

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1612

63rd Legislature
2013 Regular Session

Passed by the House April 23, 2013
Yeas 89 Nays 8

Speaker of the House of Representatives

Passed by the Senate April 17, 2013
Yeas 41 Nays 7

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1612** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1612

AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By House Judiciary (originally sponsored by Representatives Hope, Pedersen, Hayes, Buys, Dahlquist, Hargrove, O'Ban, Holy, Goodman, Fagan, Smith, Magendanz, Orcutt, Klippert, Kretz, Warnick, Roberts, Moscoso, Ryu, and Bergquist)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to felony firearm offenders; amending RCW
2 42.56.240; reenacting and amending RCW 9.41.010; adding new sections to
3 chapter 9.41 RCW; adding a new section to chapter 43.43 RCW; and
4 prescribing penalties.

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

6 **Sec. 1.** RCW 42.56.240 and 2012 c 88 s 1 are each amended to read
7 as follows:

8 The following investigative, law enforcement, and crime victim
9 information is exempt from public inspection and copying under this
10 chapter:

11 (1) Specific intelligence information and specific investigative
12 records compiled by investigative, law enforcement, and penology
13 agencies, and state agencies vested with the responsibility to
14 discipline members of any profession, the nondisclosure of which is
15 essential to effective law enforcement or for the protection of any
16 person's right to privacy;

17 (2) Information revealing the identity of persons who are witnesses
18 to or victims of crime or who file complaints with investigative, law
19 enforcement, or penology agencies, other than the commission, if

1 disclosure would endanger any person's life, physical safety, or
2 property. If at the time a complaint is filed the complainant, victim,
3 or witness indicates a desire for disclosure or nondisclosure, such
4 desire shall govern. However, all complaints filed with the commission
5 about any elected official or candidate for public office must be made
6 in writing and signed by the complainant under oath;

7 (3) Any records of investigative reports prepared by any state,
8 county, municipal, or other law enforcement agency pertaining to sex
9 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
10 defined in RCW 71.09.020, which have been transferred to the Washington
11 association of sheriffs and police chiefs for permanent electronic
12 retention and retrieval pursuant to RCW 40.14.070(2)(b);

13 (4) License applications under RCW 9.41.070; copies of license
14 applications or information on the applications may be released to law
15 enforcement or corrections agencies;

16 (5) Information revealing the identity of child victims of sexual
17 assault who are under age eighteen. Identifying information means the
18 child victim's name, address, location, photograph, and in cases in
19 which the child victim is a relative or stepchild of the alleged
20 perpetrator, identification of the relationship between the child and
21 the alleged perpetrator;

22 (6) The statewide gang database referenced in RCW 43.43.762;

23 (7) Data from the electronic sales tracking system established in
24 RCW 69.43.165;

25 (8) Information submitted to the statewide unified sex offender
26 notification and registration program under RCW 36.28A.040(6) by a
27 person for the purpose of receiving notification regarding a registered
28 sex offender, including the person's name, residential address, and e-
29 mail address; and

30 (9) Personally identifying information collected by law enforcement
31 agencies pursuant to local security alarm system programs and vacation
32 crime watch programs. Nothing in this subsection shall be interpreted
33 so as to prohibit the legal owner of a residence or business from
34 accessing information regarding his or her residence or business; and

35 (10) The felony firearm offense conviction database of felony
36 firearm offenders established in section 6 of this act.

1 **Sec. 2.** RCW 9.41.010 and 2009 c 216 s 1 are each reenacted and
2 amended to read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

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

17 (3) "Crime of violence" means:

18 (a) Any of the following felonies, as now existing or hereafter
19 amended: Any felony defined under any law as a class A felony or an
20 attempt to commit a class A felony, criminal solicitation of or
21 criminal conspiracy to commit a class A felony, manslaughter in the
22 first degree, manslaughter in the second degree, indecent liberties if
23 committed by forcible compulsion, kidnapping in the second degree,
24 arson in the second degree, assault in the second degree, assault of a
25 child in the second degree, extortion in the first degree, burglary in
26 the second degree, residential burglary, and robbery in the second
27 degree;

28 (b) Any conviction for a felony offense in effect at any time prior
29 to June 6, 1996, which is comparable to a felony classified as a crime
30 of violence in (a) of this subsection; and

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

34 (4) "Dealer" means a person engaged in the business of selling
35 firearms at wholesale or retail who has, or is required to have, a
36 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
37 does not have, and is not required to have, a federal firearms license
38 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only

1 occasional sales, exchanges, or purchases of firearms for the
2 enhancement of a personal collection or for a hobby, or sells all or
3 part of his or her personal collection of firearms.

4 (5) "Family or household member" means "family" or "household
5 member" as used in RCW 10.99.020.

6 (6) "Felony" means any felony offense under the laws of this state
7 or any federal or out-of-state offense comparable to a felony offense
8 under the laws of this state.

9 (7) "Felony firearm offender" means a person who has previously
10 been convicted or found not guilty by reason of insanity in this state
11 of any felony firearm offense. A person is not a felony firearm
12 offender under this chapter if any and all qualifying offenses have
13 been the subject of an expungement, pardon, annulment, certificate, or
14 rehabilitation, or other equivalent procedure based on a finding of the
15 rehabilitation of the person convicted or a pardon, annulment, or other
16 equivalent procedure based on a finding of innocence.

17 (8) "Felony firearm offense" means:
18 (a) Any felony offense that is a violation of chapter 9.41 RCW;
19 (b) A violation of RCW 9A.36.045;
20 (c) A violation of RCW 9A.56.300;
21 (d) A violation of RCW 9A.56.310;
22 (e) Any felony offense if the offender was armed with a firearm in
23 the commission of the offense.

24 (9) "Firearm" means a weapon or device from which a projectile or
25 projectiles may be fired by an explosive such as gunpowder.

26 ((+8)) (10) "Law enforcement officer" includes a general authority
27 Washington peace officer as defined in RCW 10.93.020, or a specially
28 commissioned Washington peace officer as defined in RCW 10.93.020.
29 "Law enforcement officer" also includes a limited authority Washington
30 peace officer as defined in RCW 10.93.020 if such officer is duly
31 authorized by his or her employer to carry a concealed pistol.

32 ((+9)) (11) "Lawful permanent resident" has the same meaning
33 afforded a person "lawfully admitted for permanent residence" in 8
34 U.S.C. Sec. 1101(a)(20).

35 ((+10)) (12) "Loaded" means:
36 (a) There is a cartridge in the chamber of the firearm;
37 (b) Cartridges are in a clip that is locked in place in the
38 firearm;

1 (c) There is a cartridge in the cylinder of the firearm, if the
2 firearm is a revolver;

3 (d) There is a cartridge in the tube or magazine that is inserted
4 in the action; or

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

7 ~~((+11+))~~ (13) "Machine gun" means any firearm known as a machine
8 gun, mechanical rifle, submachine gun, or any other mechanism or
9 instrument not requiring that the trigger be pressed for each shot and
10 having a reservoir clip, disc, drum, belt, or other separable
11 mechanical device for storing, carrying, or supplying ammunition which
12 can be loaded into the firearm, mechanism, or instrument, and fired
13 therefrom at the rate of five or more shots per second.

14 ~~((+12+))~~ (14) "Nonimmigrant alien" means a person defined as such
15 in 8 U.S.C. Sec. 1101(a)(15).

16 ~~((+13+))~~ (15) "Pistol" means any firearm with a barrel less than
17 sixteen inches in length, or is designed to be held and fired by the
18 use of a single hand.

19 ~~((+14+))~~ (16) "Rifle" means a weapon designed or redesigned, made
20 or remade, and intended to be fired from the shoulder and designed or
21 redesigned, made or remade, and intended to use the energy of the
22 explosive in a fixed metallic cartridge to fire only a single
23 projectile through a rifled bore for each single pull of the trigger.

24 ~~((+15+))~~ (17) "Sell" refers to the actual approval of the delivery
25 of a firearm in consideration of payment or promise of payment of a
26 certain price in money.

27 ~~((+16+))~~ (18) "Serious offense" means any of the following felonies
28 or a felony attempt to commit any of the following felonies, as now
29 existing or hereafter amended:

30 (a) Any crime of violence;

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

34 (c) Child molestation in the second degree;

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

36 (e) Indecent liberties;

37 (f) Leading organized crime;

38 (g) Promoting prostitution in the first degree;

1 (h) Rape in the third degree;
2 (i) Drive-by shooting;
3 (j) Sexual exploitation;
4 (k) Vehicular assault, when caused by the operation or driving of
5 a vehicle by a person while under the influence of intoxicating liquor
6 or any drug or by the operation or driving of a vehicle in a reckless
7 manner;

8 (l) Vehicular homicide, when proximately caused by the driving of
9 any vehicle by any person while under the influence of intoxicating
10 liquor or any drug as defined by RCW 46.61.502, or by the operation of
11 any vehicle in a reckless manner;

12 (m) Any other class B felony offense with a finding of sexual
13 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

14 (n) Any other felony with a deadly weapon verdict under RCW
15 (~~9.94A.602~~) 9.94A.825; or

16 (o) Any felony offense in effect at any time prior to June 6, 1996,
17 that is comparable to a serious offense, or any federal or out-of-state
18 conviction for an offense that under the laws of this state would be a
19 felony classified as a serious offense.

20 (~~(+17)~~) (19) "Short-barreled rifle" means a rifle having one or
21 more barrels less than sixteen inches in length and any weapon made
22 from a rifle by any means of modification if such modified weapon has
23 an overall length of less than twenty-six inches.

24 (~~(+18)~~) (20) "Short-barreled shotgun" means a shotgun having one
25 or more barrels less than eighteen inches in length and any weapon made
26 from a shotgun by any means of modification if such modified weapon has
27 an overall length of less than twenty-six inches.

28 (~~(+19)~~) (21) "Shotgun" means a weapon with one or more barrels,
29 designed or redesigned, made or remade, and intended to be fired from
30 the shoulder and designed or redesigned, made or remade, and intended
31 to use the energy of the explosive in a fixed shotgun shell to fire
32 through a smooth bore either a number of ball shot or a single
33 projectile for each single pull of the trigger.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.41 RCW
35 to read as follows:

36 (1) On or after the effective date of this section, whenever a
37 defendant in this state is convicted of a felony firearm offense or

1 found not guilty by reason of insanity of any felony firearm offense,
2 the court must consider whether to impose a requirement that the person
3 comply with the registration requirements of section 4 of this act and
4 may, in its discretion, impose such a requirement.

5 (2) In determining whether to require the person to register, the
6 court shall consider all relevant factors including, but not limited
7 to:

- 8 (a) The person's criminal history;
- 9 (b) Whether the person has previously been found not guilty by
10 reason of insanity of any offense in this state or elsewhere; and
- 11 (c) Evidence of the person's propensity for violence that would
12 likely endanger persons.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW
14 to read as follows:

15 (1) Any adult or juvenile residing, whether or not the person has
16 a fixed residence, in this state who has been required by a court to
17 comply with the registration requirements of this section shall
18 personally register with the county sheriff for the county of the
19 person's residence.

20 (2) A person required to register under this section must provide
21 the following information when registering:

- 22 (a) Name and any aliases used;
- 23 (b) Complete and accurate residence address or, if the person lacks
24 a fixed residence, where he or she plans to stay;
- 25 (c) Identifying information of the gun offender, including a
26 physical description;
- 27 (d) The offense for which the person was convicted;
- 28 (e) Date and place of conviction; and
- 29 (f) The names of any other county where the offender has registered
30 pursuant to this section.

31 (3) The county sheriff may require the offender to provide
32 documentation that verifies the contents of his or her registration.

33 (4) The county sheriff may take the offender's photograph or
34 fingerprints for the inclusion of such record in the registration.

35 (5) Felony firearm offenders shall register with the county sheriff
36 not later than forty-eight hours after:

1 (a) The date of release from custody, as a result of the felony
2 firearm offense, of the state department of corrections, the state
3 department of social and health services, a local division of youth
4 services, or a local jail or juvenile detention facility; or

5 (b) The date the court imposes the felony firearm offender's
6 sentence, if the offender receives a sentence that does not include
7 confinement.

8 (6)(a) Except as described in (b) of this subsection, the felony
9 firearm offender shall register with the county sheriff not later than
10 twenty days after each twelve-month anniversary of the date the
11 offender is first required to register, as described in subsection (5)
12 of this section.

13 (b) If the felony firearm offender is confined to any correctional
14 institution, state institution or facility, or health care facility
15 throughout the twenty-day period described in (a) of this subsection,
16 the offender shall personally appear before the county sheriff not
17 later than forty-eight hours after release to verify and update, as
18 appropriate, his or her registration.

19 (7) If the felony firearm offender changes his or her residence
20 address and his or her new residence address is within this state, the
21 offender shall personally register with the county sheriff for the
22 county of the person's residence not later than forty-eight hours after
23 the change of address. If the offender's residence address is within
24 the same county as the offender's immediately preceding address, the
25 offender shall update the contents of his or her current registration.

26 (8) The duty to register shall continue for a period of four years
27 from the date the offender is first required to register, as described
28 in subsection (5) of this section.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 9.41 RCW
30 to read as follows:

31 (1) A person commits the crime of failure to register as a felony
32 firearm offender if the person has a duty to register under section 4
33 of this act and knowingly fails to comply with any of the requirements
34 of section 4 of this act.

35 (2) Failure to register as a felony firearm offender is a gross
36 misdemeanor.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.43 RCW
2 to read as follows:

3 (1) The county sheriff shall forward registration information,
4 photographs, and fingerprints obtained pursuant to section 4 of this
5 act to the Washington state patrol within five working days.

6 (2) Upon implementation of this act, the Washington state patrol
7 shall maintain a felony firearm offense conviction database of felony
8 firearm offenders required to register under section 4 of this act and
9 shall adopt rules as are necessary to carry out the purposes of this
10 act.

11 (3) Upon expiration of the person's duty to register, as described
12 in section 4(8) of this act, the Washington state patrol shall
13 automatically remove the person's name and information from the
14 database.

15 (4) The felony firearm offense conviction database of felony
16 firearm offenders shall be used only for law enforcement purposes and
17 is not subject to public disclosure under chapter 42.56 RCW.

18 NEW SECTION. **Sec. 7.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

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