
SENATE BILL 5482

State of Washington 52nd Legislature 1991 Regular Session

By Senators Williams, Talmadge, Pelz, Murray and L. Kreidler.

Read first time February 1, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to firearms; and amending RCW 9.41.090, 9.41.040,
2 9.41.070, and 9.41.010.

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

4 **Sec. 1.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as
5 follows:

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

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

14 (b) The seller is notified in writing by the chief of police of the
15 municipality or the sheriff of the county that the purchaser meets the

1 requirements of RCW 9.41.040 and that the application to purchase is
2 granted; or

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

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

25 (3) In any case where the chief or sheriff of the local
26 jurisdiction has reasonable grounds based on the following
27 circumstances: (a) Open criminal charges, (b) pending criminal
28 proceedings, (c) pending commitment proceedings, (d) an outstanding
29 warrant for a crime of violence, or (e) an arrest for a crime of
30 violence if the records of disposition have not yet been reported or

1 entered sufficiently to determine eligibility to purchase a pistol or
2 a semiautomatic firearm, the local jurisdiction may hold the sale and
3 delivery of the pistol or the semiautomatic firearm beyond five days up
4 to thirty days in order to confirm existing records in this state or
5 elsewhere. After thirty days, the hold will be lifted unless an
6 extension of the thirty days is approved by a local district court or
7 municipal court for good cause shown. An applicant shall be notified
8 of 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 (4) At the time of applying for the purchase of a pistol or a
12 semiautomatic firearm, the purchaser shall sign in triplicate and
13 deliver to the seller an application containing his or her full name,
14 address, place of birth, and the date and hour of the application; the
15 applicant's driver's license number or state identification card
16 number; and a description of the weapon including, the make, model,
17 caliber and manufacturer's number; and a statement that the purchaser
18 is eligible to own a pistol or a semiautomatic under RCW 9.41.040. The
19 application shall contain a warning substantially as follows:

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

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

29 The seller shall, by the end of the business day, sign and attach
30 his or her address and deliver the original of the application and such

1 other documentation as required under subsection (1) of this section to
2 the chief of police of the municipality or the sheriff of the county of
3 which the seller is a resident. The seller shall deliver the pistol or
4 the semiautomatic firearm to the purchaser following the period of time
5 specified in this section unless the seller is notified 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 fails to meet the requirements specified in RCW
10 9.41.040. The chief of police of the municipality or the county
11 sheriff shall maintain a file containing the original of the
12 application to purchase a pistol or a semiautomatic firearm.

13 **Sec. 2.** RCW 9.41.040 and 1983 c 232 s 2 are each amended to read
14 as follows:

15 (1) A person is guilty of the crime of unlawful possession of a
16 short firearm ~~((or))~~, pistol, or semiautomatic firearm, if, having
17 previously been convicted in this state or elsewhere of a crime of
18 violence or of a felony in which a firearm was used or displayed, the
19 person owns or has in his possession any short firearm ~~((or))~~, pistol,
20 or semiautomatic firearm.

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

24 (3) As used in this section, a person has been "convicted" at such
25 time as a plea of guilty has been accepted or a verdict of guilty has
26 been filed, notwithstanding the pendency of any future proceedings
27 including but not limited to sentencing, post-trial motions, and
28 appeals. A person shall not be precluded from possession if the
29 conviction has been the subject of a pardon, annulment, certificate of

1 rehabilitation, or other equivalent procedure based on a finding of the
2 rehabilitation of the person convicted or the conviction has been the
3 subject of a pardon, annulment, or other equivalent procedure based on
4 a finding of innocence.

5 (4) Except as provided in subsection (5) of this section, a person
6 is guilty of the crime of unlawful possession of a short firearm
7 ~~((or))~~, pistol, or semiautomatic firearm if, after having been
8 convicted of any felony violation of the uniform controlled substances
9 act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction,
10 or after any period of confinement under RCW 71.05.320 or an equivalent
11 statute of another jurisdiction, or following a record of commitment
12 pursuant to chapter 10.77 RCW or equivalent statutes of another
13 jurisdiction, he or she owns or has in his or her possession or under
14 his or her control any short firearm ~~((or))~~, pistol, or semiautomatic
15 firearm.

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

24 **Sec. 3.** RCW 9.41.070 and 1990 c 195 s 6 are each amended to read
25 as follows:

26 (1) The judge of a court of record, the chief of police of a
27 municipality, or the sheriff of a county, shall within thirty days
28 after the filing of an application of any person issue a license to
29 such person to carry a pistol concealed on his or her person or a

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

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

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

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

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

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

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

22 The license shall be revoked immediately upon conviction of a crime
23 which makes such a person ineligible to own a pistol or a semiautomatic
24 firearm, or upon the third conviction for a violation of this chapter
25 within five calendar years.

26 (2) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the
27 license shall:

28 (a) On the first forfeiture, be revoked by the department of
29 licensing for one year;

1 (b) On the second forfeiture, be revoked by the department of
2 licensing for two years;

3 (c) On the third or subsequent forfeiture, be revoked by the
4 department of licensing for five years.

5 Any person whose license is revoked as a result of a forfeiture of a
6 firearm under RCW 9.41.098(1)(d) may not reapply for a new license
7 until the end of the revocation period.

8 The license shall be in triplicate, in form to be prescribed by the
9 department of licensing, and shall bear the name, address, and
10 description, fingerprints, and signature of the licensee, and the
11 licensee's driver's license number or state identification card number
12 if used for identification in applying for the license. The license
13 application shall contain a warning substantially as follows:

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

19 The license application shall contain a description of the major
20 differences between state and federal law and an explanation of the
21 fact that local laws and ordinances on firearms are preempted by state
22 law and must be consistent with state law. The application shall
23 contain questions about the applicant's place of birth, whether the
24 applicant is a United States citizen, and if not a citizen whether the
25 applicant has declared the intent to become a citizen and whether he or
26 she has been required to register with the state or federal government
27 and any identification or registration number, if applicable. The
28 applicant shall not be required to produce a birth certificate or other
29 evidence of citizenship. An applicant who is not a citizen shall
30 provide documentation showing resident alien status and the applicant's

1 intent to become a citizen. A person who makes a false statement
2 regarding citizenship on the application is guilty of a misdemeanor.
3 A person who is not a citizen of the United States, or has not declared
4 his or her intention to become a citizen shall meet the additional
5 requirements of RCW 9.41.170.

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

10 (3) The fee for the original issuance of a four-year license shall
11 be twenty-three dollars: PROVIDED, That no other additional charges by
12 any branch or unit of government shall be borne by the applicant for
13 the issuance of the license: PROVIDED FURTHER, That the fee shall be
14 distributed as follows:

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

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

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

20 (d) Three dollars to the firearms range account in the general
21 fund.

22 (4) The fee for the renewal of such license shall be fifteen
23 dollars: PROVIDED, That no other additional charges by any branch or
24 unit of government shall be borne by the applicant for the renewal of
25 the license: PROVIDED FURTHER, That the fee shall be distributed as
26 follows:

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

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

1 (c) Three dollars to the firearms range account in the general
2 fund.

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

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

13 (a) Three dollars shall be deposited in the state wildlife fund and
14 used exclusively for the printing and distribution of a pamphlet on the
15 legal limits of the use of firearms, firearms safety, and the
16 preemptive nature of state law. The pamphlet shall be given to each
17 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 (7) Notwithstanding the requirements of subsections (1) through (6)
21 of this section, the chief of police of the municipality or the sheriff
22 of the county of the applicant's residence may issue a temporary
23 emergency license for good cause pending review under subsection (1) of
24 this section.

25 (8) A political subdivision of the state shall not modify the
26 requirements of this section or chapter, nor may a political
27 subdivision ask the applicant to voluntarily submit any information not
28 required by this section. A civil suit may be brought to enjoin a
29 wrongful refusal to issue a license or a wrongful modification of the
30 requirements of this section or chapter. The civil suit may be brought

1 in the county in which the application was made or in Thurston county
2 at the discretion of the petitioner. Any person who prevails against
3 a public agency in any action in the courts for a violation of this
4 chapter shall be awarded costs, including reasonable attorneys' fees,
5 incurred in connection with such legal action.

6 **Sec. 4.** RCW 9.41.010 and 1983 c 232 s 1 are each amended to read
7 as follows:

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

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

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

20 (b) Any conviction for a felony offense in effect at any time prior
21 to July 1, 1976, which is comparable to a felony classified as a crime
22 of violence in subsection (2) (a) of this section; and

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

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

28 (4) "Commercial seller" as used in this chapter means a person who
29 has a federal firearms license.

1 (5) "Semiautomatic firearm" as used in this chapter means a firearm
2 having an automatic chambering mechanism but requiring a trigger pull
3 for each round fired.