designated Section 12A.14.140, as follows:

8 12A.14.140 Carrying firearm while under the influence of
9 drugs or intoxicants.

10 A. It is unlawful for anyone to carry or to possess
11 on his or her person a firearm, whether loaded or
12 not, in any place in which a concealed pistol license
is required by state law, while:

- 13 (1) He or she has 0.10 percent or more by weight
14 of alcohol in his or her blood as shown by
15 chemical analysis of his or her breath, blood,
16 or other bodily substance;
- 17 (2) He or she is under the influence of or affected
18 by intoxicating liquor or any drug; or
- 19 (3) He or she is under the combined influence of or
20 affected by intoxicating liquor or any drug.

21 B. Violation of this Section shall be a crime and punished
22 as provided in Section 12A.02.070.

23 Section 2. There is added to Seattle Municipal Code Chapter
24 12A.14 (Ordinance 102843; the Criminal Code) a new section
designated Section 12A.14.150, as follows:

25 12A.14.150 Forfeiture of concealed firearm.

26 The Municipal Court of Seattle may order the forfeiture of a
27 firearm which is proven to be found concealed on a person who is
28 in any place in which a concealed pistol license is required under

1 state law, and who is under the influence of any drug or under
2 the influence of intoxicating liquor, having 0.10 percent or
3 more or more by weight of alcohol in his or her blood, as
4 shown by chemical analysis of his or her breath, blood, or
5 other bodily substance.

6 Section 3. The provisions of this ordinance are declared to be
7 separate and severable. The invalidity of any clause, sentence,
8 paragraph, subdivision, section or portion of this ordinance,
9 or the invalidity of its application to any person or circum-
10 stance, shall not affect the validity of the remainder of this
11 ordinance, or the validity of its application to other persons
12 or circumstances.

(To be used for all Ordinances except Emergency.)

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of April, 1985, and signed by me in open session in authentication of its passage this 15th day of April, 1985.

[Handwritten Signature]
President of the City Council.

Approved by me this 23rd day of April, 1985.

[Handwritten Signature]
Mayor.

Filed by me this 23rd day of April, 1985.

[Handwritten Signature]

Attest: City Comptroller and City Clerk.

(SEAL)

Published.....

By *[Handwritten Signature]*
Deputy Clerk.

Seattle City Council

GB 7275



Norman B. Rice
President of the City Council
625-2436

George E. Benson
Chair
Transportation Committee
625-2441

Virginia Galle
Chair
Environmental Management
Committee
625-2445

Michael Hildt
Chair
Energy Committee
625-2443

Paul Kraabel
Chair
Urban Redevelopment
Committee and Public
Safety Committee
625-2447

Dolores Sibonga
Chair
Finance Committee
625-2451

Sam Smith
Chair
Housing, Recreation &
Human Services Committee
625-2455

Jim Street
Chair
Land Use Committee
625-2438

Jeanette Williams
Chair
City Operations Committee
625-2453

March 19, 1985

*Copy
of
etc*

Mr. Doug Jewett
Seattle City Attorney
Seattle, Washington

Dear Doug:

Enclosed is a draft Council Bill which would make it unlawful under City law to possess or control a firearm in public while intoxicated. I request that your staff review this draft and prepare a final version for submittal to the City Clerk by Thursday morning (March 21) for introduction to the full Council on Monday, March 25. Such legislation was requested by the Public Safety Committee on March 12.

In your transmittal of legislation dated January 22, 1985, signed by Jorgan Bader, you included a draft bill on this same subject (also enclosed). Your transmittal letter indicated, however, that the bill as drafted "would be more restrictive" than RCW 9.41.098.

I have drafted the attached bill in an attempt to be consistent with State Law, including much the same language as RCW 9.41.098 (d). Please review this new draft to be sure it is consistent with and neither more restrictive than, nor exceeding the requirements of State Law and incorporate any necessary changes.

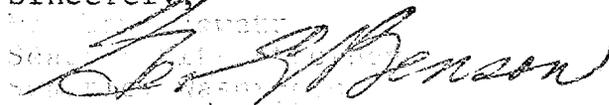
I have enclosed a copy of the State AGO's opinion of 11/10/1984 which seems to indicate that the City has authority to enact such legislation, but notes that the local ordinance must be consistent with its state statutory counterpart in order to be legally effective.

The opinion also notes that the nature of the sanctions in a local ordinance would not determine whether or not the bill is pre-empted.

Doug Jewett
Page two
March 19, 1985

Please excuse the short notice on this request.
Thank you for your assistance.

Sincerely,



George E. Benson, Member
Seattle City Council

GEB/bms

cc: Public Safety Committee

to the City Council on Monday, March 18. Such
legislation was presented by the Public Safety
Committee on March 11.

AN ORDINANCE prohibiting the carrying of a firearm on the person of a firearm while under the influence of any drug or under the influence of intoxicating liquor, declaring a penalty, authorizing forfeiture of concealed firearms, and adding new Section 12A.14.140 and 12A.14.150 to the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to Seattle Municipal Code Chapter 12A.14 (Ordinance 102841; the Criminal Code) a new section designated Section 12A.14.140, as follows:

12A.14.140 Carrying firearm while under the influence of drugs or intoxicants.

A. It is unlawful for anyone to carry or to possess on his or her person a firearm, whether loaded or not, in any place in which a concealed pistol license is required by state law, while:

- (1) He or she has 0.10 percent or more by weight of alcohol in his or her blood as shown by chemical analysis of his or her breath, blood, or other bodily substance;
- (2) He or she is under the influence of or affected by intoxicating liquor or any drug; or
- (3) He or she is under the combined influence of or affected by intoxicating liquor or any drug.

B. Violation of this Section shall be a crime and punished as provided in Section 12A.02.070.

Section 2. There is added to Seattle Municipal Code Chapter 12A.14 (Ordinance 102843; the Criminal Code) a new section designated Section 12A.14.150, as follows:

12A.14.150 Forfeiture of concealed firearm.

The Municipal Court of Seattle may order the forfeiture of a firearm which is proven to be found concealed on a person who is in any place in which a concealed pistol license is required under state law, and who is under the influence of any drug or under the influence of intoxicating liquor, having 0.10 percent or more by weight of alcohol in his or her blood, as shown by chemical analysis of his or her breath, blood, or other bodily substance.

Section 3. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of its application to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of April, 1925,

and signed by me in open session in authentication of its passage this 15th day of April, 1925.

Approved by me this 23rd day of April, 1925.

Filed by me this 23rd day of April, 1925.

M. M. ...
President of the City Council

Charles Royer
Mayor