
HOUSE BILL 1147

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Goodman, Klippert, Moscoso, Hope, Ryu, and Roberts

Read first time 01/17/13. Referred to Committee on Judiciary.

1 AN ACT Relating to unlawful possession of a firearm in the first
2 degree; amending RCW 9.41.040; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.41.040 and 2011 c 193 s 1 are each amended to read
5 as follows:

6 (1)(a) A person(~~(, whether an adult or juvenile,)~~) is guilty of the
7 crime of unlawful possession of a firearm in the first degree, if the
8 person:

9 (i) As an adult or juvenile, owns, has in his or her possession, or
10 has in his or her control any firearm after having previously been
11 convicted or found not guilty by reason of insanity in this state or
12 elsewhere of any serious offense as defined in this chapter; or

13 (ii) As an adult, owns, has in his or her possession, or has in his
14 or her control any firearm after having previously been convicted or
15 found not guilty by reason of insanity in this state or elsewhere of
16 unlawful possession of a firearm in the second degree, other than
17 unlawful possession of a firearm in the second degree under subsection
18 (2)(a)(i)(B) of this section.

1 (b) Unlawful possession of a firearm in the first degree is a class
2 B felony punishable according to chapter 9A.20 RCW.

3 (2)(a) A person, whether an adult or juvenile, is guilty of the
4 crime of unlawful possession of a firearm in the second degree, if the
5 person does not qualify under subsection (1) of this section for the
6 crime of unlawful possession of a firearm in the first degree and the
7 person owns, has in his or her possession, or has in his or her control
8 any firearm:

9 (i) After having previously been convicted or found not guilty by
10 reason of insanity in this state or elsewhere of (A) any felony not
11 specifically listed as prohibiting firearm possession under subsection
12 (1) of this section, or (B) any of the following crimes when committed
13 by one family or household member against another, committed on or
14 after July 1, 1993: Assault in the fourth degree, coercion, stalking,
15 reckless endangerment, criminal trespass in the first degree, or
16 violation of the provisions of a protection order or no-contact order
17 restraining the person or excluding the person from a residence (RCW
18 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

19 (ii) After having previously been involuntarily committed for
20 mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740,
21 71.34.750, chapter 10.77 RCW, or equivalent statutes of another
22 jurisdiction, unless his or her right to possess a firearm has been
23 restored as provided in RCW 9.41.047;

24 (iii) If the person is under eighteen years of age, except as
25 provided in RCW 9.41.042; and/or

26 (iv) If the person is free on bond or personal recognizance pending
27 trial, appeal, or sentencing for a serious offense as defined in RCW
28 9.41.010.

29 (b) Unlawful possession of a firearm in the second degree is a
30 class C felony punishable according to chapter 9A.20 RCW.

31 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as
32 used in this chapter, a person has been "convicted", whether in an
33 adult court or adjudicated in a juvenile court, at such time as a plea
34 of guilty has been accepted, or a verdict of guilty has been filed,
35 notwithstanding the pendency of any future proceedings including but
36 not limited to sentencing or disposition, post-trial or post-
37 factfinding motions, and appeals. Conviction includes a dismissal
38 entered after a period of probation, suspension or deferral of

1 sentence, and also includes equivalent dispositions by courts in
2 jurisdictions other than Washington state. A person shall not be
3 precluded from possession of a firearm if the conviction has been the
4 subject of a pardon, annulment, certificate of rehabilitation, or other
5 equivalent procedure based on a finding of the rehabilitation of the
6 person convicted or the conviction or disposition has been the subject
7 of a pardon, annulment, or other equivalent procedure based on a
8 finding of innocence. Where no record of the court's disposition of
9 the charges can be found, there shall be a rebuttable presumption that
10 the person was not convicted of the charge.

11 (4)(a) Notwithstanding subsection (1) or (2) of this section, a
12 person convicted or found not guilty by reason of insanity of an
13 offense prohibiting the possession of a firearm under this section
14 other than murder, manslaughter, robbery, rape, indecent liberties,
15 arson, assault, kidnapping, extortion, burglary, or violations with
16 respect to controlled substances under RCW 69.50.401 and 69.50.410, who
17 received a probationary sentence under RCW 9.95.200, and who received
18 a dismissal of the charge under RCW 9.95.240, shall not be precluded
19 from possession of a firearm as a result of the conviction or finding
20 of not guilty by reason of insanity. Notwithstanding any other
21 provisions of this section, if a person is prohibited from possession
22 of a firearm under subsection (1) or (2) of this section and has not
23 previously been convicted or found not guilty by reason of insanity of
24 a sex offense prohibiting firearm ownership under subsection (1) or (2)
25 of this section and/or any felony defined under any law as a class A
26 felony or with a maximum sentence of at least twenty years, or both,
27 the individual may petition a court of record to have his or her right
28 to possess a firearm restored:

29 (i) Under RCW 9.41.047; and/or

30 (ii)(A) If the conviction or finding of not guilty by reason of
31 insanity was for a felony offense, after five or more consecutive years
32 in the community without being convicted or found not guilty by reason
33 of insanity or currently charged with any felony, gross misdemeanor, or
34 misdemeanor crimes, if the individual has no prior felony convictions
35 that prohibit the possession of a firearm counted as part of the
36 offender score under RCW 9.94A.525; or

37 (B) If the conviction or finding of not guilty by reason of
38 insanity was for a nonfelony offense, after three or more consecutive

1 years in the community without being convicted or found not guilty by
2 reason of insanity or currently charged with any felony, gross
3 misdemeanor, or misdemeanor crimes, if the individual has no prior
4 felony convictions that prohibit the possession of a firearm counted as
5 part of the offender score under RCW 9.94A.525 and the individual has
6 completed all conditions of the sentence.

7 (b) An individual may petition a court of record to have his or her
8 right to possess a firearm restored under (a) of this subsection (4)
9 only at:

10 (i) The court of record that ordered the petitioner's prohibition
11 on possession of a firearm; or

12 (ii) The superior court in the county in which the petitioner
13 resides.

14 (5) In addition to any other penalty provided for by law, if a
15 person under the age of eighteen years is found by a court to have
16 possessed a firearm in a vehicle in violation of subsection (1)(a)(i)
17 or (2) of this section or to have committed an offense while armed with
18 a firearm during which offense a motor vehicle served an integral
19 function, the court shall notify the department of licensing within
20 twenty-four hours and the person's privilege to drive shall be revoked
21 under RCW 46.20.265.

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

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

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