

**Analysis by
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WHAT PASSED AS PART OF THE KOHL LAW?

The Kohl law, which was passed as section 657 of the Treasury-Postal portion of the omnibus appropriations bill, signed into law on September 30, 1996, sets up a circle with a 2,000 foot diameter (minimum) around every American school. Within that circle, with limited exceptions, guns are banned.

Specifically, the Kohl language imposes a prison sentence of up to five years for a person who "knowingly possess[es] a firearm ... at a place that the individual knows or has reason to believe is a school zone..." The five year sentence could not run concurrently with any other sentence. Furthermore, 18 U.S.C. 921 defines "school zone" to be any place "in or on the grounds of a public, parochial, or private school or within a distance of 1,000 feet of a public, parochial, or private school..." A "school" is a place which "provides elementary or secondary education as determined under state law."

Exceptions would apply if (1) the firearm were possessed on private property not part of school grounds; (2) the individual was licensed to carry the gun by a state conducting a background check prior to the issuance of the license; (3) the gun is not loaded and "is in a locked container or a locked firearms rack that is on a motor vehicle;" (4) the gun is for use in a program approved by a school; (5) the gun is carried by a law enforcement officer acting in his or her official capacity; or (6) the gun is unloaded and carried by a person traversing the school zone on a hunting trip, if the possession is authorized by school authorities.

Here are some of the most commonly asked questions about this language:

BRIEFLY, WHAT DOES THE KOHL LAW DO?

The Kohl law imposes huge felony liability (five years in prison) on virtually any private citizen who carries a loaded gun for protection on his or her person or in his or her car. In other words, if you are convicted of carrying a firearm (on your person or in your car) within 1,000 feet of a school, you will have committed a felony which could subject you to a five year prison sentence

and a \$250,000 fine. If you carry a firearm in your car, at some time or another, the car will travel within 1,000 feet of a school. When that happens, that person will have committed a felony punished at the same level as most serious crimes. This is true even though the person does not actually know he or she is in the vicinity of a school.

DOES THE KOHL LAW SPECIFICALLY PROVIDE FOR ROADBLOCKS?

No, but this can be accomplished by other laws and authorities. Law enforcement officials manning a roadblock to detect drunk drivers, possession of fruit (upon entering California), or even seatbelt usage now can arrest and imprison you for an additional charge. The Supreme Court has recently ruled that a policeman, in such a stop, has the authority to search your entire car without giving you any Miranda warning or indicating that you have a right to refuse. Even without your consent, your car can be visually inspected under those circumstances, and you can be required to get out of the car.

DOES THE KOHL LAW ALLOW YOU TO DRIVE PAST A SCHOOL WITH A GUN IN YOUR CAR?

Not under most circumstances. If you have an unloaded gun in a locked box or locked gun rack, you cannot be arrested. But if the gun is loaded, or if the gun rack is unlocked, or if the gun is located in your glove compartment or on your car seat, you can be prosecuted for a felony.

DO YOU HAVE TO KNOW THAT YOU ARE WITHIN 1,000 FEET OF A SCHOOL BEFORE YOU CAN BE PROSECUTED?

No. If you "should have known" you were within approximately three blocks of a school, you can be prosecuted.

CAN YOU KEEP A GUN WITHIN YOUR HOME?

Yes. But you cannot carry it from your front door to your car parked on the street, unless you determine that such action is approved by school officials. As a result, any hunting trip for a person living within 1,000 feet of a school would constitute a legal labyrinth.

WHAT IF YOU ARE AN OFF-DUTY POLICE OFFICER?

There is no exemption for off-duty police officers. They can be prosecuted and imprisoned for five years for carrying a gun on school property just as readily as other Americans, even if police department policy requires them to carry a gun at all times, on or off duty.

WHAT ABOUT HOME SCHOOLS?

The language of the Kohl gun ban is unclear on this point. But it appears that the Kohl law, on its face, could prohibit possession of firearms by parents who home school their kids. Home schools are arguably "private schools" within the definition of "school zone," and most state laws do recognize these as schools in some respect. Presumably, the parents can create a "school program" which involves firearms instruction. But, for young children or for uses apart from that program, firearms may well be prohibited in those homes. This would certainly be consistent with efforts by gun control advocates to remove firearms from homes with children.

WHAT IF YOU HAVE TO CROSS SCHOOL PROPERTY TO GO HUNTING?

A school can permit carrying an unloaded gun across its property on the way to a hunting trip. As a practical matter, however, if you must drive your car across twenty different "school zones" on your way to your hunting grounds, it will be impossible to get permission from all of the different schools involved -- or determine if permission has been given. Furthermore, many will not give their permission.

ARE YOU EXEMPTED FROM THE LAW BY VIRTUE OF POSSESSING A PISTOL CARRY PERMIT?

Not necessarily. A person in possession of a concealed carry permit is exempt if he comes from a state where a criminal background check was required prior to issuance. In states like Alabama, where no such requirement exists, the carry permit will not protect you. Furthermore, states like Vermont, which allow citizens to carry without a permit, will be put under pressure to institute a permit system.

ARE THERE ANY OTHER EXEMPTIONS UNDER THE KOHL LAW?

A school is permitted to maintain guns on the premises for firearms training in connection with educational programs such as ROTC. Other than that, there are no exemptions.

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