

2 SHB 2420 - S AMD - 264

3 By Senators Smith, Hargrove, Fairley, Kohl, Wojahn, Long and
4 Franklin

5 ADOPTED 3/1/96

6 Strike everything after the enacting clause and insert the
7 following:

8 "Sec. 1. RCW 9.41.010 and 1994 sp.s. c 7 s 401 and 1994 c 121 s 1
9 are each reenacted and amended to read as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Firearm" means a weapon or device from which a projectile or
13 projectiles may be fired by an explosive such as gunpowder.

14 (2) "Pistol" means any firearm with a barrel less than (~~twelve~~)
15 sixteen inches in length, or is designed to be held and fired by the
16 use of a single hand.

17 (3) "Rifle" means a weapon designed or redesigned, made or remade,
18 and intended to be fired from the shoulder and designed or redesigned,
19 made or remade, and intended to use the energy of the explosive in a
20 fixed metallic cartridge to fire only a single projectile through a
21 rifled bore for each single pull of the trigger.

22 (4) "Short-barreled rifle" means a rifle having one or more barrels
23 less than sixteen inches in length and any weapon made from a rifle by
24 any means of modification if such modified weapon has an overall length
25 of less than twenty-six inches.

26 (5) "Shotgun" means a weapon with one or more barrels, designed or
27 redesigned, made or remade, and intended to be fired from the shoulder
28 and designed or redesigned, made or remade, and intended to use the
29 energy of the explosive in a fixed shotgun shell to fire through a
30 smooth bore either a number of ball shot or a single projectile for
31 each single pull of the trigger.

32 (6) "Short-barreled shotgun" means a shotgun having one or more
33 barrels less than eighteen inches in length and any weapon made from a
34 shotgun by any means of modification if such modified weapon has an
35 overall length of less than twenty-six inches.

1 (7) "Machine gun" means any firearm known as a machine gun,
2 mechanical rifle, submachine gun, or any other mechanism or instrument
3 not requiring that the trigger be pressed for each shot and having a
4 reservoir clip, disc, drum, belt, or other separable mechanical device
5 for storing, carrying, or supplying ammunition which can be loaded into
6 the firearm, mechanism, or instrument, and fired therefrom at the rate
7 of five or more shots per second.

8 (8) "Antique firearm" means a firearm or replica of a firearm not
9 designed or redesigned for using rim fire or conventional center fire
10 ignition with fixed ammunition and manufactured in or before 1898,
11 including any matchlock, flintlock, percussion cap, or similar type of
12 ignition system and also any firearm using fixed ammunition
13 manufactured in or before 1898, for which ammunition is no longer
14 manufactured in the United States and is not readily available in the
15 ordinary channels of commercial trade.

16 (9) "Loaded" means:

17 (a) There is a cartridge in the chamber of the firearm;

18 (b) ~~((Bullets))~~ Cartridges are in a clip that is locked in place in
19 the firearm;

20 (c) There is a cartridge in the cylinder of the firearm, if the
21 firearm is a revolver; ~~((or))~~

22 (d) There is a cartridge in the tube~~((r))~~ or magazine~~((r or other~~
23 ~~compartment of the firearm))~~ that is inserted in the action; or

24 (e) There is a ball in the barrel and the firearm is capped or
25 primed if the firearm is a muzzle loader.

26 (10) "Dealer" means a person engaged in the business of selling
27 firearms ~~((or ammunition))~~ at wholesale or retail who has, or is
28 required to have, a federal firearms license under 18 U.S.C. Sec.
29 923(a). A person who does not have, and is not required to have, a
30 federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer
31 if that person makes only occasional sales, exchanges, or purchases of
32 firearms for the enhancement of a personal collection or for a hobby,
33 or sells all or part of his or her personal collection of firearms.

34 (11) "Crime of violence" means:

35 (a) Any of the following felonies, as now existing or hereafter
36 amended: Any felony defined under any law as a class A felony or an
37 attempt to commit a class A felony, criminal solicitation of or
38 criminal conspiracy to commit a class A felony, manslaughter in the
39 first degree, manslaughter in the second degree, indecent liberties if

1 committed by forcible compulsion, (~~rape in the second degree,~~)
2 kidnapping in the second degree, arson in the second degree, assault in
3 the second degree, assault of a child in the second degree, extortion
4 in the first degree, burglary in the second degree, residential
5 burglary, and robbery in the second degree;

6 (b) Any conviction for a felony offense in effect at any time prior
7 to (~~July 1, 1976~~) the effective date of this act, which is comparable
8 to a felony classified as a crime of violence in (a) of this
9 subsection; and

10 (c) Any federal or out-of-state conviction for an offense
11 comparable to a felony classified as a crime of violence under (a) or
12 (b) of this subsection.

13 (12) "Serious offense" means any of the following felonies or a
14 felony attempt to commit any of the following felonies, as now existing
15 or hereafter amended:

16 (a) Any crime of violence;

17 (b) Any felony violation of the uniform controlled substances act,
18 chapter 69.50 RCW, that is classified as a class B felony or that has
19 a maximum term of imprisonment of at least ten years;

20 (c) Child molestation in the second degree;

21 (~~(c) Controlled substance homicide;~~)

22 (d) Incest when committed against a child under age fourteen;

23 (e) Indecent liberties;

24 (f) Leading organized crime;

25 (g) Promoting prostitution in the first degree;

26 (h) Rape in the third degree;

27 (i) Reckless endangerment in the first degree;

28 (j) Sexual exploitation;

29 (~~(j)~~) (k) Vehicular assault;

30 (~~(k)~~) (l) Vehicular homicide, when proximately caused by the
31 driving of any vehicle by any person while under the influence of
32 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the
33 operation of any vehicle in a reckless manner;

34 (~~(l)~~) (m) Any other class B felony offense with a finding of
35 sexual motivation, as "sexual motivation" is defined under RCW
36 9.94A.030;

37 (~~(m)~~) (n) Any other felony with a deadly weapon verdict under RCW
38 9.94A.125; or

1 (~~(n)~~) (o) Any felony offense in effect at any time prior to
2 (~~July 1, 1994,~~) the effective date of this act that is comparable to
3 a serious offense, or any federal or out-of-state conviction for an
4 offense that under the laws of this state would be a felony classified
5 as a serious offense.

6 (13) "Law enforcement officer" includes a general authority
7 Washington peace officer as defined in RCW 10.93.020, or a specially
8 commissioned Washington peace officer as defined in RCW 10.93.020.
9 "Law enforcement officer" also includes a limited authority Washington
10 peace officer as defined in RCW 10.93.020 if such officer is duly
11 authorized by his or her employer to carry a concealed pistol.

12 (14) "Felony" means any felony offense under the laws of this state
13 or any federal or out-of-state offense comparable to a felony offense
14 under the laws of this state.

15 (15) "Sell" refers to the actual approval of the delivery of a
16 firearm in consideration of payment or promise of payment of a certain
17 price in money.

18 (16) "Barrel length" means the distance from the bolt face of a
19 closed action down the length of the axis of the bore to the crown of
20 the muzzle, or in the case of a barrel with attachments to the end of
21 any legal device permanently attached to the end of the muzzle.

22 (17) "Family or household member" means "family" or "household
23 member" as used in RCW 10.99.020.

24 **Sec. 2.** RCW 9.41.040 and 1995 c 129 s 16 (Initiative Measure No.
25 159) are each reenacted and amended to read as follows:

26 (1)(a) A person, whether an adult or juvenile, is guilty of the
27 crime of unlawful possession of a firearm in the first degree, if the
28 person owns, has in his or her possession, or has in his or her control
29 any firearm after having previously been convicted in this state or
30 elsewhere of any serious offense as defined in this chapter(~~(7~~
31 ~~residential burglary, reckless endangerment in the first degree, any~~
32 ~~felony violation of the Uniform Controlled Substances Act, chapter~~
33 ~~69.50 RCW, classified as a class A or class B felony, or with a maximum~~
34 ~~sentence of at least ten years, or both, or equivalent statutes of~~
35 ~~another jurisdiction, except as otherwise provided in subsection (3) or~~
36 ~~(4) of this section)).~~

37 (b) A person, whether an adult or juvenile, is guilty of the crime
38 of unlawful possession of a firearm in the second degree, if the person

1 does not qualify under (a) of this subsection for the crime of unlawful
2 possession of a firearm in the first degree and the person owns, has in
3 his or her possession, or has in his or her control any firearm:

4 (i) After having previously been convicted in this state or
5 elsewhere of any (~~remaining~~) felony (~~violation of the Uniform~~
6 ~~Controlled Substances Act, chapter 69.50 RCW, or equivalent statutes of~~
7 ~~another jurisdiction~~) not specifically listed as prohibiting firearm
8 possession under (a) of this subsection, (~~any remaining felony in~~
9 ~~which a firearm was used or displayed and the felony is not~~
10 ~~specifically listed as prohibiting firearm possession under (a) of this~~
11 ~~subsection,~~) or any (~~domestic violence offense enumerated in RCW~~
12 ~~10.99.020(2), or any harassment offense enumerated in RCW 9A.46.060,~~
13 ~~except as otherwise provided in subsection (3) or (4) of this section~~)
14 of the following crimes when committed by one family or household
15 member against another, committed on or after July 1, 1993: Assault in
16 the fourth degree, coercion, stalking, reckless endangerment in the
17 second degree, criminal trespass in the first degree, or violation of
18 the provisions of a protection order or no-contact order restraining
19 the person or excluding the person from a residence (RCW 26.50.060,
20 26.50.070, 26.50.130, or 10.99.040);

21 (ii) (~~After having previously been convicted on three occasions~~
22 ~~within five years of driving a motor vehicle or operating a vessel~~
23 ~~while under the influence of intoxicating liquor or any drug, unless~~
24 ~~his or her right to possess a firearm has been restored as provided in~~
25 ~~RCW 9.41.047;~~

26 (~~iii~~)) After having previously been involuntarily committed for
27 mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77
28 RCW, or equivalent statutes of another jurisdiction, unless his or her
29 right to possess a firearm has been restored as provided in RCW
30 9.41.047; (~~and/or~~

31 (~~iv~~)) (iii) If the person is under eighteen years of age, except
32 as provided in RCW 9.41.042; and/or

33 (iv) If the person is free on bond or personal recognizance pending
34 trial, appeal, or sentencing for a serious offense as defined in RCW
35 9.41.010.

36 (2)(a) Unlawful possession of a firearm in the first degree is a
37 class B felony, punishable under chapter 9A.20 RCW.

38 (b) Unlawful possession of a firearm in the second degree is a
39 class C felony, punishable under chapter 9A.20 RCW.

1 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as
2 used in this ((section)) chapter, a person has been "convicted",
3 whether in an adult court or adjudicated in a juvenile court, at such
4 time as a plea of guilty has been accepted, or a verdict of guilty has
5 been filed, notwithstanding the pendency of any future proceedings
6 including but not limited to sentencing or disposition, post-trial or
7 post-factfinding motions, and appeals. Conviction includes a dismissal
8 entered after a period of probation, suspension or deferral of
9 sentence, and also includes equivalent dispositions by courts in
10 jurisdictions other than Washington state. A person shall not be
11 precluded from possession of a firearm if the conviction has been the
12 subject of a pardon, annulment, certificate of rehabilitation, or other
13 equivalent procedure based on a finding of the rehabilitation of the
14 person convicted or the conviction or disposition has been the subject
15 of a pardon, annulment, or other equivalent procedure based on a
16 finding of innocence. Where no record of the court's disposition of
17 the charges can be found, there shall be a rebuttable presumption that
18 the person was not convicted of the charge.

19 (4) Notwithstanding subsection (1) of this section, a person
20 convicted of an offense prohibiting the possession of a firearm under
21 this section other than murder, manslaughter, robbery, rape, indecent
22 liberties, arson, assault, kidnapping, extortion, burglary, or
23 violations with respect to controlled substances under RCW 69.50.401(a)
24 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
25 and who received a dismissal of the charge under RCW 9.95.240, shall
26 not be precluded from possession of a firearm as a result of the
27 conviction. Notwithstanding any other provisions of this section, if
28 a person is prohibited from possession of a firearm under subsection
29 (1) of this section and has not previously been convicted of a sex
30 offense prohibiting firearm ownership under subsection (1) of this
31 section and/or any felony defined under any law as a class A felony or
32 with a maximum sentence of at least twenty years, or both, the
33 individual may petition a court of record to have his or her right to
34 possess a firearm restored:

35 (a) Under RCW 9.41.047; and/or

36 (b)(i) If the conviction was for a felony offense, after five or
37 more consecutive years in the community without being convicted or
38 currently charged with any felony, gross misdemeanor, or misdemeanor
39 crimes, if the individual has no prior felony convictions that prohibit

1 the possession of a firearm counted as part of the offender score under
2 RCW 9.94A.360; or

3 (ii) If the conviction was for a nonfelony offense, after three or
4 more consecutive years in the community without being convicted or
5 currently charged with any felony, gross misdemeanor, or misdemeanor
6 crimes, if the individual has no prior felony convictions that prohibit
7 the possession of a firearm counted as part of the offender score under
8 RCW 9.94A.360 and the individual has completed all conditions of the
9 sentence.

10 (5) In addition to any other penalty provided for by law, if a
11 person under the age of eighteen years is found by a court to have
12 possessed a firearm in a vehicle in violation of subsection (1) of this
13 section or to have committed an offense while armed with a firearm
14 during which offense a motor vehicle served an integral function, the
15 court shall notify the department of licensing within twenty-four hours
16 and the person's privilege to drive shall be revoked under RCW
17 46.20.265.

18 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or
19 interpreted as preventing an offender from being charged and
20 subsequently convicted for the separate felony crimes of theft of a
21 firearm or possession of a stolen firearm, or both, in addition to
22 being charged and subsequently convicted under this section for
23 unlawful possession of a firearm in the first or second degree.
24 Notwithstanding any other law, if the offender is convicted under this
25 section for unlawful possession of a firearm in the first or second
26 degree and for the felony crimes of theft of a firearm or possession of
27 a stolen firearm, or both, then the offender shall serve consecutive
28 sentences for each of the felony crimes of conviction listed in this
29 subsection.

30 (7) Each firearm unlawfully possessed under this section shall be
31 a separate offense.

32 **Sec. 3.** RCW 9.41.047 and 1994 sp.s. c 7 s 404 are each reenacted
33 and amended to read as follows:

34 (1)((+a)) At the time a person is convicted of an offense making
35 the person ineligible to possess a firearm, or at the time a person is
36 committed by court order under RCW 71.05.320, 71.34.090, or chapter
37 10.77 RCW for mental health treatment, the convicting or committing
38 court shall notify the person, orally and in writing, that the person

1 must immediately surrender any concealed pistol license and that the
2 person may not possess a firearm unless his or her right to do so is
3 restored by a court of record.

4 The convicting or committing court also shall forward a copy of the
5 person's driver's license or identicard, or comparable information, to
6 the department of licensing, along with the date of conviction or
7 commitment.

8 (2) Upon receipt of the information provided for by subsection (1)
9 of this section, the department of licensing shall determine if the
10 convicted or committed person has a concealed pistol license. If the
11 person does have a concealed pistol license, the department of
12 licensing shall immediately notify the license-issuing authority which,
13 upon receipt of such notification, shall immediately revoke the
14 license.

15 ~~(3) ((A person who is prohibited from possessing a firearm by~~
16 ~~reason of having previously been convicted on three occasions of~~
17 ~~driving a motor vehicle or operating a vessel while under the influence~~
18 ~~of intoxicating liquor or any drug may, after five continuous years~~
19 ~~without further conviction for any alcohol-related offense, petition a~~
20 ~~court of record to have his or her right to possess a firearm restored.~~

21 ~~(4))~~(a) A person who is prohibited from possessing a firearm, by
22 reason of having been ((either:

23 ~~(ii))~~ involuntarily committed for mental health treatment under
24 RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of
25 another jurisdiction((~~7~~)) may, upon discharge, petition a court of
26 record to have his or her right to possess a firearm restored.

27 ~~((b) At a minimum, a petition under this subsection (4) shall~~
28 ~~include the following:~~

29 ~~(i) The fact, date, and place of commitment;~~

30 ~~(ii) The place of treatment;~~

31 ~~(iii) The fact and date of release from commitment;~~

32 ~~(iv) A certified copy of the most recent order, if one exists, of~~
33 ~~commitment, with the findings of fact and conclusions of law; and~~

34 ~~(v) A statement by the person that he or she is no longer required~~
35 ~~to participate in an inpatient or outpatient treatment program, is no~~
36 ~~longer required to take medication to treat any condition related to~~
37 ~~the commitment, and does not present a substantial danger to himself or~~
38 ~~herself, to others, or to the public safety.))~~ At the time of

1 commitment, the court shall specifically state to the person that he or
2 she is barred from possession of firearms.

3 (b) The secretary of social and health services shall develop
4 appropriate rules to create an approval process under this subsection.
5 The rules must provide for the restoration of the right to possess a
6 firearm upon a showing in a court of competent jurisdiction that the
7 person is no longer required to participate in an inpatient or
8 outpatient treatment program, is no longer required to take medication
9 to treat any condition related to the commitment, and does not present
10 a substantial danger to himself or herself, others, or the public.
11 Unlawful possession of a firearm under this subsection shall be
12 punished as a class C felony under chapter 9A.20 RCW.

13 (c) A person petitioning the court under this subsection (~~((+4))~~)
14 (3) shall bear the burden of proving by a preponderance of the evidence
15 that the circumstances resulting in the commitment no longer exist and
16 are not reasonably likely to recur.

17 **Sec. 4.** RCW 9.41.050 and 1994 sp.s. c 7 s 405 are each amended to
18 read as follows:

19 (1)(a) Except in the person's place of abode or fixed place of
20 business, a person shall not carry a pistol concealed on his or her
21 person without a license to carry a concealed pistol.

22 (b) Every licensee shall have his or her concealed pistol license
23 in his or her immediate possession at all times that he or she is
24 required by this section to have a concealed pistol license and shall
25 display the same upon demand to any police officer or to any other
26 person when and if required by law to do so. Any violation of this
27 subsection (1)(b) shall be a class 1 civil infraction under chapter
28 7.84 RCW and shall be punished accordingly pursuant to chapter 7.84 RCW
29 and the infraction rules for courts of limited jurisdiction.

30 (2) A person shall not carry or place a loaded pistol in any
31 vehicle unless the person has a license to carry a concealed pistol
32 and: (a) The pistol is on the licensee's person, (b) the licensee is
33 within the vehicle at all times that the pistol is there, or (c) the
34 licensee is away from the vehicle and the pistol is locked within the
35 vehicle and concealed from view from outside the vehicle.

36 (3) A person at least eighteen years of age who is in possession of
37 an unloaded pistol shall not leave the unloaded pistol in a vehicle

1 unless the unloaded pistol is locked within the vehicle and concealed
2 from view from outside the vehicle.

3 (4) Except as otherwise provided in this chapter, no person may
4 carry a firearm unless it is unloaded and enclosed in an opaque case or
5 secure wrapper or the person is:

6 (a) Licensed under RCW 9.41.070 to carry a concealed pistol;

7 (b) In attendance at a hunter's safety course or a firearms safety
8 course;

9 (c) Engaging in practice in the use of a firearm or target shooting
10 at an established range authorized by the governing body of the
11 jurisdiction in which such range is located or any other area where the
12 discharge of a firearm is not prohibited;

13 (d) Engaging in an organized competition involving the use of a
14 firearm, or participating in or practicing for a performance by an
15 organized group that uses firearms as a part of the performance;

16 (e) ~~((Hunting or trapping under a valid license issued to the
17 person under Title 77 RCW))~~ Engaging in a lawful outdoor recreational
18 activity such as hunting, fishing, camping, hiking, or horseback
19 riding, only if, considering all of the attendant circumstances,
20 including but not limited to whether the person has a valid hunting or
21 fishing license, it is reasonable to conclude that the person is
22 participating in lawful outdoor activities or is traveling to or from
23 a legitimate outdoor recreation area;

24 (f) In an area where the discharge of a firearm is permitted, and
25 is not trespassing;

26 (g) Traveling with any unloaded firearm in the person's possession
27 to or from any activity described in (b), (c), (d), (e), or (f) of this
28 subsection, except as provided in (h) of this subsection;

29 (h) Traveling in a motor vehicle with a firearm, other than a
30 pistol, that is unloaded and locked in the trunk or other compartment
31 of the vehicle, (~~secured~~) placed in a gun rack, or otherwise secured
32 in place in a vehicle, provided that this subsection (4)(h) does not
33 apply to motor homes if the firearms are not within the driver's
34 compartment of the motor home while the vehicle is in operation.
35 Notwithstanding (a) of this subsection, and subject to federal and
36 state park regulations regarding firearm possession therein, a motor
37 home shall be considered a residence when parked at a recreational
38 park, campground, or other temporary residential setting for the
39 purposes of enforcement of this chapter;

1 (i) On real property under the control of the person or a relative
2 of the person;

3 (j) At his or her residence;

4 (k) Is a member of the armed forces of the United States, national
5 guard, or organized reserves, when on duty;

6 (l) Is a law enforcement officer; (~~(o)~~)

7 (m) Carrying a firearm from or to a vehicle for the purpose of
8 taking or removing the firearm to or from a place of business for
9 repair; or

10 (n) An armed private security guard or armed private detective
11 licensed by the department of licensing, while on duty or enroute to
12 and from employment.

13 (5) Violation of any of the prohibitions of subsections (2) through
14 (4) of this section is a misdemeanor.

15 (6) Nothing in this section permits the possession of firearms
16 illegal to possess under state or federal law.

17 (~~(6)~~) (7) Any city, town, or county may enact an ordinance to
18 exempt itself from the prohibition of subsection (4) of this section.

19 **Sec. 5.** RCW 9.41.060 and 1995 c 392 s 1 are each amended to read
20 as follows:

21 The provisions of RCW 9.41.050 shall not apply to:

22 (1) Marshals, sheriffs, prison or jail wardens or their deputies,
23 or other law enforcement officers;

24 (2) Members of the armed forces of the United States or of the
25 national guard or organized reserves, when on duty;

26 (3) Officers or employees of the United States duly authorized to
27 carry a concealed pistol;

28 (4) Any person engaged in the business of manufacturing, repairing,
29 or dealing in firearms, or the agent or representative of the person,
30 if possessing, using, or carrying a pistol in the usual or ordinary
31 course of the business;

32 (5) Regularly enrolled members of any organization duly authorized
33 to purchase or receive pistols from the United States or from this
34 state;

35 (6) Regularly enrolled members of clubs organized for the purpose
36 of target shooting, when those members are at or are going to or from
37 their places of target practice;

1 (7) Regularly enrolled members of clubs organized for the purpose
2 of modern and antique firearm collecting, when those members are at or
3 are going to or from their collector's gun shows and exhibits;

4 (~~8) ((Individual hunters when on a hunting, camping, or fishing~~
5 ~~trip)) Any person engaging in a lawful outdoor recreational activity
6 such as hunting, fishing, camping, hiking, or horseback riding, only
7 if, considering all of the attendant circumstances, including but not
8 limited to whether the person has a valid hunting or fishing license,
9 it is reasonable to conclude that the person is participating in lawful
10 outdoor activities or is traveling to or from a legitimate outdoor
11 recreation area;~~

12 (9) Any person while carrying a pistol unloaded and in a closed
13 opaque case or secure wrapper; or

14 (10) Law enforcement officers retired for service or physical
15 disabilities, except for those law enforcement officers retired because
16 of mental or stress-related disabilities. This subsection applies only
17 to a retired officer who has: (a) Obtained documentation from a law
18 enforcement agency within Washington state from which he or she retired
19 that is signed by the agency's chief law enforcement officer and that
20 states that the retired officer was retired for service or physical
21 disability; and (b) not been convicted of a crime making him or her
22 ineligible for a concealed pistol license.

23 **Sec. 6.** RCW 9.41.070 and 1995 c 351 s 1 are each amended to read
24 as follows:

25 (1) The chief of police of a municipality or the sheriff of a
26 county shall within thirty days after the filing of an application of
27 any person, issue a license to such person to carry a pistol concealed
28 on his or her person within this state for five years from date of
29 issue, for the purposes of protection or while engaged in business,
30 sport, or while traveling. However, if the applicant does not have a
31 valid permanent Washington driver's license or Washington state
32 identification card or has not been a resident of the state for the
33 previous consecutive ninety days, the issuing authority shall have up
34 to sixty days after the filing of the application to issue a license.
35 The issuing authority shall not refuse to accept completed applications
36 for concealed pistol licenses during regular business hours.

37 The applicant's constitutional right to bear arms shall not be
38 denied, unless:

1 (a) He or she is ineligible to possess a firearm under the
2 provisions of RCW 9.41.040 or 9.41.045;

3 (b) The applicant's concealed pistol license is in a revoked
4 status;

5 (c) He or she is under twenty-one years of age;

6 (d) He or she is subject to a court order or injunction regarding
7 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,
8 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137,
9 26.50.060, or 26.50.070;

10 (e) He or she is free on bond or personal recognizance pending
11 trial, appeal, or sentencing for a (~~serious~~) felony offense;

12 (f) He or she has an outstanding warrant for his or her arrest from
13 any court of competent jurisdiction for a felony or misdemeanor; or

14 (g) He or she has been ordered to forfeit a firearm under RCW
15 9.41.098(1)(e) within one year before filing an application to carry a
16 pistol concealed on his or her person(~~;~~ or

17 ~~(h)(i) He or she has been convicted of any crime against a child or~~
18 ~~other person listed in RCW 43.43.830(5).~~

19 ~~(ii) Except as provided in (h)(iii) of this subsection, any person~~
20 ~~who becomes ineligible for a concealed pistol license as a result of a~~
21 ~~conviction for a crime listed in (h)(i) of this subsection and then~~
22 ~~successfully completes all terms of his or her sentence, as evidenced~~
23 ~~by a certificate of discharge issued under RCW 9.94A.220 in the case of~~
24 ~~a sentence under chapter 9.94A RCW, and has not again been convicted of~~
25 ~~any crime and is not under indictment for any crime, may, one year or~~
26 ~~longer after such successful sentence completion, petition a court of~~
27 ~~record for a declaration that the person is no longer ineligible for a~~
28 ~~concealed pistol license under (h)(i) of this subsection)).~~

29 ~~((iii)) No person convicted of a (~~serious offense as defined in~~~~
30 ~~RCW 9.41.010)) felony may have his or her right to possess firearms~~
31 ~~restored or his or her privilege to carry a concealed pistol restored,~~
32 ~~unless the person has been granted relief from disabilities by the~~
33 ~~secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040~~
34 ~~(3) or (4) applies.~~

35 (2) The issuing authority shall check with the national crime
36 information center, the Washington state patrol electronic data base,
37 the department of social and health services electronic data base, and
38 with other agencies or resources as appropriate, to determine whether
39 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess

1 a firearm and therefore ineligible for a concealed pistol license.
2 This subsection applies whether the applicant is applying for a new
3 concealed pistol license or to renew a concealed pistol license.

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

11 (4) The license application shall bear the full name, residential
12 address, telephone number at the option of the applicant, date and
13 place of birth, race, gender, description, not more than two complete
14 sets of fingerprints, and signature of the licensee, and the licensee's
15 driver's license number or state identification card number if used for
16 identification in applying for the license. A signed application for
17 a concealed pistol license shall constitute a waiver of confidentiality
18 and written request that the department of social and health services,
19 mental health institutions, and other health care facilities release
20 information relevant to the applicant's eligibility for a concealed
21 pistol license to an inquiring court or law enforcement agency.

22 The application for an original license shall include two complete
23 sets of fingerprints to be forwarded to the Washington state patrol.

24 The license and application shall contain a warning substantially
25 as follows:

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

31 The license shall contain a description of the major differences
32 between state and federal law and an explanation of the fact that local
33 laws and ordinances on firearms are preempted by state law and must be
34 consistent with state law. The application shall contain questions
35 about the applicant's eligibility under RCW 9.41.040 to possess a
36 pistol, the applicant's place of birth, and whether the applicant is a
37 United States citizen. The applicant shall not be required to produce
38 a birth certificate or other evidence of citizenship. A person who is

1 not a citizen of the United States shall meet the additional
2 requirements of RCW 9.41.170 and produce proof of compliance with RCW
3 9.41.170 upon application. The license shall be in triplicate and in
4 a form to be prescribed by the department of licensing.

5 The original thereof shall be delivered to the licensee, the
6 duplicate shall within seven days be sent (~~by registered mail~~) to the
7 director of licensing and the triplicate shall be preserved for six
8 years, by the authority issuing the license.

9 The department of licensing shall make available to law enforcement
10 and corrections agencies, in an on-line format, all information
11 received under this subsection.

12 (5) The nonrefundable fee, paid upon application, for the original
13 five-year license shall be thirty-six dollars plus additional charges
14 imposed by the Federal Bureau of Investigation that are passed on to
15 the applicant. No other state or local branch or unit of government
16 may impose any additional charges on the applicant for the issuance of
17 the license.

18 The fee shall be distributed as follows:

19 (a) Fifteen dollars shall be paid to the state general fund;

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

22 (c) Fourteen dollars shall be paid to the issuing authority for the
23 purpose of enforcing this chapter; and

24 (d) Three dollars to the firearms range account in the general
25 fund.

26 (6) The nonrefundable fee for the renewal of such license shall be
27 thirty-two dollars. No other branch or unit of government may impose
28 any additional charges on the applicant for the renewal of the license.

29 The renewal fee shall be distributed as follows:

30 (a) Fifteen dollars shall be paid to the state general fund;

31 (b) Fourteen dollars shall be paid to the issuing authority for the
32 purpose of enforcing this chapter; and

33 (c) Three dollars to the firearms range account in the general
34 fund.

35 (7) The nonrefundable fee for replacement of lost or damaged
36 licenses is ten dollars to be paid to the issuing authority.

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

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

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

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

15 (10) Notwithstanding the requirements of subsections (1) through
16 (9) of this section, the chief of police of the municipality or the
17 sheriff of the county of the applicant's residence may issue a
18 temporary emergency license for good cause pending review under
19 subsection (1) of this section. However, a temporary emergency license
20 issued under this subsection shall not exempt the holder of the license
21 from any records check requirement. Temporary emergency licenses shall
22 be easily distinguishable from regular licenses.

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.

27 (12) A person who knowingly makes a false statement regarding
28 citizenship or identity on an application for a concealed pistol
29 license is guilty of false swearing under RCW 9A.72.040. In addition
30 to any other penalty provided for by law, the concealed pistol license
31 of a person who knowingly makes a false statement shall be revoked, and
32 the person shall be permanently ineligible for a concealed pistol
33 license.

34 (13) A person may apply for a concealed pistol license:

35 (a) To the municipality or to the county in which the applicant
36 resides if the applicant resides in a municipality;

37 (b) To the county in which the applicant resides if the applicant
38 resides in an unincorporated area; or

39 (c) Anywhere in the state if the applicant is a nonresident.

1 **Sec. 7.** RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to
2 read as follows:

3 (1) ~~((The))~~ A concealed pistol license shall be revoked by the
4 license-issuing authority immediately upon:

5 (a) Discovery by the issuing authority that the person ~~((was))~~ is
6 ineligible under RCW 9.41.070 for a concealed pistol license when
7 applying for the license or license renewal;

8 (b) Conviction of the licensee of an offense, or commitment of the
9 licensee for mental health treatment, that makes a person ineligible
10 under RCW 9.41.040 to possess a firearm;

11 (c) Conviction of the licensee for a third violation of this
12 chapter within five calendar years; or

13 (d) An order that the licensee forfeit a firearm under RCW
14 9.41.098(1)~~((+d))~~ (e).

15 (2)~~((a) Unless the person may lawfully possess a pistol without a~~
16 ~~concealed pistol license, an ineligible person to whom a concealed~~
17 ~~pistol license was issued shall, within fourteen days of license~~
18 ~~revocation, lawfully transfer ownership of any pistol acquired while~~
19 ~~the person was in possession of the license.~~

20 ~~(b) Upon discovering a person issued a concealed pistol license was~~
21 ~~ineligible for the license, the issuing authority shall contact the~~
22 ~~department of licensing to determine whether the person purchased a~~
23 ~~pistol while in possession of the license. If the person did purchase~~
24 ~~a pistol while in possession of the concealed pistol license, if the~~
25 ~~person may not lawfully possess a pistol without a concealed pistol~~
26 ~~license, the issuing authority shall require the person to present~~
27 ~~satisfactory evidence of having lawfully transferred ownership of the~~
28 ~~pistol. The issuing authority shall require the person to produce the~~
29 ~~evidence within fifteen days of the revocation of the license.~~

30 ~~(3))~~ When a licensee is ordered to forfeit a firearm under RCW
31 9.41.098(1)~~((+d))~~ (e), the issuing authority shall:

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

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

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

36 Any person whose license is revoked as a result of a forfeiture of
37 a firearm under RCW 9.41.098~~((+1)+d))~~ may not reapply for a new
38 license until the end of the revocation period.

1 (~~(4)~~) (3) The issuing authority shall notify, in writing, the
2 department of licensing of the revocation or denial of a license. The
3 department of licensing shall record the revocation or denial. Denial
4 information shall be maintained by the department of licensing for the
5 purposes of background checks and statistical research.

6 (4) Unless otherwise provided, revocation periods for concealed
7 pistol licenses shall be consistent with restoration periods set forth
8 in RCW 9.41.047, or three years, whichever is the longer.

9 (5) Any person whose license is revoked may not reapply for a new
10 license until the end of the revocation period.

11 (6) Notice of revocation of a license shall additionally require
12 the license holder to surrender the license to the issuing authority.
13 Refusal to comply with this requirement within thirty days is a
14 misdemeanor and shall be punished accordingly.

15 **Sec. 8.** RCW 9.41.090 and 1994 sp.s. c 7 s 410 and 1994 c 264 s 1
16 are each reenacted and amended to read as follows:

17 (1) In addition to the other requirements of this chapter, no
18 dealer may deliver a pistol to the purchaser thereof until:

19 (a) The purchaser produces a valid concealed pistol license and the
20 dealer has recorded the purchaser's name, license number, and issuing
21 agency, such record to be made in triplicate and processed as provided
22 in subsection (5) of this section. For purposes of this subsection
23 (1)(a), a "valid concealed pistol license" does not include a temporary
24 emergency license, and does not include any license issued before July
25 1, 1996, unless the issuing agency conducted a records search for
26 disqualifying crimes under RCW 9.41.070 at the time of issuance;

27 (b) The dealer is notified in writing by the chief of police or the
28 sheriff of the jurisdiction in which the purchaser resides that the
29 purchaser is eligible to possess a pistol under RCW 9.41.040 and that
30 the application to purchase is approved by the chief of police or
31 sheriff; or

32 (c) Five business days, meaning days on which state offices are
33 open, have elapsed from the time of receipt of the application for the
34 purchase thereof as provided herein by the chief of police or sheriff
35 designated in subsection (5) of this section, and, when delivered, the
36 pistol shall be securely wrapped and shall be unloaded. However, if
37 the purchaser does not have a valid permanent Washington driver's
38 license or state identification card or has not been a resident of the

1 state for the previous consecutive ninety days, the waiting period
2 under this subsection (1)(c) shall be up to sixty days.

3 (2)(a) Except as provided in (b) of this subsection, in determining
4 whether the purchaser meets the requirements of RCW 9.41.040, the chief
5 of police or sheriff, or the designee of either, shall check with the
6 national crime information center, the Washington state patrol
7 electronic data base, the department of social and health services
8 electronic data base, and with other agencies or resources as
9 appropriate, to determine whether the applicant is ineligible under RCW
10 9.41.040 to possess a firearm.

11 (b) Once the system is established, a dealer shall use the state
12 system and national instant criminal background check system, provided
13 for by the Brady Handgun ~~((Control))~~ Violence Prevention Act ~~((H.R.~~
14 ~~1025, 103rd Cong., 1st Sess. (1993)))~~ (18 U.S.C. Sec. 921 et seq.), to
15 make criminal background checks of applicants to purchase firearms.
16 However, a chief of police or sheriff, or a designee of either, shall
17 continue to check the department of social and health services'
18 electronic data base and with other agencies or resources as
19 appropriate, to determine whether applicants are ineligible under RCW
20 9.41.040 to possess a firearm.

21 (3) In any case under subsection (1)(c) of this section where the
22 applicant has an outstanding warrant for his or her arrest from any
23 court of competent jurisdiction for a felony or misdemeanor, the dealer
24 shall hold the delivery of the pistol until the warrant for arrest is
25 served and satisfied by appropriate court appearance. The local
26 jurisdiction for purposes of the sale shall confirm the existence of
27 outstanding warrants within seventy-two hours after notification of the
28 application to purchase a pistol is received. The local jurisdiction
29 shall also immediately confirm the satisfaction of the warrant on
30 request of the dealer so that the hold may be released if the warrant
31 was for an offense other than an offense making a person ineligible
32 under RCW 9.41.040 to possess a pistol.

33 (4) In any case where the chief or sheriff of the local
34 jurisdiction has reasonable grounds based on the following
35 circumstances: (a) Open criminal charges, (b) pending criminal
36 proceedings, (c) pending commitment proceedings, (d) an outstanding
37 warrant for an offense making a person ineligible under RCW 9.41.040 to
38 possess a pistol, or (e) an arrest for an offense making a person
39 ineligible under RCW 9.41.040 to possess a pistol, if the records of

1 disposition have not yet been reported or entered sufficiently to
2 determine eligibility to purchase a pistol, the local jurisdiction may
3 hold the sale and delivery of the pistol beyond five days up to thirty
4 days in order to confirm existing records in this state or elsewhere.
5 After thirty days, the hold will be lifted unless an extension of the
6 thirty days is approved by a local district court or municipal court
7 for good cause shown. (~~An applicant~~) A dealer shall be notified of
8 each hold placed on the sale by local law enforcement and of any
9 application to the court for additional hold period to confirm records
10 or confirm the identity of the applicant.

11 (5) At the time of applying for the purchase of a pistol, the
12 purchaser shall sign in triplicate and deliver to the dealer an
13 application containing his or her full name, (~~street~~) residential
14 address, date and place of birth, race, and gender; the date and hour
15 of the application; the applicant's driver's license number or state
16 identification card number; a description of the pistol including the
17 make, model, caliber and manufacturer's number if available at the time
18 of applying for the purchase of a pistol. If the manufacturer's number
19 is not available, the application may be processed, but delivery of the
20 pistol to the purchaser may not occur unless the manufacturer's number
21 is recorded on the application by the dealer and transmitted to the
22 chief of police of the municipality or the sheriff of the county in
23 which the purchaser resides; and a statement that the purchaser is
24 eligible to possess a pistol under RCW 9.41.040.

25 The application shall contain a warning substantially as follows:

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

31 The purchaser shall be given a copy of the department of fish and
32 wildlife pamphlet on the legal limits of the use of firearms, firearms
33 safety, and the fact that local laws and ordinances on firearms are
34 preempted by state law and must be consistent with state law.

35 The dealer shall, by the end of the business day, sign and attach
36 his or her address and deliver (~~the original~~) a copy of the
37 application and such other documentation as required under subsection
38 (1) of this section to the chief of police of the municipality or the

1 sheriff of the county of which the purchaser is a resident. The
2 triplicate shall be retained by the dealer for six years. The dealer
3 shall deliver the pistol to the purchaser following the period of time
4 specified in this section unless the dealer is notified of an
5 investigative hold under subsection (4) of this section in writing by
6 the chief of police of the municipality or the sheriff of the county,
7 whichever is applicable, denying the purchaser's application to
8 purchase and the grounds thereof. The application shall not be denied
9 unless the purchaser is not eligible to possess a pistol under RCW
10 9.41.040 or 9.41.045, or federal law.

11 The chief of police of the municipality or the sheriff of the
12 county shall retain or destroy applications to purchase a pistol in
13 accordance with the requirements of 18 U.S.C. Sec. 922.

14 (6) A person who knowingly makes a false statement regarding
15 identity or eligibility requirements on the application to purchase a
16 pistol is guilty of false swearing under RCW 9A.72.040.

17 (7) This section does not apply to sales to licensed dealers for
18 resale or to the sale of antique firearms.

19 **Sec. 9.** RCW 9.41.0975 and 1994 sp.s. c 7 s 413 are each amended to
20 read as follows:

21 (1) The state, local governmental entities, any public or private
22 agency, and the employees of any state or local governmental entity or
23 public or private agency, acting in good faith, are immune from
24 liability:

25 (a) For failure to prevent the sale or transfer of a firearm to a
26 person whose receipt or possession of the firearm is unlawful;

27 (b) For preventing the sale or transfer of a firearm to a person
28 who may lawfully receive or possess a firearm;

29 (c) For issuing a concealed pistol license to a person ineligible
30 for such a license;

31 (d) For failing to issue a concealed pistol license to a person
32 eligible for such a license;

33 (e) For revoking or failing to revoke an issued concealed pistol
34 license; ((or))

35 (f) For errors in preparing or transmitting information as part of
36 determining a person's eligibility to receive or possess a firearm, or
37 eligibility for a concealed pistol license;

1 (g) For issuing a dealer's license to a person ineligible for such
2 a license; or

3 (h) For failing to issue a dealer's license to a person eligible
4 for such a license.

5 (2) An application may be made to a court of competent jurisdiction
6 for a writ of mandamus:

7 (a) Directing an issuing agency to issue a concealed pistol license
8 wrongfully refused;

9 (b) Directing a law enforcement agency to approve an application to
10 purchase wrongfully denied; (~~or~~)

11 (c) Directing that erroneous information resulting either in the
12 wrongful refusal to issue a concealed pistol license or in the wrongful
13 denial of a purchase application be corrected; or

14 (d) Directing a law enforcement agency to approve a dealer's
15 license wrongfully denied.

16 The application for the writ may be made in the county in which the
17 application for a concealed pistol license or to purchase a pistol was
18 made, or in Thurston county, at the discretion of the petitioner. A
19 court shall provide an expedited hearing for an application brought
20 under this subsection (2) for a writ of mandamus. A person granted a
21 writ of mandamus under this subsection (2) shall be awarded reasonable
22 attorneys' fees and costs.

23 **Sec. 10.** RCW 9.41.098 and 1994 sp.s. c 7 s 414 are each amended to
24 read as follows:

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

27 (a) Found concealed on a person not authorized by RCW 9.41.060 or
28 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute
29 defense to forfeiture if the person possessed a valid Washington
30 concealed pistol license within the preceding two years and has not
31 become ineligible for a concealed pistol license in the interim.
32 Before the firearm may be returned, the person must pay the past due
33 renewal fee and the current renewal fee;

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

36 (c) (~~Found~~) In the possession of a person prohibited from
37 possessing the firearm under RCW 9.41.040 or 9.41.045;

1 (d) (~~Found~~) In the possession or under the control of a person at
2 the time the person committed or was arrested for committing a
3 (~~serious offense~~) felony or committing a nonfelony crime in which a
4 firearm was used or displayed (~~or a felony violation of the Uniform~~
5 Controlled Substances Act, chapter 69.50 RCW));

6 (e) (~~Found concealed on~~) In the possession of a person who is in
7 any place in which a concealed pistol license is required, and who is
8 under the influence of any drug or under the influence of intoxicating
9 liquor, as defined in chapter 46.61 RCW;

10 (f) (~~Found~~) In the possession of a person free on bail or
11 personal recognizance pending trial, appeal, or sentencing for a
12 (~~serious offense~~) felony or for a nonfelony crime in which a firearm
13 was used or displayed, except that violations of Title 77 RCW shall not
14 result in forfeiture under this section;

15 (g) (~~Found~~) In the possession of a person found to have been
16 mentally incompetent while in possession of a firearm when apprehended
17 or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

18 (h) (~~Known to have been~~) Used or displayed by a person in the
19 violation of a proper written order of a court of general jurisdiction;
20 or

21 (i) (~~Known to have been~~) Used in the commission of a (~~serious~~
22 offense) felony or of a nonfelony crime in which a firearm was used or
23 displayed (~~or a felony violation of the Uniform Controlled Substances~~
24 Act, chapter 69.50 RCW)).

25 (2) Upon order of forfeiture, the court in its discretion may order
26 destruction of any forfeited firearm. A court may temporarily retain
27 forfeited firearms needed for evidence.

28 (a) Except as provided in (b), (c), and (d) of this subsection,
29 firearms that are: (i) Judicially forfeited and no longer needed for
30 evidence; or (ii) forfeited due to a failure to make a claim under RCW
31 63.32.010 or 63.40.010; may be disposed of in any manner determined by
32 the local legislative authority. Any proceeds of an auction or trade
33 may be retained by the legislative authority. This subsection (2)(a)
34 applies only to firearms that come into the possession of the law
35 enforcement agency after June 30, 1993(~~, and applies only if the law~~
36 ~~enforcement agency has complied with (b) of this subsection~~)).

37 By midnight, June 30, 1993, every law enforcement agency shall
38 prepare an inventory, under oath, of every firearm that has been
39 judicially forfeited, has been seized and may be subject to judicial

1 forfeiture, or that has been, or may be, forfeited due to a failure to
2 make a claim under RCW 63.32.010 or 63.40.010.

3 (b) Except as provided in (c) of this subsection, of the
4 inventoried firearms a law enforcement agency shall destroy illegal
5 firearms, may retain a maximum of ten percent of legal forfeited
6 firearms for agency use, and shall either:

7 (i) Comply with the provisions for the auction of firearms in RCW
8 9.41.098 that were in effect immediately preceding May 7, 1993; or

9 (ii) Trade, auction, or arrange for the auction of, rifles and
10 shotguns. In addition, the law enforcement agency shall either trade,
11 auction, or arrange for the auction of, short firearms, or shall pay a
12 fee of twenty-five dollars to the state treasurer for every short
13 firearm neither auctioned nor traded, to a maximum of fifty thousand
14 dollars. The fees shall be accompanied by an inventory, under oath, of
15 every short firearm listed in the inventory required by (a) of this
16 subsection, that has been neither traded nor auctioned. The state
17 treasurer shall credit the fees to the firearms range account
18 established in RCW 77.12.720. All trades or auctions of firearms under
19 this subsection shall be to licensed dealers. Proceeds of any auction
20 less costs, including actual costs of storage and sale, shall be
21 forwarded to the firearms range account established in RCW 77.12.720.

22 (c) Antique firearms and firearms recognized as curios, relics, and
23 firearms of particular historical significance by the United States
24 treasury department bureau of alcohol, tobacco, and firearms are exempt
25 from destruction and shall be disposed of by auction or trade to
26 licensed dealers.

27 (d) Firearms in the possession of the Washington state patrol on or
28 after May 7, 1993, that are judicially forfeited and no longer needed
29 for evidence, or forfeited due to a failure to make a claim under RCW
30 63.35.020, must be disposed of as follows: (i) Firearms illegal for
31 any person to possess must be destroyed; (ii) the Washington state
32 patrol may retain a maximum of ten percent of legal firearms for agency
33 use; and (iii) all other legal firearms must be auctioned or traded to
34 licensed dealers. The Washington state patrol may retain any proceeds
35 of an auction or trade.

36 (3) The court shall order the firearm returned to the owner upon a
37 showing that there is no probable cause to believe a violation of
38 subsection (1) of this section existed or the firearm was stolen from

1 the owner or the owner neither had knowledge of nor consented to the
2 act or omission involving the firearm which resulted in its forfeiture.

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

12 **Sec. 11.** RCW 9.41.170 and 1994 c 190 s 1 are each amended to read
13 as follows:

14 (1) It is a class C felony for any person who is not a citizen of
15 the United States to carry or possess any firearm, without first having
16 obtained an alien firearm license from the director of licensing. In
17 order to be eligible for a license, an alien must provide proof that he
18 or she is lawfully present in the United States, which the director of
19 licensing shall verify through the appropriate authorities. Except as
20 provided in subsection (2)(a) of this section, and subject to the
21 additional requirements of subsection (2)(b) of this section, the
22 director of licensing may issue an alien firearm license only upon
23 receiving from the consul domiciled in this state representing the
24 country of the alien, a certified copy of the alien's criminal history
25 in the alien's country indicating the alien is not ineligible under RCW
26 9.41.040 to own, possess, or control a firearm, and the consul's
27 attestation that the alien is a responsible person.

28 (2)(a) Subject to the additional requirements of (b) of this
29 subsection, the director of licensing may issue an alien firearm
30 license without a certified copy of the alien's criminal history or the
31 consul's attestation required by subsection (1) of this section, if the
32 alien has been a resident of this state for at least two years and:
33 (i) The alien is from a country without a consul domiciled within this
34 state, or (ii) the consul has failed to provide, within ninety days
35 after a request by the alien, the criminal history or attestation
36 required by subsection (1) of this section.

37 (b) Before issuing an alien firearm license under subsection (1) of
38 this section or this subsection (2), the director of licensing shall

1 ask the local law enforcement agency of the jurisdiction in which the
2 alien resides to complete a background and fingerprint check to
3 determine the alien's eligibility under RCW 9.41.040 to own, possess,
4 or control a firearm. The law enforcement agency shall complete a
5 background check within thirty days after the request, unless the alien
6 does not have a valid Washington driver's license or Washington state
7 identification card. In the latter case, the law enforcement agency
8 shall complete the background check within sixty days after the
9 request.

10 A signed application for an alien firearm license shall constitute
11 a waiver of confidentiality and written request that the department of
12 social and health services, mental health institutions, and other
13 health care facilities release information relevant to the applicant's
14 eligibility for an alien firearm license to an inquiring law
15 enforcement agency.

16 (3) The ~~((fee for an))~~ alien firearm license shall be ~~((twenty-five
17 dollars, and the license shall be))~~ valid for ~~((four))~~ five years from
18 the date of issue so long as the alien is lawfully present in the
19 United States. The nonrefundable fee, paid upon application, for the
20 five-year license shall be fifty-five dollars plus additional charges
21 imposed by the federal bureau of investigation that are passed on to
22 the applicant. The fee shall be distributed as follows:

23 (a) Fifteen dollars shall be paid to the department of licensing;

24 (b) Twenty-five dollars shall be paid to the Washington state
25 patrol; and

26 (c) Fifteen dollars shall be paid to the local law enforcement
27 agency conducting the background check.

28 (4) This section shall not apply to Canadian citizens resident in
29 a province which has an enactment or public policy providing
30 substantially similar privilege to residents of the state of Washington
31 and who are carrying or possessing weapons for the purpose of using
32 them in the hunting of game while such persons are in the act of
33 hunting, or while on a hunting trip, or while such persons are
34 competing in a bona fide trap or skeet shoot or any other organized
35 contest where rifles, pistols, or shotguns are used. Nothing in this
36 section shall be construed to allow aliens to hunt or fish in this
37 state without first having obtained a regular hunting or fishing
38 license.

1 **Sec. 12.** RCW 9.41.190 and 1994 sp.s. c 7 s 420 are each amended to
2 read as follows:

3 (1) It is unlawful for any person to manufacture, own, buy, sell,
4 loan, furnish, transport, or have in possession or under control, any
5 machine gun, short-barreled shotgun, or short-barreled rifle; or any
6 part designed and intended solely and exclusively for use in a machine
7 gun, short-barreled shotgun, or short-barreled rifle, or in converting
8 a weapon into a machine gun, short-barreled shotgun, or short-barreled
9 rifle; or to assemble or repair any machine gun, short-barreled
10 shotgun, or short-barreled rifle.

11 (2) This section shall not apply to:

12 (a) Any peace officer in the discharge of official duty or
13 traveling to or from official duty, or to any officer or member of the
14 armed forces of the United States or the state of Washington in the
15 discharge of official duty or traveling to or from official duty; or

16 (b) A person, including an employee of such person if the employee
17 has undergone fingerprinting and a background check under RCW
18 9.41.110(3)(b), who or which is exempt from or licensed under federal
19 law, and engaged in the production, manufacture, repair, or testing of
20 machine guns, short-barreled shotguns, or short-barreled rifles:

21 (i) To be used or purchased by the armed forces of the United
22 States;

23 (ii) To be used or purchased by federal, state, county, or
24 municipal law enforcement agencies or their employees; or

25 (iii) For exportation in compliance with all applicable federal
26 laws and regulations.

27 (3) It shall be an affirmative defense to a prosecution brought
28 under this section that the machine gun, short-barreled shotgun, or
29 short-barreled rifle was acquired prior to July 1, 1994, and is
30 possessed in compliance with federal law.

31 (4) Any person violating this section is guilty of a class C
32 felony.

33 **Sec. 13.** RCW 9.41.280 and 1995 c 87 s 1 are each amended to read
34 as follows:

35 (1) It is unlawful for a person to carry onto, or to possess on,
36 public or private elementary or secondary school premises, school-
37 provided transportation, or areas of facilities while being used
38 exclusively by public or private schools:

- 1 (a) Any firearm;
- 2 (b) Any other dangerous weapon as defined in RCW 9.41.250;
- 3 (c) Any device commonly known as "nun-chu-ka sticks", consisting of
4 two or more lengths of wood, metal, plastic, or similar substance
5 connected with wire, rope, or other means;
- 6 (d) Any device, commonly known as "throwing stars", which are
7 multi-pointed, metal objects designed to embed upon impact from any
8 aspect; or
- 9 (e) Any air gun, including any air pistol or air rifle, designed to
10 propel a BB, pellet, or other projectile by the discharge of compressed
11 air, carbon dioxide, or other gas.

12 (2) Any such person violating subsection (1) of this section is
13 guilty of a gross misdemeanor. If any person is convicted of a
14 violation of subsection (1)(a) of this section, the person shall
15 ~~((lose))~~ have his or her concealed pistol license, if any revoked for
16 a period of three years. Anyone convicted under this subsection is
17 prohibited from applying for a concealed pistol license for a period of
18 three years. The court shall send notice of the revocation to the
19 department of licensing, and the city, town, or county which issued the
20 license.

21 Any violation of subsection (1) of this section by elementary or
22 secondary school students constitutes grounds for expulsion from the
23 state's public schools in accordance with RCW 28A.600.010. An
24 appropriate school authority shall promptly notify law enforcement and
25 the student's parent or guardian regarding any allegation or indication
26 of such violation.

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

- 28 (a) Any student or employee of a private military academy when on
29 the property of the academy;
- 30 (b) Any person engaged in military, law enforcement, or school
31 district security activities;
- 32 (c) Any person who is involved in a convention, showing,
33 demonstration, lecture, or firearms safety course authorized by school
34 authorities in which the firearms of collectors or instructors are
35 handled or displayed;
- 36 (d) Any person while the person is participating in a firearms or
37 air gun competition approved by the school or school district;

1 (e) Any person in possession of a pistol who has been issued a
2 license under RCW 9.41.070, or is exempt from the licensing requirement
3 by RCW 9.41.060, while picking up or dropping off a student;

4 (f) Any nonstudent at least eighteen years of age legally in
5 possession of a firearm or dangerous weapon that is secured within an
6 attended vehicle or concealed from view within a locked unattended
7 vehicle while conducting legitimate business at the school;

8 (g) Any nonstudent at least eighteen years of age who is in lawful
9 possession of an unloaded firearm, secured in a vehicle while
10 conducting legitimate business at the school; or

11 (h) Any law enforcement officer of the federal, state, or local
12 government agency.

13 (4) Subsections (1)(c) and (d) of this section do not apply to any
14 person who possesses nun-chu-ka sticks, throwing stars, or other
15 dangerous weapons to be used in martial arts classes authorized to be
16 conducted on the school premises.

17 (5) Except as provided in subsection (3)(b), (c), (f), and (h) of
18 this section, firearms are not permitted in a public or private school
19 building.

20 (6) "GUN-FREE ZONE" signs shall be posted around school facilities
21 giving warning of the prohibition of the possession of firearms on
22 school grounds.

23 **Sec. 14.** RCW 9.41.800 and 1994 sp.s. c 7 s 430 are each amended to
24 read as follows:

25 (1) Any court when entering an order authorized under RCW
26 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
27 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070
28 shall, upon a showing by clear and convincing evidence, that a party
29 has: Used, displayed, or threatened to use a firearm or other
30 dangerous weapon in a (~~serious offense~~) felony, or previously
31 committed any offense that makes him or her ineligible to possess a
32 firearm under the provisions of RCW 9.41.040:

33 (a) Require the party to surrender any firearm or other dangerous
34 weapon;

35 (b) Require the party to surrender any concealed pistol license
36 issued under RCW 9.41.070;

37 (c) Prohibit the party from obtaining or possessing a firearm or
38 other dangerous weapon;

1 (d) Prohibit the party from obtaining or possessing a concealed
2 pistol license.

3 (2) Any court when entering an order authorized under RCW
4 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
5 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070
6 may, upon a showing by a preponderance of the evidence but not by clear
7 and convincing evidence, that a party has: Used, displayed, or
8 threatened to use a firearm or other dangerous weapon in a (~~serious~~
9 offense)) felony, or previously committed any offense that makes him or
10 her ineligible to possess a pistol under the provisions of RCW
11 9.41.040:

12 (a) Require the party to surrender any firearm or other dangerous
13 weapon;

14 (b) Require the party to surrender a concealed pistol license
15 issued under RCW 9.41.070;

16 (c) Prohibit the party from obtaining or possessing a firearm or
17 other dangerous weapon;

18 (d) Prohibit the party from obtaining or possessing a concealed
19 pistol license.

20 (3) The court may order temporary surrender of a firearm or other
21 dangerous weapon without notice to the other party if it finds, on the
22 basis of the moving affidavit or other evidence, that irreparable
23 injury could result if an order is not issued until the time for
24 response has elapsed.

25 (4) In addition to the provisions of subsections (1), (2), and (3)
26 of this section, the court may enter an order requiring a party to
27 comply with the provisions in subsection (1) of this section if it
28 finds that the possession of a firearm or other dangerous weapon by any
29 party presents a serious and imminent threat to public health or
30 safety, or to the health or safety of any individual.

31 (5) The requirements of subsections (1), (2), and (4) of this
32 section may be for a period of time less than the duration of the
33 order.

34 (6) The court may require the party to surrender any firearm or
35 other dangerous weapon in his or her immediate possession or control or
36 subject to his or her immediate possession or control to the sheriff of
37 the county having jurisdiction of the proceeding, the chief of police
38 of the municipality having jurisdiction, or to the restrained or
39 enjoined party's counsel or to any person designated by the court."

1 **SHB 2420** - S AMD - 264

2 By Senators Smith, Hargrove, Fairley, Kohl, Wojahn, Long and
3 Franklin

4 ADOPTED 3/1/96

5 On page 1, line 1 of the title, after "firearms;" strike the
6 remainder of the title and insert "amending RCW 9.41.050, 9.41.060,
7 9.41.070, 9.41.075, 9.41.0975, 9.41.098, 9.41.170, 9.41.190, 9.41.280,
8 and 9.41.800; reenacting and amending RCW 9.41.010, 9.41.040, 9.41.047,
9 and 9.41.090; and prescribing penalties."

--- END ---