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HOUSE BILL 1284

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State of Washington

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By Representatives Appelwick, Brough, Karahalios, G. Cole, Riley and J. Kohl

Read first time 01/22/93. Referred to Committee on Judiciary.

1 AN ACT Relating to firearms dealers; amending RCW 9.41.090,  
2 9.41.093, 9.41.098, 9.41.100, and 9.41.110; reenacting and amending RCW  
3 9.41.010; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are  
6 each reenacted and amended to read as follows:

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

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

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

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

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

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

10 (4) "~~((Commercial seller)) Dealer~~" as used in this chapter means:

11 (a) A person (~~(who has)) holding or required to hold a federal~~  
12 firearms license; or

13 (b) A person who sells at least three pistols in one year, and  
14 whose sales are to at least two purchasers.

15 **Sec. 2.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as  
16 follows:

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

20 (a) The purchaser produces a valid concealed pistol license and the  
21 (~~(commercial seller)) dealer~~ has recorded the purchaser's name, license  
22 number, and issuing agency, such record to be made in triplicate and  
23 processed as provided in subsection (4) of this section; or

24 (b) The (~~(seller)) dealer~~ is notified in writing by the chief of  
25 police of the municipality or the sheriff of the county that the  
26 purchaser meets the requirements of RCW 9.41.040 and that the  
27 application to purchase is granted; or

28 (c) Five consecutive days including Saturday, Sunday, and holidays  
29 have elapsed from the time of receipt of the application for the  
30 purchase thereof as provided herein by the chief of police or sheriff  
31 designated in subsection (4) of this section, and, when delivered, said  
32 pistol shall be securely wrapped and shall be unloaded. However, if  
33 the purchaser does not have a valid permanent Washington driver's  
34 license or state identification card or has not been a resident of the  
35 state for the previous consecutive ninety days, the waiting period  
36 under this subsection (1)(c) shall be up to sixty days.

37 (2) In any case under subsection (1)(c) of this section where the  
38 applicant has an outstanding warrant for his or her arrest from any

1 court of competent jurisdiction for a felony or misdemeanor, the  
2 ((~~seller~~)) dealer shall hold the delivery of the pistol until the  
3 warrant for arrest is served and satisfied by appropriate court  
4 appearance. The local jurisdiction for purposes of the sale shall  
5 confirm the existence of outstanding warrants within seventy-two hours  
6 after notification of the application to purchase a pistol is received.  
7 The local jurisdiction shall also immediately confirm the satisfaction  
8 of the warrant on request of the ((~~seller~~)) dealer so that the hold may  
9 be released if the warrant was for a crime other than a crime of  
10 violence.

11 (3) In any case where the chief or sheriff of the local  
12 jurisdiction has reasonable grounds based on the following  
13 circumstances: (a) Open criminal charges, (b) pending criminal  
14 proceedings, (c) pending commitment proceedings, (d) an outstanding  
15 warrant for a crime of violence, or (e) an arrest for a crime of  
16 violence if the records of disposition have not yet been reported or  
17 entered sufficiently to determine eligibility to purchase a pistol, the  
18 local jurisdiction may hold the sale and delivery of the pistol beyond  
19 five days up to thirty days in order to confirm existing records in  
20 this state or elsewhere. After thirty days, the hold will be lifted  
21 unless an extension of the thirty days is approved by a local district  
22 court or municipal court for good cause shown. An applicant shall be  
23 notified of each hold placed on the sale by local law enforcement and  
24 of any application to the court for additional hold period to confirm  
25 records or confirm the identity of the applicant.

26 (4) At the time of applying for the purchase of a pistol, the  
27 purchaser shall sign in triplicate and deliver to the ((~~seller~~)) dealer  
28 an application containing his or her full name, address, place of  
29 birth, and the date and hour of the application; the applicant's  
30 driver's license number or state identification card number; and a  
31 description of the weapon including, the make, model, caliber, and  
32 manufacturer's number; and a statement that the purchaser is eligible  
33 to own a pistol under RCW 9.41.040. The application shall contain a  
34 warning substantially as follows:

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

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

5 The (~~seller~~) dealer shall, by the end of the business day, sign  
6 and attach his or her address and deliver the original of the  
7 application and such other documentation as required under subsection  
8 (1) of this section to the chief of police of the municipality or the  
9 sheriff of the county of which the (~~seller~~) dealer is a resident.  
10 The (~~seller~~) dealer shall deliver the pistol to the purchaser  
11 following the period of time specified in this section unless the  
12 (~~seller~~) dealer is notified in writing by the chief of police of the  
13 municipality or the sheriff of the county, whichever is applicable,  
14 denying the purchaser's application to purchase and the grounds  
15 thereof. The application shall not be denied unless the purchaser  
16 fails to meet the requirements specified in RCW 9.41.040. The chief of  
17 police of the municipality or the county sheriff shall maintain a file  
18 containing the original of the application to purchase a pistol.

19 **Sec. 3.** RCW 9.41.093 and 1969 ex.s. c 227 s 2 are each amended to  
20 read as follows:

21 The following shall be exempt from the provisions of RCW 9.41.090  
22 (~~as now or hereinafter amended~~): Sales (~~by wholesalers~~)  
23 for resale; and the sale of antique pistols exempted by the provisions  
24 of RCW 9.41.150(~~, as amended~~).

25 **Sec. 4.** RCW 9.41.098 and 1989 c 222 s 8 are each amended to read  
26 as follows:

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

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

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

1 (c) Found in the possession or under the control of a person at the  
2 time the person committed or was arrested for committing a crime of  
3 violence or a crime in which a firearm was used or displayed or a  
4 felony violation of the uniform controlled substances act, chapter  
5 69.50 RCW;

6 (d) Found concealed on a person who is in any place in which a  
7 concealed pistol license is required, and who is under the influence of  
8 any drug or under the influence of intoxicating liquor, having 0.10  
9 grams or more of alcohol per two hundred ten liters of breath or 0.10  
10 percent or more by weight of alcohol in the person's blood, as shown by  
11 analysis of the person's breath, blood, or other bodily substance;

12 (e) Found in the possession of a person prohibited from possessing  
13 the firearm under RCW 9.41.040;

14 (f) Found in the possession of a person free on bail or personal  
15 recognizance pending trial, appeal, or sentencing for a crime of  
16 violence or a crime in which a firearm was used or displayed, except  
17 that violations of Title 77 RCW shall not result in forfeiture under  
18 this section;

19 (g) Found in the possession of a person found to have been mentally  
20 incompetent while in possession of a firearm when apprehended or who is  
21 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

22 (h) Known to have been used or displayed by a person in the  
23 violation of a proper written order of a court of general jurisdiction;  
24 or

25 (i) Known to have been used in the commission of a crime of  
26 violence or a crime in which a firearm was used or displayed or a  
27 felony violation of the Uniform~~((ed))~~ Controlled Substances Act,  
28 chapter 69.50 RCW.

29 (2) Upon order of forfeiture, the court ~~((in its discretion shall))~~  
30 may order destruction of any firearm that is illegal for any person to  
31 possess. All firearms legal for citizen possession that are judicially  
32 forfeited or forfeited due to failure to make a claim under RCW  
33 63.32.010, 63.40.010, or 63.35.020 shall be submitted for auction to  
34 ~~((commercial sellers))~~ dealers once a year if the submitting agency has  
35 accumulated at least ten firearms authorized for sale. Law enforcement  
36 agencies may conduct joint auctions for the purpose of maximizing  
37 efficiency. A maximum of ten percent of such firearms may be retained  
38 for use by local law enforcement agencies and the Washington state  
39 patrol. Before submission for auction, a court may temporarily retain

1 forfeited firearms if needed for evidence. The proceeds from any sale  
2 shall be divided as follows: The local jurisdiction and the Washington  
3 state patrol shall retain its costs, including actual costs of storage  
4 and sale, and shall forward the remainder to the state department of  
5 wildlife for use in its firearms training program pursuant to RCW  
6 77.32.155.

7 If a firearm is delivered to a law enforcement agency and the  
8 agency no longer requires use of the firearm, the agency shall dispose  
9 of the firearm by auction as provided by this subsection. The public  
10 auctioning agency shall, as a minimum, maintain a record of all  
11 forfeited firearms by manufacturer, model, caliber, serial number, date  
12 and circumstances of forfeiture, and final disposition. The records  
13 shall be open to public inspection and copying.

14 (3) The court shall order the firearm returned to the owner upon a  
15 showing that there is no probable cause to believe a violation of  
16 subsection (1) of this section existed or the firearm was stolen from  
17 the owner or the owner neither had knowledge of nor consented to the  
18 act or omission involving the firearm which resulted in its forfeiture.

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

28 **Sec. 5.** RCW 9.41.100 and 1935 c 172 s 10 are each amended to read  
29 as follows:

30 No (~~retail~~) dealer shall sell or otherwise transfer, or expose  
31 for sale or transfer, or (~~have in his possession~~) possess with intent  
32 to sell, or otherwise transfer, any pistol without being licensed as  
33 hereinafter provided.

34 **Sec. 6.** RCW 9.41.110 and 1979 c 158 s 2 are each amended to read  
35 as follows:

36 The duly constituted licensing authorities of any city, town, or  
37 political subdivision of this state shall grant licenses in forms

1 prescribed by the director of licensing effective for not more than one  
2 year from the date of issue permitting the licensee to sell pistols  
3 within this state subject to the following conditions, for breach of  
4 any of which the license shall be forfeited and the licensee subject to  
5 punishment as provided in RCW 9.41.010 through 9.41.160.

6 (1) The business shall be carried on only in the building  
7 designated in the license. A first violation of this subsection shall  
8 result in a civil penalty of five hundred dollars and a suspension of  
9 the dealer's license for one hundred eighty days. A subsequent  
10 violation is a gross misdemeanor, and in addition to any criminal  
11 penalties, the licensee is subject to mandatory permanent license  
12 revocation and permanent ineligibility for a dealer's license.

13 (2) The license or a copy thereof, certified by the issuing  
14 authority, shall be displayed on the premises where it can easily be  
15 read.

16 (3) No pistol shall be sold (a) in violation of any provisions of  
17 RCW 9.41.010 through 9.41.160, nor (b) shall a pistol be sold under any  
18 circumstances unless the purchaser is personally known to the  
19 ((seller)) dealer or shall present clear evidence of his or her  
20 identity.

21 (4) A true record in triplicate shall be made of every pistol sold,  
22 in a book kept for the purpose, the form of which may be prescribed by  
23 the director of licensing and shall be personally signed by the  
24 purchaser and by the person effecting the sale, each in the presence of  
25 the other, and shall contain the date of sale, the caliber, make,  
26 model, and manufacturer's number of the weapon, the name, address,  
27 occupation, color, and place of birth of the purchaser, and a statement  
28 signed by the purchaser that he or she has never been convicted in this  
29 state or elsewhere of a crime of violence. One copy shall within six  
30 hours be sent by ((registered)) certified mail to the chief of police  
31 of the municipality or the sheriff of the county of which the dealer is  
32 a resident; the duplicate the dealer shall within seven days send to  
33 the director of licensing; the triplicate the dealer shall retain for  
34 six years.

35 (5) This section shall not apply to sales ((at wholesale)) to  
36 dealers for resale.

37 (6) The dealer's licenses authorized to be issued by this section  
38 are general licenses covering all sales by the licensee within the  
39 effective period of the licenses.

1       (7) Except as provided in RCW 9.41.090 (~~as now or hereinafter~~  
2 ~~amended~~)), every city, town, and political subdivision of this state is  
3 prohibited from requiring the purchaser to secure a permit to purchase  
4 or from requiring the dealer to secure an individual permit for each  
5 sale.

6       The fee paid for issuing said license shall be five dollars, which  
7 fee shall be paid into the state treasury.

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