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SENATE BILL 6628

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State of Washington                      62nd Legislature                      2012 Regular Session

By Senators Kline, Kohl-Welles, and Regala

Read first time 02/28/12. Referred to Committee on Judiciary.

1            AN ACT Relating to reckless endangerment resulting from unsafe  
2 storage of firearms; amending RCW 9A.36.050 and 9.41.070; and  
3 prescribing penalties.

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

5            **Sec. 1.** RCW 9A.36.050 and 1997 c 338 s 45 are each amended to read  
6 as follows:

7            (1) A person is guilty of reckless endangerment when he or she  
8 recklessly engages in conduct not amounting to drive-by shooting but  
9 that creates a substantial risk of death or serious physical injury to  
10 another person.

11            (2) Except as otherwise provided in this section, a person is  
12 guilty of reckless endangerment if the person stores or leaves a loaded  
13 firearm in a location where the person knows, or reasonably should  
14 know, that a child is likely to gain access, and a child obtains  
15 possession of the loaded firearm.

16            (3) Subsection (2) of this section does not apply if:

17            (a) The firearm is secured in a locked box, gun safe, other secure  
18 locked storage space, or secured with a lock or any device that  
19 prevents the firearm from discharging;

1 (b) The child's access to the firearm is supervised by an adult;

2 (c) The child's access to the firearm was obtained as a result of  
3 an unlawful entry; or

4 (d) The child's access to the firearm was in accordance with RCW  
5 9.41.042.

6 (4) If a death or serious injury occurs as a result of an alleged  
7 violation of subsection (2) of this section, the prosecuting attorney  
8 may decline to prosecute, even though technically sufficient evidence  
9 to prosecute exists, in situations where prosecution would serve no  
10 public purpose, would defeat the purpose of the law in question, or  
11 would result in decreased respect for the law.

12 (5) For the purposes of this section:

13 (a) "Child" means a person under the age of twelve years; and

14 (b) The definitions in RCW 9.41.010 apply throughout this section.

15 (6) Nothing in this section shall mandate how or where a firearm  
16 must be stored.

17 (7) Reckless endangerment is a gross misdemeanor.

18 **Sec. 2.** RCW 9.41.070 and 2011 c 294 s 1 are each amended to read  
19 as follows:

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

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

34 (a) He or she is ineligible to possess a firearm under the  
35 provisions of RCW 9.41.040 or 9.41.045, or is prohibited from  
36 possessing a firearm under federal law;

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

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

4 (d) He or she is subject to a court order or injunction regarding  
5 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
6 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,  
7 26.50.070, or 26.26.590;

8 (e) He or she is free on bond or personal recognizance pending  
9 trial, appeal, or sentencing for a felony offense;

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

12 (g) He or she has been ordered to forfeit a firearm under RCW  
13 9.41.098(1)(e) within one year before filing an application to carry a  
14 pistol concealed on his or her person.

15 No person convicted of a felony may have his or her right to  
16 possess firearms restored or his or her privilege to carry a concealed  
17 pistol restored, unless the person has been granted relief from  
18 disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or  
19 RCW 9.41.040 (3) or (4) applies.

20 (2)(a) The issuing authority shall conduct a check through the  
21 national instant criminal background check system, the Washington state  
22 patrol electronic database, the department of social and health  
23 services electronic database, and with other agencies or resources as  
24 appropriate, to determine whether the applicant is ineligible under RCW  
25 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from  
26 possessing a firearm under federal law, and therefore ineligible for a  
27 concealed pistol license.

28 (b) The issuing authority shall deny a permit to anyone who is  
29 found to be prohibited from possessing a firearm under federal or state  
30 law.

31 (c) This subsection applies whether the applicant is applying for  
32 a new concealed pistol license or to renew a concealed pistol license.

33 (3) Any person whose firearms rights have been restricted and who  
34 has been granted relief from disabilities by the attorney general under  
35 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec.  
36 921(a)(20)(A) shall have his or her right to acquire, receive,  
37 transfer, ship, transport, carry, and possess firearms in accordance

1 with Washington state law restored except as otherwise prohibited by  
2 this chapter.

3 (4) The license application shall bear the full name, residential  
4 address, telephone number at the option of the applicant, date and  
5 place of birth, race, gender, description, a complete set of  
6 fingerprints, and signature of the licensee, and the licensee's  
7 driver's license number or state identification card number if used for  
8 identification in applying for the license. A signed application for  
9 a concealed pistol license shall constitute a waiver of confidentiality  
10 and written request that the department of social and health services,  
11 mental health institutions, and other health care facilities release  
12 information relevant to the applicant's eligibility for a concealed  
13 pistol license to an inquiring court or law enforcement agency.

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

16 The license and application shall contain a warning substantially  
17 as follows:

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

23 The license shall contain a description of the major differences  
24 between state and federal law and an explanation of the fact that local  
25 laws and ordinances on firearms are preempted by state law and must be  
26 consistent with state law.

27 The application shall contain questions about the applicant's  
28 eligibility under RCW 9.41.040 and federal law to possess a pistol, the  
29 applicant's place of birth, and whether the applicant is a United  
30 States citizen. If the applicant is not a United States citizen, the  
31 applicant must provide the applicant's country of citizenship, United  
32 States issued alien number or admission number, and the basis on which  
33 the applicant claims to be exempt from federal prohibitions on firearm  
34 possession by aliens. The applicant shall not be required to produce  
35 a birth certificate or other evidence of citizenship. A person who is  
36 not a citizen of the United States shall, if applicable, meet the  
37 additional requirements of RCW 9.41.173 and produce proof of compliance

1 with RCW 9.41.173 upon application. The license may be in triplicate  
2 or in a form to be prescribed by the department of licensing.

3 The original thereof shall be delivered to the licensee, the  
4 duplicate shall within seven days be sent to the director of licensing  
5 and the triplicate shall be preserved for six years, by the authority  
6 issuing the license.

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

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

16 The fee shall be distributed as follows:

17 (a) (~~Fifteen~~) Seventeen dollars shall be paid to the state  
18 general fund;

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

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

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

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

29 The renewal fee shall be distributed as follows:

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

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

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

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

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 (6) of this section. The  
10 fee shall be distributed as follows:

11 (a) Three dollars shall be deposited in the state wildlife account  
12 and used exclusively first for the printing and distribution of a  
13 pamphlet on the legal limits of the use of firearms, firearms safety,  
14 and the preemptive nature of state law, and subsequently the support of  
15 volunteer instructors in the basic firearms safety training program  
16 conducted by the department of fish and wildlife. The pamphlet shall  
17 be given to each applicant for a license; and

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

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

28 (11) A political subdivision of the state shall not modify the  
29 requirements of this section or chapter, nor may a political  
30 subdivision ask the applicant to voluntarily submit any information not  
31 required by this section.

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

1           (13) A person may apply for a concealed pistol license:  
2           (a) To the municipality or to the county in which the applicant  
3 resides if the applicant resides in a municipality;  
4           (b) To the county in which the applicant resides if the applicant  
5 resides in an unincorporated area; or  
6           (c) Anywhere in the state if the applicant is a nonresident.  
7           (14) Any person who, as a member of the armed forces, including the  
8 national guard and armed forces reserves, is unable to renew his or her  
9 license under subsections (6) and (9) of this section because of the  
10 person's assignment, reassignment, or deployment for out-of-state  
11 military service may renew his or her license within ninety days after  
12 the person returns to this state from out-of-state military service, if  
13 the person provides the following to the issuing authority no later  
14 than ninety days after the person's date of discharge or assignment,  
15 reassignment, or deployment back to this state: (a) A copy of the  
16 person's original order designating the specific period of assignment,  
17 reassignment, or deployment for out-of-state military service, and (b)  
18 if appropriate, a copy of the person's discharge or amended or  
19 subsequent assignment, reassignment, or deployment order back to this  
20 state. A license so renewed under this subsection (14) shall take  
21 effect on the expiration date of the prior license. A licensee  
22 renewing after the expiration date of the license under this subsection  
23 (14) shall pay only the renewal fee specified in subsection (6) of this  
24 section and shall not be required to pay a late renewal penalty in  
25 addition to the renewal fee.

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