
SENATE BILL 5160

State of Washington

53rd Legislature

1993 Regular Session

By Senator Talmadge

Read first time 01/15/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to firearms; amending RCW 9.41.070, 9.41.090,
2 9.41.098, 9.41.280, 9.41.300, and 10.31.100; reenacting and amending
3 RCW 9.41.010 and 9.41.040; adding new sections to chapter 9.41 RCW;
4 creating a new section; prescribing penalties; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are
8 each reenacted and amended to read as follows:

9 (1) "Short firearm" or "pistol" as used in this chapter means any
10 firearm with a barrel less than twelve inches in length.

11 (2) "Crime of violence" as used in this chapter means:

12 (a) Any of the following felonies, as now existing or hereafter
13 amended: Any felony defined under any law as a class A felony or an
14 attempt to commit a class A felony, criminal solicitation of or
15 criminal conspiracy to commit a class A felony, manslaughter in the
16 first degree, manslaughter in the second degree, indecent liberties if
17 committed by forcible compulsion, rape in the second degree, kidnapping
18 in the second degree, arson in the second degree, assault in the second
19 degree, assault of a child in the second degree, extortion in the first

1 degree, burglary in the second degree, and robbery in the second
2 degree;

3 (b) Any conviction or adjudication for a felony offense in effect
4 at any time prior to July 1, 1976, which is comparable to a felony
5 classified as a crime of violence in subsection (2)(a) of this section;
6 and

7 (c) Any federal or out-of-state conviction or adjudication for an
8 offense comparable to a felony classified as a crime of violence under
9 subsection (2) (a) or (b) of this section.

10 (3) "Firearm" as used in this chapter means a weapon or device from
11 which a projectile may be fired by an explosive such as gunpowder.

12 (4) "Antique firearm" as used in this chapter means any firearm
13 manufactured on or before 1918.

14 (5) "Semiautomatic firearm" as used in this chapter means a firearm
15 having an automatic chambering mechanism but requiring the manual
16 operation of the trigger for each round fired.

17 (6) "Commercial seller" as used in this chapter means a person who
18 has a federal firearms license.

19 **Sec. 2.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are
20 each reenacted and amended to read as follows:

21 (1) A person is guilty of the crime of unlawful possession of a
22 short firearm ~~((or))~~, pistol, or semiautomatic firearm, if, having
23 previously been convicted or, as a juvenile, adjudicated in this state
24 or elsewhere of a crime of violence or of a felony in which a firearm
25 was used or displayed, the person owns or has in his or her possession
26 any short firearm ~~((or))~~, pistol, or semiautomatic firearm.

27 (2) Unlawful possession of a short firearm ~~((or))~~, pistol, or
28 semiautomatic firearm shall be punished as a class C felony under
29 chapter 9A.20 RCW.

30 (3) As used in this section, a person has been "convicted or
31 adjudicated" at such time as a plea of guilty has been accepted or a
32 verdict of guilty has been filed, notwithstanding the pendency of any
33 future proceedings including but not limited to sentencing or
34 disposition, post-trial or post-factfinding motions, and appeals. A
35 person shall not be precluded from possession if the conviction or
36 adjudication has been the subject of a pardon, annulment, certificate
37 of rehabilitation, or other equivalent procedure based on a finding of
38 the rehabilitation of the person convicted or adjudicated or the

1 conviction or disposition has been the subject of a pardon, annulment,
2 or other equivalent procedure based on a finding of innocence.

3 (4) Except as provided in subsection (5) of this section, a person
4 is guilty of the crime of unlawful possession of a short firearm
5 ~~((or))~~, pistol, or semiautomatic firearm if, after having been
6 convicted or adjudicated of any felony violation of the uniform
7 controlled substances act, chapter 69.50 RCW, or equivalent statutes of
8 another jurisdiction, the person owns or has in his or her possession
9 or under his or her control any short firearm ~~((or))~~, pistol, or
10 semiautomatic firearm.

11 (5) Notwithstanding subsection (1) of this section, a person
12 convicted of an offense other than murder, manslaughter, robbery, rape,
13 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
14 violations with respect to controlled substances under RCW 69.50.401(a)
15 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
16 and who received a dismissal of the charge under RCW 9.95.240, shall
17 not be precluded from ownership, possession, or control of a firearm as
18 a result of the conviction.

19 (6)(a) A person who has been committed by court order for treatment
20 of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or
21 equivalent statutes of another jurisdiction, may not possess, in any
22 manner, a firearm as defined in RCW 9.41.010.

23 (b) At the time of commitment, the court shall specifically state
24 to the person under (a) of this subsection and give the person notice
25 in writing that the person is barred from possession of firearms.

26 (c) The secretary of social and health services shall develop
27 appropriate rules to create an approval process under this subsection.
28 The rules must provide for the immediate restoration of the right to
29 possess a firearm upon a showing in a court of competent jurisdiction
30 that a person no longer is required to participate in an inpatient or
31 outpatient treatment program, and is no longer required to take
32 medication to treat any condition related to the commitment. Unlawful
33 possession of a firearm under this subsection shall be punished as a
34 class C felony under chapter 9A.20 RCW.

35 **Sec. 3.** RCW 9.41.070 and 1992 c 168 s 1 are each amended to read
36 as follows:

37 (1) The judge of a court of record, the chief of police of a
38 municipality, or the sheriff of a county, shall within thirty days

1 after the filing of an application of any person issue a license to
2 such person to carry a pistol concealed on his or her person or a
3 semiautomatic firearm within this state for four years from date of
4 issue, for the purposes of protection or while engaged in business,
5 sport, or while traveling. However, if the applicant does not have a
6 valid permanent Washington driver's license or Washington state
7 identification card or has not been a resident of the state for the
8 previous consecutive ninety days, the issuing authority shall have up
9 to sixty days after the filing of the application to issue a license.
10 Such applicant's constitutional right to bear arms shall not be denied,
11 unless he or she:

12 (a) Is ineligible to own a pistol or a semiautomatic firearm under
13 the provisions of RCW 9.41.040; or

14 (b) Is under twenty-one years of age; or

15 (c) Is subject to a court order or injunction regarding firearms
16 pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

17 (d) Is free on bond or personal recognizance pending trial, appeal,
18 or sentencing for a crime of violence; or

19 (e) Has an outstanding warrant for his or her arrest from any court
20 of competent jurisdiction for a felony or misdemeanor; or

21 (f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d)
22 within one year before filing an application to carry a pistol
23 concealed on his or her person or a semiautomatic firearm; or

24 (g) Has been convicted of any of the following offenses: Assault
25 in the third degree, indecent liberties, malicious mischief in the
26 first degree, possession of stolen property in the first or second
27 degree, or theft in the first or second degree. Any person who becomes
28 ineligible for a concealed pistol (~~permit~~) license or a semiautomatic
29 firearm license as a result of a conviction for a crime listed in this
30 subsection (1)(g) and then successfully completes all terms of his or
31 her sentence, as evidenced by a certificate of discharge issued under
32 RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and
33 has not again been convicted of any crime and is not under indictment
34 for any crime, may, one year or longer after such successful sentence
35 completion, petition the district court for a declaration that the
36 person is no longer ineligible for a concealed pistol (~~permit~~)
37 license or a semiautomatic firearm license under this subsection
38 (1)(g).

1 (2) Any person whose firearms rights have been restricted and who
2 has been granted relief from disabilities by the secretary of the
3 treasury under 18 U.S.C. Sec. 925(c) (~~or who is exempt under 18 U.S.C.~~
4 ~~Sec. 921(a)(20)~~) shall have his or her right to acquire, receive,
5 transfer, ship, transport, carry, and possess firearms in accordance
6 with Washington state law restored.

7 (3) The license shall be revoked by the issuing authority
8 immediately upon conviction of a crime which makes such a person
9 ineligible to own a pistol or a semiautomatic firearm, or upon the
10 third conviction for a violation of this chapter within five calendar
11 years.

12 (4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the
13 issuing authority shall:

14 (a) On the first forfeiture, revoke the license for one year;

15 (b) On the second forfeiture, revoke the license for two years;

16 (c) On the third or subsequent forfeiture, revoke the license for
17 five years.

18 Any person whose license is revoked as a result of a forfeiture of a
19 firearm under RCW 9.41.098(1)(d) may not reapply for a new license
20 until the end of the revocation period. The issuing authority shall
21 notify, in writing, the department of licensing upon revocation of a
22 license. The department of licensing shall record the revocation.

23 (5) The license shall be in triplicate, in form to be prescribed by
24 the department of licensing, and shall bear the name, address, and
25 description, fingerprints, and signature of the licensee, and the
26 licensee's driver's license number or state identification card number
27 if used for identification in applying for the license. The license
28 application shall contain a warning substantially as follows:

29 CAUTION: Although state and local laws do not differ, federal
30 law and state law on the possession of firearms differ. If you
31 are prohibited by federal law from possessing a firearm, you
32 may be prosecuted in federal court. A state license is not a
33 defense to a federal prosecution.

34 The license application shall contain a description of the major
35 differences between state and federal law and an explanation of the
36 fact that local laws and ordinances on firearms are preempted by state
37 law and must be consistent with state law. The application shall
38 contain questions about the applicant's place of birth, whether the

1 applicant is a United States citizen, and if not a citizen whether the
2 applicant has declared the intent to become a citizen and whether he or
3 she has been required to register with the state or federal government
4 and any identification or registration number, if applicable. The
5 applicant shall not be required to produce a birth certificate or other
6 evidence of citizenship. An applicant who is not a citizen shall
7 provide documentation showing resident alien status and the applicant's
8 intent to become a citizen. A person who makes a false statement
9 regarding citizenship on the application is guilty of a misdemeanor. A
10 person who is not a citizen of the United States, or has not declared
11 his or her intention to become a citizen shall meet the additional
12 requirements of RCW 9.41.170.

13 The original thereof shall be delivered to the licensee, the
14 duplicate shall within seven days be sent by registered mail to the
15 director of licensing and the triplicate shall be preserved for six
16 years, by the authority issuing said license.

17 (6) The fee for the original issuance of a four-year license shall
18 be twenty-three dollars: PROVIDED, That no other additional charges by
19 any branch or unit of government shall be borne by the applicant for
20 the issuance of the license: PROVIDED FURTHER, That the fee shall be
21 distributed as follows:

22 (a) Four dollars shall be paid to the state general fund;

23 (b) Four dollars shall be paid to the agency taking the
24 fingerprints of the person licensed;

25 (c) Twelve dollars shall be paid to the issuing authority for the
26 purpose of enforcing this chapter; and

27 (d) Three dollars to the firearms range account in the general
28 fund.

29 (7) The fee for the renewal of such license shall be fifteen
30 dollars: PROVIDED, That no other additional charges by any branch or
31 unit of government shall be borne by the applicant for the renewal of
32 the license: PROVIDED FURTHER, That the fee shall be distributed as
33 follows:

34 (a) Four dollars shall be paid to the state general fund;

35 (b) Eight dollars shall be paid to the issuing authority for the
36 purpose of enforcing this chapter; and

37 (c) Three dollars to the firearms range account in the general
38 fund.

1 (8) Payment shall be by cash, check, or money order at the option
2 of the applicant. Additional methods of payment may be allowed at the
3 option of the issuing authority.

4 (9) A licensee may renew a license if the licensee applies for
5 renewal within ninety days before or after the expiration date of the
6 license. A license so renewed shall take effect on the expiration date
7 of the prior license. A licensee renewing after the expiration date of
8 the license must pay a late renewal penalty of ten dollars in addition
9 to the renewal fee specified in subsection (7) of this section. The
10 fee shall be distributed as follows:

11 (a) Three dollars shall be deposited in the state wildlife fund and
12 used exclusively for the printing and distribution of a pamphlet on the
13 legal limits of the use of firearms, firearms safety, and the
14 preemptive nature of state law. The pamphlet shall be given to each
15 applicant for a license; and

16 (b) Seven dollars shall be paid to the issuing authority for the
17 purpose of enforcing this chapter.

18 (10) Notwithstanding the requirements of subsections (1) through
19 (9) of this section, the chief of police of the municipality or the
20 sheriff of the county of the applicant's residence may issue a
21 temporary emergency license for good cause pending review under
22 subsection (1) of this section.

23 (11) A political subdivision of the state shall not modify the
24 requirements of this section or chapter, nor may a political
25 subdivision ask the applicant to voluntarily submit any information not
26 required by this section. A civil suit may be brought to enjoin a
27 wrongful refusal to issue a license or a wrongful modification of the
28 requirements of this section or chapter. The civil suit may be brought
29 in the county in which the application was made or in Thurston county
30 at the discretion of the petitioner. Any person who prevails against
31 a public agency in any action in the courts for a violation of this
32 chapter shall be awarded costs, including reasonable attorneys' fees,
33 incurred in connection with such legal action.

34 **Sec. 4.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as
35 follows:

36 (1) In addition to the other requirements of this chapter, no
37 commercial seller shall deliver a pistol or a semiautomatic firearm to
38 the purchaser thereof until:

1 (a) The purchaser produces a valid concealed pistol license or
2 semiautomatic firearm license and the commercial seller has recorded
3 the purchaser's name, license number, and issuing agency, such record
4 to be made in triplicate and processed as provided in subsection (4) of
5 this section; ~~((or))~~ and

6 (b) The seller is notified in writing by the chief of police of the
7 municipality or the sheriff of the county that the purchaser meets the
8 requirements of RCW 9.41.040 and that the application to purchase is
9 granted; or

10 (c) Five consecutive days including Saturday, Sunday and holidays
11 have elapsed from the time of receipt of the application for the
12 purchase thereof as provided herein by the chief of police or sheriff
13 designated in subsection (4) of this section, and, when delivered, said
14 pistol or semiautomatic firearm shall be securely wrapped and shall be
15 unloaded. However, if the purchaser does not have a valid permanent
16 Washington driver's license or state identification card or has not
17 been a resident of the state for the previous consecutive ninety days,
18 the waiting period under this subsection (1)(c) shall be up to sixty
19 days.

20 (2) In any case under subsection (1)(c) of this section where the
21 applicant has an outstanding warrant for his or her arrest from any
22 court of competent jurisdiction for a felony or misdemeanor, the seller
23 shall hold the delivery of the pistol or the semiautomatic firearm
24 until the warrant for arrest is served and satisfied by appropriate
25 court appearance. The local jurisdiction for purposes of the sale
26 shall confirm the existence of outstanding warrants within seventy-two
27 hours after notification of the application to purchase a pistol or a
28 semiautomatic firearm is received. The local jurisdiction shall also
29 immediately confirm the satisfaction of the warrant on request of the
30 seller so that the hold may be released if the warrant was for a crime
31 other than a crime of violence.

32 (3) In any case where the chief or sheriff of the local
33 jurisdiction has reasonable grounds based on the following
34 circumstances: (a) Open criminal charges, (b) pending criminal
35 proceedings, (c) pending commitment proceedings, (d) an outstanding
36 warrant for a crime of violence, or (e) an arrest for a crime of
37 violence if the records of disposition have not yet been reported or
38 entered sufficiently to determine eligibility to purchase a pistol or
39 a semiautomatic firearm, the local jurisdiction may hold the sale and

1 delivery of the pistol or the semiautomatic firearm beyond five days up
2 to thirty days in order to confirm existing records in this state or
3 elsewhere. After thirty days, the hold will be lifted unless an
4 extension of the thirty days is approved by a local district court or
5 municipal court for good cause shown. An applicant shall be notified
6 of each hold placed on the sale by local law enforcement and of any
7 application to the court for additional hold period to confirm records
8 or confirm the identity of the applicant.

9 (4) At the time of applying for the purchase of a pistol or a
10 semiautomatic firearm, the purchaser shall sign in triplicate and
11 deliver to the seller an application containing his or her full name,
12 address, place of birth, and the date and hour of the application; the
13 applicant's driver's license number or state identification card
14 number; and a description of the weapon including, the make, model,
15 caliber and manufacturer's number; and a statement that the purchaser
16 is eligible to own a pistol or a semiautomatic firearm under RCW
17 9.41.040. The application shall contain a warning substantially as
18 follows:

19 CAUTION: Although state and local laws do not differ, federal
20 law and state law on the possession of firearms differ. If you
21 are prohibited by federal law from possessing a firearm, you
22 may be prosecuted in federal court. State permission to
23 purchase a firearm is not a defense to a federal prosecution.

24 The purchaser shall be given a copy of the department of wildlife
25 pamphlet on the legal limits of the use of firearms, firearms safety,
26 and the fact that local laws and ordinances on firearms are preempted
27 by state law and must be consistent with state law.

28 The seller shall, by the end of the business day, sign and attach
29 his or her address and deliver the original of the application and such
30 other documentation as required under subsection (1) of this section to
31 the chief of police of the municipality or the sheriff of the county of
32 which the seller is a resident. The seller shall deliver the pistol or
33 the semiautomatic firearm to the purchaser following the period of time
34 specified in this section unless the seller is notified in writing by
35 the chief of police of the municipality or the sheriff of the county,
36 whichever is applicable, denying the purchaser's application to
37 purchase and the grounds thereof. The application shall not be denied

1 unless the purchaser fails to meet the requirements specified in RCW
2 9.41.040. The chief of police of the municipality or the county
3 sheriff shall maintain a file containing the original of the
4 application to purchase a pistol or a semiautomatic firearm.

5 **Sec. 5.** RCW 9.41.098 and 1989 c 222 s 8 are each amended to read
6 as follows:

7 (1) The superior courts and the courts of limited jurisdiction of
8 the state may order forfeiture of a firearm which is proven to be:

9 (a) Found concealed on a person not authorized by RCW 9.41.060 or
10 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute
11 defense to forfeiture if the person possessed a valid Washington
12 concealed pistol license within the preceding two years and has not
13 become ineligible for a concealed pistol license in the interim.
14 Before the firearm may be returned, the person must pay the past due
15 renewal fee and the current renewal fee;

16 (b) Commercially sold to any person without an application as
17 required by RCW 9.41.090;

18 (c) Found in the possession or under the control of a person at the
19 time the person committed or was arrested for committing a crime of
20 violence or a crime in which a firearm was used or displayed or a
21 felony violation of the uniform controlled substances act, chapter
22 69.50 RCW;

23 (d) Found concealed on a person who is in any place in which a
24 concealed pistol license is required, and who is under the influence of
25 any drug or under the influence of intoxicating liquor, having 0.10
26 grams or more of alcohol per two hundred ten liters of breath or 0.10
27 percent or more by weight of alcohol in the person's blood, as shown by
28 analysis of the person's breath, blood, or other bodily substance;

29 (e) Found in the possession of a person prohibited from possessing
30 the firearm under RCW 9.41.040;

31 (f) Found in the possession of a person free on bail or personal
32 recognizance pending trial, appeal, or sentencing for a crime of
33 violence or a crime in which a firearm was used or displayed, except
34 that violations of Title 77 RCW shall not result in forfeiture under
35 this section;

36 (g) Found in the possession of a person found to have been mentally
37 incompetent while in possession of a firearm when apprehended or who is
38 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

1 (h) Known to have been used or displayed by a person in the
2 violation of a proper written order of a court of general jurisdiction;
3 or

4 (i) Known to have been used in the commission of a crime of
5 violence or a crime in which a firearm was used or displayed or a
6 felony violation of the uniformed controlled substances act, chapter
7 69.50 RCW.

8 (2)(a) Upon order of forfeiture, the court in its discretion shall
9 order destruction of any firearm that is illegal for any person to
10 possess. All firearms legal for citizen possession that are judicially
11 forfeited or forfeited due to failure to make a claim under RCW
12 63.32.010, 63.40.010, or 63.35.020 (~~shall~~) may be submitted for
13 auction to commercial sellers once a year if the submitting agency has
14 accumulated at least ten firearms authorized for sale. Law enforcement
15 agencies may conduct joint auctions for the purpose of maximizing
16 efficiency. A maximum of ten percent of such firearms may be retained
17 for use by local law enforcement agencies and the Washington state
18 patrol. Before submission for auction, trade, or destruction, a court
19 may temporarily retain forfeited firearms if needed for evidence.

20 (i) The proceeds from any sale shall be divided as follows: (~~The~~
21 ~~local jurisdiction and the Washington state patrol shall retain its~~
22 ~~costs, including actual costs of storage and sale, and shall forward~~
23 ~~the remainder to the state department of wildlife for use in its~~
24 ~~firearms training program pursuant to RCW 77.32.155)) The agency
25 submitting the surplus firearms for sale may retain sixty percent of
26 the total proceeds from the sale of the firearms, to be used by the
27 agency exclusively for law enforcement purposes. Forty percent of the
28 total proceeds shall go to the firearms range account. All costs
29 incurred in selling the surplus firearms shall be paid from the portion
30 retained by the law enforcement agency; or~~

31 (ii) In lieu of selling surplus firearms at auction a law
32 enforcement agency may trade the surplus firearms to a commercial
33 seller in exchange for departmental service weapons or other firearms
34 or police equipment, to be used by the agency exclusively for law
35 enforcement purposes. If surplus firearms are exchanged for the
36 described equipment, the value of the equipment shall not be subject to
37 division under (a)(i) of this subsection.

1 (b) If a local government chooses to destroy such firearms the
2 local government shall enact an ordinance providing for the destruction
3 of such firearms. Antique firearms are exempted from destruction.

4 (c) If a firearm is delivered to a law enforcement agency and the
5 agency no longer requires use of the firearm, the agency shall dispose
6 of the firearm ((by auction)) as provided by this subsection. The
7 public auctioning agency shall, as a minimum, maintain a record of all
8 forfeited firearms by manufacturer, model, caliber, serial number, date
9 and circumstances of forfeiture, and final disposition. The records
10 shall be open to public inspection and copying.

11 (3) The court shall order the firearm returned to the owner upon a
12 showing that there is no probable cause to believe a violation of
13 subsection (1) of this section existed or the firearm was stolen from
14 the owner or the owner neither had knowledge of nor consented to the
15 act or omission involving the firearm which resulted in its forfeiture.

16 (4) A law enforcement officer of the state or of any county or
17 municipality may confiscate a firearm found to be in the possession of
18 a person under circumstances specified in subsection (1) of this
19 section. After confiscation, the firearm shall not be surrendered
20 except: (a) To the prosecuting attorney for use in subsequent legal
21 proceedings; (b) for disposition according to an order of a court
22 having jurisdiction as provided in subsection (1) of this section; or
23 (c) to the owner if the proceedings are dismissed or as directed in
24 subsection (3) of this section.

25 (5) This section shall apply to all forfeited firearms in the
26 possession of a law enforcement agency, regardless of when the firearms
27 came into the possession of the law enforcement agency.

28 **Sec. 6.** RCW 9.41.280 and 1989 c 219 s 1 are each amended to read
29 as follows:

30 (1) It is unlawful for ~~((an elementary or secondary school student~~
31 ~~under the age of twenty-one knowingly))~~ a person to carry onto public
32 or private elementary or secondary school premises:

33 (a) Any firearm; or

34 (b) Any dangerous weapon as defined in RCW 9.41.250; or

35 (c) Any device commonly known as "nun-chu-ka sticks", consisting of
36 two or more lengths of wood, metal, plastic, or similar substance
37 connected with wire, rope, or other means; or

1 (d) Any device, commonly known as "throwing stars", which are
2 multi-pointed, metal objects designed to embed upon impact from any
3 aspect; or

4 (e) Any air gun, including any air pistol or air rifle, designed to
5 propel a BB, pellet, or other projectile by the discharge of compressed
6 air, carbon dioxide, or other gas.

7 (2) Any such ((~~student~~)) person violating subsection (1) of this
8 section is guilty of a gross misdemeanor.

9 Any violation of subsection (1) of this section by elementary or
10 secondary school students constitutes grounds for expulsion.

11 (3) Subsection (1) of this section does not apply to:

12 (a) Any student or employee of a private military academy; or

13 (b) Any ((~~student~~)) person engaged in military activities,
14 sponsored by the federal or state governments while engaged in official
15 duties; or

16 (c) Any ((~~student~~)) person who is ((~~attending~~)) involved in a
17 convention, showing, demonstration, lecture, or firearms safety course
18 authorized by school authorities in which the firearms of collectors or
19 instructors are handled or displayed; or

20 (d) Any ((~~student~~)) person who possesses nun-chu-ka sticks,
21 throwing stars, or other dangerous weapons to be used in martial arts
22 classes conducted on the school premises; or

23 (e) Any ((~~student~~)) person while the ((~~student~~)) person is
24 participating in a firearms or air gun competition approved by the
25 school or school district; or

26 (f) Any person legally in possession of a firearm under this
27 chapter: (i) While the person is within a vehicle; or (ii) while the
28 person is away from the vehicle if the firearm is locked within the
29 vehicle and concealed from view from outside the vehicle; or

30 (g) Any person legally in possession of a concealed pistol under
31 RCW 9.41.070; or

32 (h) Any law enforcement officer of any federal, state, or local
33 governmental agency.

34 **Sec. 7.** RCW 9.41.300 and 1985 c 428 s 2 are each amended to read
35 as follows:

36 (1) It is unlawful for any person to enter the following places
37 when he or she knowingly possesses or knowingly has under his or her
38 control a ((~~firearm~~)) weapon:

1 (a) The restricted access areas of a jail, or of a law enforcement
2 facility, or any place used for the confinement of a person (i)
3 arrested for, charged with, or convicted of an offense, (ii) charged
4 with being or adjudicated to be a juvenile offender as defined in RCW
5 13.40.020, (iii) held for extradition or as a material witness, or (iv)
6 otherwise confined pursuant to an order of a court, except an order
7 under chapter 13.32A or 13.34 RCW. Restricted access areas do not
8 include common areas of egress or ingress open to the general public;

9 (b) A courtroom, jury room, the waiting area adjacent to the
10 courtroom used by participants in court proceedings, or judge's
11 chamber(, while either is being used for any judicial proceeding),
12 unless exempted by subsection (6) of this section. This does not
13 include common areas or areas of egress and ingress of the courthouse
14 or any building used as a courthouse. However, the court administrator
15 may employ weapon detection devices in common areas adjacent to
16 restricted areas.

17 The court administrator shall designate and clearly mark the
18 restricted areas and shall also display a sign at entrances to a
19 courthouse or any building used as a courthouse that explains the
20 prohibition against weapons in a courtroom, in a waiting area adjacent
21 to the courtroom used by participants in court proceedings, and judge's
22 chambers. Any person knowingly possessing or knowingly having under
23 his or her control a weapon in violation of this subsection (1)(b) is
24 guilty of a gross misdemeanor according to chapter 9A.20 RCW;

25 (c) The restricted access areas of a public mental health facility
26 certified by the department of social and health services for inpatient
27 hospital care and state institutions for the care of the mentally ill,
28 excluding those facilities solely for evaluation and treatment.
29 Restricted access areas do not include common areas of egress and
30 ingress open to the general public; or

31 (d) That portion of an establishment classified by the state liquor
32 control board as off-limits to persons under twenty-one years of age.

33 (2) Notwithstanding RCW 9.41.290, cities, towns, counties, and
34 other municipalities may enact laws and ordinances:

35 (a) Restricting the discharge of firearms in any portion of their
36 respective jurisdictions where there is a reasonable likelihood that
37 humans, domestic animals, or property will be jeopardized. Such laws
38 and ordinances shall not abridge the right of the individual guaranteed

1 by Article I, section 24 of the state Constitution to bear arms in
2 defense of self or others; and

3 (b) Restricting the possession of firearms in any stadium or
4 convention center, operated by a city, town, county, or other
5 municipality, except that such restrictions shall not apply to:

6 (i) Any firearm in the possession of a person licensed under RCW
7 9.41.070; or

8 (ii) Any showing, demonstration, or lecture involving the
9 exhibition of firearms.

10 (3) The perimeter of the premises of any specific location covered
11 by subsection (1) of this section shall be posted at reasonable
12 intervals to alert the public as to the existence of any law
13 restricting the possession of firearms on the premises.

14 (4) Subsection (1) of this section does not apply to:

15 (a) A person engaged in military activities sponsored by the
16 federal or state governments, while engaged in official duties;

17 (b) Law enforcement personnel; or

18 (c) Security personnel while engaged in official duties.

19 (5) Subsection (1)(a) of this section does not apply to a person
20 licensed pursuant to RCW 9.41.070 who, upon entering the place or
21 facility, directly and promptly proceeds to the administrator of the
22 facility or the administrator's designee and obtains written permission
23 to possess the firearm while on the premises or checks his or her
24 firearm. The person may reclaim the firearms upon leaving but must
25 immediately and directly depart from the place or facility.

26 (6) Subsection (1)(b) of this section does not apply to a judge,
27 attorney, or ((court)) employee ((or to any person licensed under RCW
28 9.41.070 who, before entering the restricted area, directly and
29 promptly proceeds to the court administrator or the administrator's
30 designee and obtains)) of a federal, state, or local law enforcement
31 agency, while such employee is engaged in employment-related duties who
32 has obtained written permission from the court administrator to possess
33 the firearm. The court administrator may not withhold written
34 permission from any judge, attorney, or employee of a federal, state,
35 or local law enforcement agency, while such employee is engaged in
36 employment-related duties who otherwise lawfully owns or possesses a
37 firearm. Any other person who is in lawful possession of a firearm
38 under RCW 9.41.070 must, before entering the restricted area, directly
39 and promptly proceed to the court administrator and check his or her

1 firearm. The person may reclaim the firearm upon leaving the
2 restricted area.

3 (7) Subsection (1)(c) of this section does not apply to any
4 administrator or employee of the facility or to any person who, upon
5 entering the place or facility, directly and promptly proceeds to the
6 administrator of the facility or the administrator's designee and
7 obtains written permission to possess the firearm while on the
8 premises.

9 (8) Subsection (1)(d) of this section does not apply to the
10 proprietor of the premises or his or her employees while engaged in
11 their employment.

12 (9) Any person violating subsection (1) of this section is guilty
13 of a misdemeanor.

14 (10) "Weapon" as used in this section means any firearm, explosive
15 as defined in RCW 70.74.010, or instrument or weapon listed in RCW
16 9.41.250.

17 NEW SECTION. Sec. 8. (1) The legislature finds that placing
18 firearms within the reach or easy access of children is irresponsible
19 and encourages accidents that result in serious injury or death.
20 Legislative action is necessary to prohibit negligently stored firearms
21 and to protect the safety of our children.

22 (2) It is the intent of the legislature that adult citizens of the
23 state retain their constitutional right to keep and bear firearms for
24 hunting and sporting activities and for defense of self, family, home,
25 and business, and as collectibles. Nothing in sections 9 through 12 of
26 this act shall be construed to reduce or limit any existing right to
27 purchase and own firearms, or to provide authority to any state or
28 local agency to infringe upon the privacy of any family, home, or
29 business, except by lawful warrant.

30 NEW SECTION. Sec. 9. (1) A person who stores or leaves, on a
31 premise under his or her control, a loaded firearm, as defined in RCW
32 9.41.010, and who knows or reasonably should know that a child is
33 likely to gain access to the firearm without the lawful permission of
34 the child's parent or the person having charge of the child or without
35 the supervision required by law shall keep the firearm in a securely
36 locked box or container or in a location which a reasonable person
37 would believe to be secure or shall secure it with a trigger lock,

1 except when carrying the firearm on his or her body or within such
2 close proximity thereto that it can be retrieved and used as easily and
3 quickly as if carried on the body.

4 (2) It is a misdemeanor if a person violates subsection (1) of this
5 section by failing to store or leave a firearm in the required manner
6 and as a result thereof a child gains access to the firearm, without
7 the lawful permission of the child's parent or the person having charge
8 of the child, and possesses or exhibits it, without the supervision
9 required by law:

10 (a) In a public place; or

11 (b) In a reckless or criminally negligent manner.

12 This subsection does not apply if the child obtains the firearm as
13 a result of an unlawful entry by any person.

14 NEW SECTION. **Sec. 10.** Whoever violates section 9 of this act by
15 storing or leaving a loaded firearm within the reach or easy access of
16 a child, if the child obtains the firearm and uses it to inflict injury
17 or death upon himself or herself or any other person, shall be guilty
18 of a class C felony under chapter 9A.20 RCW. However, this section
19 does not apply:

20 (1) If the firearm was stored or left in a securely locked box or
21 container or in a location which a reasonable person would have
22 believed to be secure, or was securely locked with a trigger lock;

23 (2) If the child obtains the firearm as a result of an unlawful
24 entry by any person;

25 (3) To injuries resulting from target or sport shooting accidents
26 or hunting accidents; or

27 (4) To members of the armed forces, national guard, or state
28 militia, or to police or other law enforcement officers, with respect
29 to firearm possession by a child which occurs during or incidental to
30 the performance of their official duties.

31 When any child is accidentally shot by another family member, no
32 arrest shall be made pursuant to this subsection prior to seven days
33 after the date of the shooting. With respect to any parent or guardian
34 of any deceased child, the investigating officers shall file all
35 findings and evidence with the prosecuting attorney's office with
36 respect to violations of this section. The prosecuting attorney shall
37 evaluate such evidence and shall take such action as he or she deems

1 appropriate under the circumstances and may file charges against the
2 appropriate parties.

3 NEW SECTION. **Sec. 11.** (1) Upon the retail commercial sale or
4 retail transfer of any firearm, the seller or transferor shall deliver
5 a written warning to the purchaser or transferee, which warning states,
6 in block letters not less than one-fourth inch in height:

7 "IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY ADULT
8 TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY
9 ACCESS OF A CHILD."

10 (2) Any retail or wholesale store, shop, or sales outlet which
11 sells firearms must conspicuously post at each purchase counter the
12 following warning in block letters not less than one inch in height:

13 "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE
14 REACH OR EASY ACCESS OF A CHILD."

15 (3) Any person or business knowingly violating a requirement to
16 provide warning under this section is guilty of a misdemeanor.

17 NEW SECTION. **Sec. 12.** As used in sections 9 through 11 of this
18 act, "child" means any person under the age of sixteen.

19 NEW SECTION. **Sec. 13.** It shall be unlawful for any person, except
20 law enforcement officers of any federal, state, or local governmental
21 agency, to carry, transport, convey, or to have in his or her
22 possession or under his or her control any firearm while in the
23 following buildings located on the west state capitol campus grounds:

- 24 (1) Legislative Building;
- 25 (2) John L. O'Brien Building;
- 26 (3) John A. Cherberg Building;
- 27 (4) Temple of Justice;
- 28 (5) General Administration Building;
- 29 (6) Governor's Mansion;
- 30 (7) Insurance Building;
- 31 (8) State Library;
- 32 (9) Institutions Building; and
- 33 (10) Public Information Center.

1 This section does not apply to any person licensed under RCW
2 9.41.070 who, immediately before entering any capitol campus building
3 listed in this section, notifies the Washington state patrol that he or
4 she is in possession of a concealed weapon. This section does not
5 restrict any person from carrying, transporting, or possessing firearms
6 for the express purpose of a demonstration or lecture involving the
7 exhibition of firearms. The Washington state patrol shall post
8 prominently at each entrance to each of the buildings covered by this
9 section a sign indicating who may and who may not carry a weapon into
10 the building.

11 Any person violating the provisions of this section is guilty of a
12 misdemeanor.

13 **Sec. 14.** RCW 10.31.100 and 1988 c 190 s 1 are each amended to read
14 as follows:

15 A police officer having probable cause to believe that a person has
16 committed or is committing a felony shall have the authority to arrest
17 the person without a warrant. A police officer may arrest a person
18 without a warrant for committing a misdemeanor or gross misdemeanor
19 only when the offense is committed in the presence of the officer,
20 except as provided in subsections (1) through (~~(8)~~) (9) of this
21 section.

22 (1) Any police officer having probable cause to believe that a
23 person has committed or is committing a misdemeanor or gross
24 misdemeanor, involving physical harm or threats of harm to any person
25 or property or the unlawful taking of property or involving the use or
26 possession of cannabis, or involving the acquisition, possession, or
27 consumption of alcohol by a person under the age of twenty-one years
28 under RCW 66.44.270 shall have the authority to arrest the person.

29 (2) A police officer shall arrest and take into custody, pending
30 release on bail, personal recognizance, or court order, a person
31 without a warrant when the officer has probable cause to believe that:

32 (a) An order has been issued of which the person has knowledge
33 under RCW 10.99.040(2), 10.99.050, 26.09.060, 26.44.063, chapter 26.26
34 RCW, or chapter 26.50 RCW restraining the person and the person has
35 violated the terms of the order restraining the person from acts or
36 threats of violence or excluding the person from a residence or, in the
37 case of an order issued under RCW 26.44.063, imposing any other
38 restrictions or conditions upon the person; or

1 (b) The person is eighteen years or older and within the preceding
2 four hours has assaulted that person's spouse, former spouse, or a
3 person eighteen years or older with whom the person resides or has
4 formerly resided and the officer believes: (i) A felonious assault has
5 occurred; (ii) an assault has occurred which has resulted in bodily
6 injury to the victim, whether the injury is observable by the
7 responding officer or not; or (iii) that any physical action has
8 occurred which was intended to cause another person reasonably to fear
9 imminent serious bodily injury or death. Bodily injury means physical
10 pain, illness, or an impairment of physical condition. When the
11 officer has probable cause to believe that spouses, former spouses, or
12 other persons who reside together or formerly resided together have
13 assaulted each other, the officer is not required to arrest both
14 persons. The officer shall arrest the person whom the officer believes
15 to be the primary physical aggressor. In making this determination,
16 the officer shall make every reasonable effort to consider: (i) The
17 intent to protect victims of domestic violence under RCW 10.99.010;
18 (ii) the comparative extent of injuries inflicted or serious threats
19 creating fear of physical injury; and (iii) the history of domestic
20 violence between the persons involved.

21 (3) Any police officer having probable cause to believe that a
22 person has committed or is committing a violation of any of the
23 following traffic laws shall have the authority to arrest the person:

24 (a) RCW 46.52.010, relating to duty on striking an unattended car
25 or other property;

26 (b) RCW 46.52.020, relating to duty in case of injury to or death
27 of a person or damage to an attended vehicle;

28 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
29 racing of vehicles;

30 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
31 influence of intoxicating liquor or drugs;

32 (e) RCW 46.20.342, relating to driving a motor vehicle while
33 operator's license is suspended or revoked;

34 (f) RCW 46.61.525, relating to operating a motor vehicle in a
35 negligent manner.

36 (4) A law enforcement officer investigating at the scene of a motor
37 vehicle accident may arrest the driver of a motor vehicle involved in
38 the accident if the officer has probable cause to believe that the

1 driver has committed in connection with the accident a violation of any
2 traffic law or regulation.

3 (5) Any police officer having probable cause to believe that a
4 person has committed or is committing a violation of RCW 88.12.100
5 shall have the authority to arrest the person.

6 (6) An officer may act upon the request of a law enforcement
7 officer in whose presence a traffic infraction was committed, to stop,
8 detain, arrest, or issue a notice of traffic infraction to the driver
9 who is believed to have committed the infraction. The request by the
10 witnessing officer shall give an officer the authority to take
11 appropriate action under the laws of the state of Washington.

12 (7) Any police officer having probable cause to believe that a
13 person has committed or is committing any act of indecent exposure, as
14 defined in RCW 9A.88.010, may arrest the person.

15 (8) A police officer may arrest and take into custody, pending
16 release on bail, personal recognizance, or court order, a person
17 without a warrant when the officer has probable cause to believe that
18 an order has been issued of which the person has knowledge under
19 chapter 10.14 RCW and the person has violated the terms of that order.

20 (9) A police officer having probable cause to believe that a person
21 has committed or is committing a violation of RCW 9.41.280 shall have
22 the authority to arrest the person.

23 (10) Except as specifically provided in subsections (2), (3), (4),
24 and (6) of this section, nothing in this section extends or otherwise
25 affects the powers of arrest prescribed in Title 46 RCW.

26 (~~(10)~~) (11) No police officer may be held criminally or civilly
27 liable for making an arrest pursuant to RCW 10.31.100(2) or (8) if the
28 police officer acts in good faith and without malice.

29 NEW SECTION. Sec. 15. Sections 9 through 13 of this act are each
30 added to chapter 9.41 RCW.

31 NEW SECTION. Sec. 16. Sections 8 through 12 of this act shall
32 take effect January 1, 1994.

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