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SENATE BILL 5081

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State of Washington

54th Legislature

1995 Regular Session

By Senators Smith, Haugen and Long

Read first time 01/10/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to possession of firearms; amending RCW 9.41.040,  
2 9.41.042, 9.41.047, 9.41.050, 9.41.060, 9.41.075, 9.41.080, 9.41.0975,  
3 9.41.098, 9.41.110, 9.41.170, 9.41.190, 9.41.280, and 9.41.800;  
4 reenacting and amending RCW 9.41.010, 9.41.070, and 9.41.090; adding a  
5 new section to chapter 9.41 RCW; and prescribing penalties.

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

7 **Sec. 1.** RCW 9.41.010 and 1994 1st sp.s. c 7 s 401 and 1994 c 121  
8 s 1 are each reenacted and amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Firearm" means a weapon or device from which a projectile may  
12 be fired by an explosive such as gunpowder.

13 (2) "Pistol" means any firearm with a barrel less than twelve  
14 inches in length as measured with the action closed, or is designed to  
15 be held and fired by the use of a single hand.

16 (3) "Rifle" means a weapon designed or redesigned, made or remade,  
17 and intended to be fired from the shoulder and designed or redesigned,  
18 made or remade, and intended to use the energy of the explosive in a

1 fixed metallic cartridge to fire only a single projectile through a  
2 rifled bore for each single pull of the trigger.

3 (4) "Short-barreled rifle" means a rifle having one or more barrels  
4 less than sixteen inches in length as measured with the action closed  
5 and any weapon made from a rifle by any means of modification if such  
6 modified weapon has an overall length of less than twenty-six inches.

7 (5) "Shotgun" means a weapon with one or more barrels, designed or  
8 redesigned, made or remade, and intended to be fired from the shoulder  
9 and designed or redesigned, made or remade, and intended to use the  
10 energy of the explosive in a fixed shotgun shell to fire through a  
11 smooth bore either a number of ball shot or a single projectile for  
12 each single pull of the trigger.

13 (6) "Short-barreled shotgun" means a shotgun having one or more  
14 barrels less than eighteen inches in length as measured with the action  
15 closed and any weapon made from a shotgun by any means of modification  
16 if such modified weapon has an overall length of less than twenty-six  
17 inches.

18 (7) "Machine gun" means any firearm known as a machine gun,  
19 mechanical rifle, submachine gun, or any other mechanism or instrument  
20 not requiring that the trigger be pressed for each shot and having a  
21 reservoir clip, disc, drum, belt, or other separable mechanical device  
22 for storing, carrying, or supplying ammunition which can be loaded into  
23 the firearm, mechanism, or instrument, and fired therefrom at the rate  
24 of five or more shots per second.

25 (8) "Antique firearm" means a firearm or replica of a firearm not  
26 designed or redesigned for using rim fire or conventional center fire  
27 ignition with fixed ammunition and manufactured in or before 1898,  
28 including any matchlock, flintlock, percussion cap, or similar type of  
29 ignition system and also any firearm using fixed ammunition  
30 manufactured in or before 1898, for which ammunition is no longer  
31 manufactured in the United States and is not readily available in the  
32 ordinary channels of commercial trade.

33 (9) "Loaded" means:

34 (a) There is a cartridge in the chamber of the firearm;

35 (b) Bullets are in a clip that is locked in place in the firearm;

36 (c) There is a cartridge in the cylinder of the firearm, if the  
37 firearm is a revolver; ((or))

38 (d) There is a cartridge in the tube, magazine, or other  
39 compartment of the firearm; or

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

3        (10) "Dealer" means a person engaged in the business of selling  
4 firearms or ammunition at wholesale or retail who has, or is required  
5 to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A  
6 person who does not have, and is not required to have, a federal  
7 firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that  
8 person makes only occasional sales, exchanges, or purchases of firearms  
9 for the enhancement of a personal collection or for a hobby, or sells  
10 all or part of his or her personal collection of firearms.

11        (11) "Crime of violence" means:

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

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

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

28        (12) "Serious offense" means any of the following felonies or a  
29 felony attempt to commit any of the following felonies, as now existing  
30 or hereafter amended:

31        (a) Any crime of violence;

32        (b) Assault in the third degree;

33        (c) Child molestation in the second degree;

34        ~~((e))~~ (d) Controlled substance homicide;

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

37        ~~((e))~~ (f) Indecent liberties;

38        ~~((f))~~ (g) Leading organized crime;

39        ~~((g))~~ (h) Promoting prostitution in the first degree;

1       (~~(h)~~) (i) Rape in the third degree;  
2       (~~(i)~~) (j) Sexual exploitation;  
3       (~~(j)~~) (k) Vehicular assault;  
4       (~~(k)~~) (l) Vehicular homicide, when proximately caused by the  
5 driving of any vehicle by any person while under the influence of  
6 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the  
7 operation of any vehicle in a reckless manner;

8       (~~(l)~~) (m) Any other class B felony offense with a finding of  
9 sexual motivation, as "sexual motivation" is defined under RCW  
10 9.94A.030;

11       (~~(m)~~) (n) Any other felony with a deadly weapon verdict under RCW  
12 9.94A.125; or

13       (~~(n)~~) (o) Any felony offense in effect at any time prior to July  
14 1, 1994, that is comparable to a serious offense, or any federal or  
15 out-of-state conviction for an offense that under the laws of this  
16 state would be a felony classified as a serious offense.

17       (13) "Conviction" means the conviction of adults or adjudication of  
18 juveniles. Conviction includes all dispositions adverse to the  
19 subject. As used in this section, a person has been "convicted" at  
20 such time as a plea of guilty has been accepted or a verdict of guilty  
21 has been filed, notwithstanding the pendency of any future proceedings  
22 including but not limited to sentencing or disposition, posttrial or  
23 postfact-finding motions, and appeals. Arrests where dispositions can  
24 no longer be obtained by the agency shall not be considered  
25 convictions.

26       (14) "Law enforcement officer" includes: (a) "General authority  
27 Washington peace officers" as defined in RCW 10.93.020; (b) "specially  
28 commissioned Washington peace officers" as defined in RCW 10.93.020;  
29 and (c) "limited authority Washington peace officers" as defined in RCW  
30 10.93.020 if such officer is duly authorized by his or her employer to  
31 carry a concealed pistol.

32       (15) "Sell" refers to the actual approval of the delivery of a  
33 firearm in consideration of payment or promise of payment of a certain  
34 price in money.

35       **Sec. 2.** RCW 9.41.040 and 1994 1st sp.s. c 7 s 402 are each amended  
36 to read as follows:

1 (1) A person, whether an adult or juvenile, is guilty of the crime  
2 of unlawful possession of a firearm if the person owns, has in his or  
3 her possession, or has in his or her control any firearm:

4 (a) After having previously been convicted in this state or  
5 elsewhere of a serious offense committed on, before, or after July 1,  
6 1994, a domestic violence offense enumerated in RCW 10.99.020(2)  
7 committed on or after July 1, 1994, ((a)) the crime of harassment  
8 ((offense enumerated in RCW 9A.46.060)) under RCW 9A.46.020 committed  
9 on or after July 1, 1994, or of a felony ((in which a firearm was used  
10 or displayed, except as otherwise provided in subsection (3) or (4) of  
11 this section;

12 ~~(b) After having previously been convicted of any felony violation~~  
13 ~~of the uniform controlled substances act, chapter 69.50 RCW)) offense~~  
14 ~~other than a serious offense committed on or after July 1, 1994, or~~  
15 ~~equivalent statutes of another jurisdiction, except as otherwise~~  
16 ~~provided in subsection (3) ((or (4))) of this section;~~

17 ~~((e)) (b) After having previously been convicted on three~~  
18 ~~occasions within five years of driving a motor vehicle or operating a~~  
19 ~~vessel while under the influence of intoxicating liquor or any drug,~~  
20 ~~unless his or her right to possess a firearm has been restored as~~  
21 ~~provided in RCW 9.41.047;~~

22 ~~((e)) (c) If the person is under eighteen years of age, except as~~  
23 ~~provided in RCW 9.41.042;~~

24 (d) If the person is subject to a court order or injunction  
25 regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040,  
26 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130,  
27 26.26.137, 26.50.060, or 26.50.070;

28 (e) If the person is free on bond or personal recognizance pending  
29 trial, appeal, sentencing, or disposition for a serious offense;

30 (f) If the person has an outstanding warrant for his or her arrest  
31 from any court of competent jurisdiction for a felony or misdemeanor;

32 (g) If the person has been ordered to forfeit a firearm under RCW  
33 9.41.098; or

34 (h) If the person has been convicted of any crime against a child  
35 or other person listed in RCW 43.43.830(5). Any person who becomes  
36 ineligible for a concealed pistol license as a result of a conviction  
37 for a crime listed in RCW 43.43.830(5) and then successfully completes  
38 all terms of his or her sentence, as evidenced by a certificate of  
39 discharge issued under chapter 9.94A RCW, and has not again been

1 convicted of any crime and is not under indictment for any crime, may,  
2 one year or longer after successful sentence completion, petition a  
3 court of record for a declaration that the person is no longer  
4 ineligible for a concealed pistol license under this subsection (1)(h).

5 (2) Unlawful possession of a firearm is a class C felony,  
6 punishable under chapter 9A.20 RCW.

7 (~~(3) ((As used in this section, a person has been "convicted" at~~  
8 ~~such time as a plea of guilty has been accepted or a verdict of guilty~~  
9 ~~has been filed, notwithstanding the pendency of any future proceedings~~  
10 ~~including but not limited to sentencing or disposition, post trial or~~  
11 ~~post factfinding motions, and appeals.))~~ A person shall not be  
12 precluded from possession of a firearm if the conviction has been the  
13 subject of ((a)) an executive pardon((,)) or annulment((, certificate  
14 of rehabilitation, or other equivalent procedure based on a finding of  
15 the rehabilitation of the person convicted or the conviction or  
16 disposition has been the subject of a pardon, annulment, or other  
17 equivalent procedure based on a finding of innocence.

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

26 ((~~(6)~~))(4)(a) A person who has been committed by court order for  
27 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,  
28 or equivalent statutes of another jurisdiction, may not possess, in any  
29 manner, a firearm as defined in RCW 9.41.010.

30 (b) At the time of commitment, the court shall specifically state  
31 to the person under (a) of this subsection and give the person notice  
32 in writing that the person is barred from possession of firearms.

33 (c) The secretary of social and health services shall develop  
34 appropriate rules to create an approval process under this subsection.  
35 The rules must provide for the ((immediate)) restoration of the right  
36 to possess a firearm upon a showing in a court of competent  
37 jurisdiction that more than a year has passed since a person ((no  
38 longer is)) was required to participate in an inpatient or outpatient  
39 treatment program, and the person is no longer required to take

1 medication to treat any condition related to the commitment. Unlawful  
2 possession of a firearm under this subsection shall be punished as a  
3 class C felony under chapter 9A.20 RCW.

4 (5) In addition to any other penalty provided for by law, if a  
5 person under the age of eighteen years is found by a court to have  
6 possessed a firearm in a vehicle in violation of subsection (1) of this  
7 section or to have committed an offense while armed with a firearm  
8 during which offense a motor vehicle served an integral function, the  
9 court shall notify the department of licensing within twenty-four hours  
10 and the person's privilege to drive shall be revoked under RCW  
11 46.20.265.

12 **Sec. 3.** RCW 9.41.042 and 1994 1st sp.s. c 7 s 403 are each amended  
13 to read as follows:

14 RCW 9.41.040(1)(e) shall not apply to any person under the age of  
15 eighteen years who is:

16 (1) In attendance at a hunter's safety course or a firearms safety  
17 course;

18 (2) Engaging in practice in the use of a firearm or target shooting  
19 at an established range authorized by the governing body of the  
20 jurisdiction in which such range is located or any other area where the  
21 discharge of a firearm is not prohibited;

22 (3) Engaging in an organized competition involving the use of a  
23 firearm, or participating in or practicing for a performance by an  
24 organized group that uses firearms as a part of the performance;

25 (4) Legally hunting or trapping under a valid license issued to the  
26 person under Title 77 RCW;

27 (5) In an area where the discharge of a firearm is permitted, is  
28 not trespassing, and the person either: (a) Is at least fourteen years  
29 of age, has been issued a hunter safety certificate, and is using a  
30 lawful firearm other than a pistol; or (b) is under the supervision of  
31 a parent, guardian, or other adult approved for the purpose by the  
32 parent or guardian;

33 (6) Traveling with any unloaded firearm in the person's possession  
34 to or from any activity described in subsection (1), (2), (3), (4), or  
35 (5) of this section;

36 (7) On real property under the control of his or her parent, other  
37 relative, or legal guardian and who has the permission of the parent or  
38 legal guardian to possess a firearm;

1 (8) At his or her residence and who, with the permission of his or  
2 her parent or legal guardian, possesses a firearm for the purpose of  
3 exercising the rights specified in RCW 9A.16.020(3); or

4 (9) Is a member of the armed forces of the United States, national  
5 guard, or organized reserves, when on duty.

6 **Sec. 4.** RCW 9.41.047 and 1994 1st sp.s. c 7 s 404 are each amended  
7 to read as follows:

8 (1)((~~a~~)) At the time a person is convicted of an offense making  
9 the person ineligible to possess a firearm, or at the time a person is  
10 committed by court order under RCW 71.05.320, 71.34.090, or chapter  
11 10.77 RCW for mental health treatment, the convicting, disposing, or  
12 committing court shall notify the person, orally and in writing, that  
13 the person may not possess a firearm unless his or her right to do so  
14 is restored by a court of record.

15 The convicting, disposing, or committing court also shall forward  
16 a copy of the person's driver's license or identicard, or comparable  
17 information, to the department of licensing, along with the date of  
18 conviction, disposition, or commitment.

19 (2) Upon receipt of the information provided for by subsection (1)  
20 of this section, the department of licensing shall determine if the  
21 convicted or committed person has a concealed pistol license. If the  
22 person does have a concealed pistol license, the department of  
23 licensing shall immediately notify the license-issuing authority.

24 (3) Except as provided in RCW 9.41.040(3):

25 (a) A person who is prohibited from possessing a firearm by reason  
26 of having previously been convicted of a class A felony shall not be  
27 allowed to petition for restoration of the right to possess a firearm.

28 (b) A person who is prohibited from possessing a firearm by reason  
29 of having previously been convicted of a crime not referenced in (a) or  
30 (c) of this subsection may, after the expiration of the following  
31 times, petition a court of record to have his or her right to possess  
32 a firearm restored:

33 (i) For a class B felony or equivalent from another state: Ten  
34 years;

35 (ii) For a class C felony, gross misdemeanor, or misdemeanor or  
36 equivalent from another state: Five years.



1       The petitioner has the burden to prove that the appropriate time  
2 has elapsed and that he or she is not further prohibited from the  
3 possession of firearms for any other reason.

4       (c) A person who is prohibited from possessing a firearm by reason  
5 of having previously been convicted on three occasions of driving a  
6 motor vehicle or operating a vessel while under the influence of  
7 intoxicating liquor or any drug may, after five continuous years  
8 without further conviction for any alcohol-related offense, petition a  
9 court of record to have his or her right to possess a firearm restored.

10       (4)(a) A person who is prohibited from possessing a firearm, by  
11 reason of having been (~~either~~

12       ~~(ii)~~) involuntarily committed for mental health treatment under  
13 RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of  
14 another jurisdiction, may, upon discharge, petition a court of record  
15 to have his or her right to possess a firearm restored.

16       (b) At a minimum, a petition under this subsection (4) shall  
17 include the following:

18       (i) The fact, date, and place of commitment;

19       (ii) The place of treatment;

20       (iii) The fact and date of release from commitment;

21       (iv) A certified copy of the most recent order, if one exists, of  
22 commitment, with the findings of fact and conclusions of law; and

23       (v) A statement by the person that he or she is no longer required  
24 to participate in an inpatient or outpatient treatment program, is no  
25 longer required to take medication to treat any condition related to  
26 the commitment, and does not present a substantial danger to himself or  
27 herself, to others, or to the public safety.

28       (c) A person petitioning the court under this subsection (4) shall  
29 bear the burden of proving by a preponderance of the evidence that the  
30 circumstances resulting in the commitment no longer exist and are not  
31 reasonably likely to recur.

32       **Sec. 5.** RCW 9.41.050 and 1994 1st sp.s. c 7 s 405 are each amended  
33 to read as follows:

34       (1) Except in the person's place of abode or fixed place of  
35 business, a person shall not carry a pistol concealed on his or her  
36 person without a license to carry a concealed pistol. Every licensee  
37 shall have his or her concealed pistol license in his or her immediate  
38 possession at all times when carrying a concealed pistol and shall

1 display the same upon demand to any law enforcement officer or any  
2 other person when and if required by law to do so.

3 (2) A person shall not carry or place a loaded pistol in any  
4 vehicle unless the person has a license to carry a concealed pistol  
5 and: (a) The pistol is on the licensee's person, (b) the licensee is  
6 within the vehicle at all times that the pistol is there, or (c) the  
7 licensee is away from the vehicle and the pistol is locked within the  
8 unoccupied vehicle and concealed from view from outside the vehicle.

9 (3) A person at least eighteen years of age who is in possession of  
10 an unloaded pistol shall not leave the unloaded pistol in a vehicle  
11 unless the unloaded pistol is locked within the vehicle and concealed  
12 from view from outside the vehicle.

13 (4) Except as otherwise provided in this chapter, no person may  
14 carry a firearm unless it is unloaded and enclosed in an opaque case or  
15 secure wrapper, other than a holster, or the person is:

16 (a) (~~licensed under RCW 9.41.070 to carry a concealed pistol;~~  
17 ~~(b)~~) In attendance at a hunter's safety course or a firearms  
18 safety course;

19 ~~((e))~~ (b) Engaging in practice in the use of a firearm or target  
20 shooting at an established range authorized by the governing body of  
21 the jurisdiction in which such range is located or any other area where  
22 the discharge of a firearm is not prohibited;

23 ~~((d))~~ (c) Engaging in an organized competition involving the use  
24 of a firearm, or participating in or practicing for a performance by an  
25 organized group that uses firearms as a part of the performance;

26 ~~((e))~~ (d) Hunting or trapping under a valid license issued to the  
27 person under Title 77 RCW;

28 ~~((f))~~ (e) In an area where the discharge of a firearm is  
29 permitted, and is not trespassing;

30 ~~((g))~~ (f) Traveling with any unloaded firearm in the person's  
31 possession to or from any activity described in (a), (b), (c), (d), or  
32 (e) ~~(, or (f))~~ of this subsection, except as provided in ~~((h))~~ (g)  
33 of this subsection;

34 ~~((h))~~ (g) Traveling in a motor vehicle with a firearm, other than  
35 a pistol, that is unloaded and locked in the trunk or other compartment  
36 of the vehicle, ~~((secured))~~ placed in a gun rack, or otherwise secured  
37 in place in a vehicle;

38 ~~((i))~~ (h) On real property under the control of the person or a  
39 relative of the person;

1       (~~(j)~~) (i) At his or her residence;  
2       (~~(k)~~) (j) Is a member of the armed forces of the United States,  
3 national guard, or organized reserves, when on duty;  
4       (~~(l)~~) (k) Is a law enforcement officer; (~~or~~  
5 ~~(m)~~) (l) Carrying a firearm from or to a vehicle for the purpose  
6 of taking or removing the firearm to or from a place of business for  
7 repair; or  
8       (m) An armed private security guard or an armed private detective  
9 licensed by the department of licensing, while on duty.

10       (5) Nothing in this section permits the possession of firearms  
11 illegal to possess under state or federal law.

12       (6) Any city, town, or county may enact an ordinance to exempt  
13 itself from the prohibition of subsection (4) of this section.

14       **Sec. 6.** RCW 9.41.060 and 1994 1st sp.s. c 7 s 406 are each amended  
15 to read as follows:

16       The provisions of RCW 9.41.050(1), (2), and (3) shall not apply to:

17       (1) Marshals, sheriffs, prison or jail wardens or their deputies,  
18 or other law enforcement officers;

19       (2) Members of the armed forces of the United States or of the  
20 national guard or organized reserves, when on duty;

21       (3) Officers or employees of the United States duly authorized to  
22 carry a concealed pistol;

23       (4) Any person engaged in the business of manufacturing, repairing,  
24 or dealing in firearms, or the agent or representative of the person,  
25 if possessing, using, or carrying a pistol in the usual or ordinary  
26 course of the business;

27       (5) Regularly enrolled members of any organization duly authorized  
28 to purchase or receive pistols from the United States or from this  
29 state;

30       (6) Regularly enrolled members of clubs organized for the purpose  
31 of target shooting, when those members are at or are going to or from  
32 their places of target practice;

33       (7) Regularly enrolled members of clubs organized for the purpose  
34 of modern and antique firearm collecting, when those members are at or  
35 are going to or from their collector's gun shows and exhibits;

36       (8) Individual hunters (~~when on a~~) while legally hunting(~~(~~  
37 ~~camping, or fishing trip)) under a valid license; or~~

1 (9) Any person while carrying a pistol unloaded and in a closed  
2 opaque case or secure wrapper.

3 **Sec. 7.** RCW 9.41.070 and 1994 1st sp.s. c 7 s 407 and 1994 c 190  
4 s 2 are each reenacted and amended to read as follows:

5 (1) The judge of a court of record may, and the chief of police of  
6 a municipality(~~(7)~~) or the sheriff of a county(~~(7)~~) shall within  
7 (~~(thirty)~~) sixty days after the filing of an application of any person,  
8 issue a license to such person to carry a pistol concealed on his or  
9 her person within this state for four years from date of issue, for the  
10 purposes of protection or while engaged in business, sport, or while  
11 traveling. However, if the applicant does not have a valid permanent  
12 Washington driver's license or Washington state identification card or  
13 has not been a resident of the state for the previous consecutive  
14 ninety days, the issuing authority shall have up to (~~(sixty)~~) ninety  
15 days after the filing of the application to issue a license. The  
16 issuing authority shall not refuse to accept completed applications for  
17 concealed pistol licenses during regular business hours.

18 The applicant's constitutional right to bear arms shall not be  
19 denied, unless (~~he or she~~):

20 (a) He or she is ineligible to possess a firearm under the  
21 provisions of RCW 9.41.040 or 9.41.045;

22 (b) The chief law enforcement officer can articulate a justifiable  
23 and manifest public safety concern if the applicant is allowed to carry  
24 a concealed pistol;

25 (c) The applicant's concealed pistol license is in a revoked  
26 status; or

27 (d) He or she is under twenty-one years of age(~~;-~~

28 ~~(e) Is subject to a court order or injunction regarding firearms~~  
29 ~~pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050,~~  
30 ~~26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or~~  
31 ~~26.50.070;~~

32 ~~(d) Is free on bond or personal recognizance pending trial, appeal,~~  
33 ~~or sentencing for a serious offense;~~

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

36 ~~(f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d)~~  
37 ~~within one year before filing an application to carry a pistol~~  
38 ~~concealed on his or her person; or~~

1       ~~(g)(i) Has been convicted of any crime against a child or other~~  
2 ~~person listed in RCW 43.43.830(5).~~

3       ~~(ii) Except as provided in (g)(iii) of this subsection, any person~~  
4 ~~who becomes ineligible for a concealed pistol license as a result of a~~  
5 ~~conviction for a crime listed in (g)(i) of this subsection and then~~  
6 ~~successfully completes all terms of his or her sentence, as evidenced~~  
7 ~~by a certificate of discharge issued under RCW 9.94A.220 in the case of~~  
8 ~~a sentence under chapter 9.94A RCW, and has not again been convicted of~~  
9 ~~any crime and is not under indictment for any crime, may, one year or~~  
10 ~~longer after such successful sentence completion, petition a court of~~  
11 ~~record for a declaration that the person is no longer ineligible for a~~  
12 ~~concealed pistol license under (g)(i) of this subsection.~~

13       ~~(iii) No person convicted of a serious offense as defined in RCW~~  
14 ~~9.41.010 may have his or her right to possess firearms restored, unless~~  
15 ~~the person has been granted relief from disabilities by the secretary~~  
16 ~~of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4)~~  
17 ~~applies.))~~

18       (2) The issuing authority shall check with the national crime  
19 information center, the Washington state patrol electronic data base,  
20 the department of social and health services electronic data base, and  
21 with other agencies or resources as appropriate, to determine whether  
22 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess  
23 a ~~((pistol))~~ firearm and therefore ineligible for a concealed pistol  
24 license. This subsection applies whether the applicant is applying for  
25 a new concealed pistol license or to renew a concealed pistol license.

26       (3) Any person whose firearms rights have been restricted and who  
27 has been granted relief from disabilities by the secretary of the  
28 treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C.  
29 Sec. 921(a)(20)(A) shall have his or her right to acquire, receive,  
30 transfer, ship, transport, carry, and possess firearms in accordance  
31 with Washington state law restored except as otherwise prohibited by  
32 this chapter.

33       (4) The license ~~((application))~~ shall be in triplicate~~((7))~~ and in  
34 a form to be prescribed by the department of licensing~~((7 and))~~. The  
35 application shall bear the full name, previous names, street address of  
36 residence, previous residence addresses for past four years, telephone  
37 number of residence, date and place of birth, race, gender,  
38 description, ~~((fingerprints,))~~ and signature of the licensee, and the  
39 licensee's driver's license number or state identification card number

1 if used for identification in applying for the license. A signed  
2 application for a concealed pistol license shall constitute a waiver of  
3 confidentiality and written request that the department of social and  
4 health services, mental health institutions, and other health care  
5 facilities release information relevant to the applicant's eligibility  
6 for a concealed pistol license to an inquiring court or law enforcement  
7 agency.

8 The application for an original license shall include two complete  
9 sets of fingerprints to be forwarded to the Washington state patrol for  
10 the purpose of fingerprint-based background checking. If the  
11 appropriate fee is paid, the Washington state patrol shall forward a  
12 set to the federal bureau of investigation for the purpose of  
13 fingerprint-based background checking.

14 The license and application shall contain a warning substantially  
15 as follows:

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

21 The license ((~~application~~)) shall contain a description of the  
22 major differences between state and federal law and an explanation of  
23 the fact that local laws and ordinances on firearms are preempted by  
24 state law and must be consistent with state law. The application shall  
25 contain questions about the applicant's eligibility under RCW 9.41.040  
26 to possess a pistol, the applicant's place of birth, and whether the  
27 applicant is a United States citizen(~~(, and whether he or she has been~~  
28 ~~required to register with the state or federal government and has an~~  
29 ~~identification or registration number)~~). The applicant shall not be  
30 required to produce a birth certificate or other evidence of  
31 citizenship. A person who is not a citizen of the United States shall  
32 meet the additional requirements of RCW 9.41.170 and produce proof of  
33 compliance with RCW 9.41.170 upon application.

34 The original thereof shall be delivered to the licensee, the  
35 duplicate shall within seven days be sent by registered mail to the  
36 director of licensing and the triplicate shall be preserved for six  
37 years, by the authority issuing the license.

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

4 (5) The nonrefundable fee, paid upon application, for the original  
5 (~~issuance of a~~) four-year license shall be fifty dollars. No other  
6 state or local branch or unit of government may impose any additional  
7 charges on the applicant for the issuance of the license. Additional  
8 charges imposed by the federal bureau of investigation for fingerprint-  
9 based background checking may be passed on to the applicant.

10 The fee shall be distributed as follows:

11 (a) Fifteen dollars shall be paid to the state general fund;

12 (b) Ten dollars shall be paid to the agency taking the fingerprints  
13 of the person licensed;

14 (c) Fifteen dollars shall be paid to the issuing authority for the  
15 purpose of enforcing this chapter; and

16 (d) Ten dollars to the firearms range account in the general fund.

17 (6) The fee for the renewal of such license shall be fifty dollars.  
18 No other branch or unit of government may impose any additional charges  
19 on the applicant for the renewal of the license.

20 The renewal fee shall be distributed as follows:

21 (a) Twenty dollars shall be paid to the state general fund;

22 (b) Twenty dollars shall be paid to the issuing authority for the  
23 purpose of enforcing this chapter; and

24 (c) Ten dollars to the firearms range account in the general fund.

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

27 (8) Payment shall be by cash, check, or money order at the option  
28 of the applicant. Additional methods of payment may be allowed at the  
29 option of the issuing authority.

30 (~~(+8)~~) (9) A licensee may renew a license if the licensee applies  
31 for renewal within ninety days before or after the expiration date of  
32 the license. A license so renewed shall take effect on the expiration  
33 date of the prior license. A licensee renewing after the expiration  
34 date of the license must pay a late renewal penalty of twenty dollars  
35 in addition to the renewal fee specified in subsection (6) of this  
36 section. The fee shall be distributed as follows:

37 (a) Ten dollars shall be deposited in the state wildlife fund and  
38 used exclusively for the printing and distribution of a pamphlet on the  
39 legal limits of the use of firearms, firearms safety, and the

1 preemptive nature of state law. The pamphlet shall be given to each  
2 applicant for a license; and

3 (b) Ten dollars shall be paid to the issuing authority for the  
4 purpose of enforcing this chapter.

5 ~~((+9+))~~ (10) Notwithstanding the requirements of subsections (1)  
6 through ~~((+8+))~~ (9) of this section, the chief of police of the  
7 municipality or the sheriff of the county of the applicant's residence  
8 may issue a temporary emergency license for good cause pending review  
9 under subsection (1) of this section.

10 ~~((+10+))~~ (11) A political subdivision of the state shall not modify  
11 the requirements of this section or chapter, nor may a political  
12 subdivision ask the applicant to voluntarily submit any information not  
13 required by this section.

14 ~~((+11+))~~ (12) A person who knowingly makes a false statement  
15 regarding citizenship or identity on an application for a concealed  
16 pistol license is guilty of false swearing under RCW 9A.72.040. In  
17 addition to any other penalty provided for by law, the concealed pistol  
18 license of a person who knowingly makes a false statement shall be  
19 revoked, and the person shall be permanently ineligible for a concealed  
20 pistol license.

21 ~~((+12+))~~ (13) A person may apply for a concealed pistol license:

22 (a) To the municipality or to the county in which the applicant  
23 resides if the applicant resides in a municipality;

24 (b) To the county in which the applicant resides if the applicant  
25 resides in an unincorporated area; or

26 (c) Anywhere in the state if the applicant is a nonresident.

27 (14) A city or town may contract with the sheriff of the county in  
28 which all or most of it is located to accept and process applications  
29 for concealed pistol licenses for the residents of the city or town.

30 **Sec. 8.** RCW 9.41.075 and 1994 1st sp.s. c 7 s 408 are each amended  
31 to read as follows:

32 (1) The license shall be revoked by the license-issuing authority  
33 immediately upon:

34 (a) Discovery by the issuing authority that the person was  
35 ineligible under RCW 9.41.070 for a concealed pistol license when  
36 applying for the license or license renewal or is now ineligible due to  
37 amendments to this chapter;



1 (b) Conviction of the licensee of an offense, or commitment of the  
2 licensee for mental health treatment, that makes a person ineligible  
3 under RCW 9.41.040 to possess a firearm;

4 (c) Conviction of the licensee for a third violation of this  
5 chapter within five calendar years; or

6 (d) An order that the licensee forfeit a firearm under RCW  
7 9.41.098(1)(~~(d)~~)(e).

8 ~~(2)((a) Unless the person may lawfully possess a pistol without a  
9 concealed pistol license, an ineligible person to whom a concealed  
10 pistol license was issued shall, within fourteen days of license  
11 revocation, lawfully transfer ownership of any pistol acquired while  
12 the person was in possession of the license.~~

13 ~~(b) Upon discovering a person issued a concealed pistol license was  
14 ineligible for the license, the issuing authority shall contact the  
15 department of licensing to determine whether the person purchased a  
16 pistol while in possession of the license. If the person did purchase  
17 a pistol while in possession of the concealed pistol license, if the  
18 person may not lawfully possess a pistol without a concealed pistol  
19 license, the issuing authority shall require the person to present  
20 satisfactory evidence of having lawfully transferred ownership of the  
21 pistol. The issuing authority shall require the person to produce the  
22 evidence within fifteen days of the revocation of the license.~~

23 ~~(3))~~ When a licensee is ordered to forfeit a firearm under RCW  
24 9.41.098(1)(~~(d)~~)(e), the issuing authority shall:

25 (a) On the first forfeiture, revoke the license for one year;

26 (b) On the second forfeiture, revoke the license for two years; or

27 (c) On the third or subsequent forfeiture, revoke the license for  
28 five years.

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

32 ~~(4))~~ (3) The issuing authority shall notify, in writing, the  
33 department of licensing of the revocation or denial of a license. The  
34 department of licensing shall record the revocation or denial.

35 (4) Unless otherwise provided, revocation of concealed pistol  
36 licenses shall be for a period of five years.

37 (5) Any person whose license is revoked may not reapply for a new  
38 license until the end of the revocation period.

1       (6) Notice of revocation of a license shall additionally require  
2 the license holder to surrender the license to the issuing authority.  
3 Refusal to comply with this requirement is a misdemeanor and punishable  
4 accordingly.

5       **Sec. 9.** RCW 9.41.080 and 1994 1st sp.s. c 7 s 409 are each amended  
6 to read as follows:

7       No person may deliver a firearm to any person whom he or she has  
8 reasonable cause to believe is ineligible under RCW 9.41.040 or  
9 9.41.045 to possess a firearm. Any person violating this section is  
10 guilty of a class C felony, punishable under chapter 9A.20 RCW.

11       **Sec. 10.** RCW 9.41.090 and 1994 1st sp.s. c 7 s 410 and 1994 c 264  
12 s 1 are each reenacted and amended to read as follows:

13       (1) In addition to the other requirements of this chapter, no  
14 dealer may deliver a pistol to the purchaser thereof until:

15       (a) The purchaser produces a valid concealed pistol license and the  
16 dealer has recorded the purchaser's name, license number, and issuing  
17 agency, such record to be made in triplicate and processed as provided  
18 in subsection (5) of this section. However, immediate delivery is not  
19 authorized unless Washington qualifies as a Brady alternative state  
20 under the Brady Handgun Control Act (H.R. 1025, 103rd Cong., 1st Sess.  
21 (1993));

22       (b) The dealer is notified in writing by the chief of police or the  
23 sheriff of the jurisdiction in which the purchaser resides that the  
24 purchaser is eligible to possess a pistol under RCW 9.41.040 and that  
25 the application to purchase is approved by the chief of police or  
26 sheriff; ~~((or))~~

27       (c) Five business days, meaning days on which state offices are  
28 open, have elapsed from the time of receipt of the application for the  
29 purchase thereof as provided herein by the chief of police or sheriff  
30 designated in subsection (5) of this section, and, when delivered, the  
31 pistol shall be securely wrapped and shall be unloaded. However, if  
32 the purchaser does not have a valid permanent Washington driver's  
33 license or state identification card or has not been a resident of the  
34 state for the previous consecutive ninety days, the waiting period  
35 under this subsection (1)(c) shall be up to sixty days; or

1 (d) The dealer is notified as a result of an inquiry to the state  
2 firearms eligibility instant check system that the sale of the firearm  
3 is authorized.

4 (2)(a) Except as provided in (b) of this subsection, in determining  
5 whether the purchaser meets the requirements of RCW 9.41.040, the chief  
6 of police or sheriff, or the designee of either, shall check with the  
7 national crime information center, the Washington state patrol  
8 electronic data base, the department of social and health services  
9 electronic data base, and with other agencies or resources as  
10 appropriate, to determine whether the applicant is ineligible under RCW  
11 9.41.040 to possess a firearm.

12 (b) The Washington state patrol shall develop and implement a  
13 system to provide access to dealers for the purposes of determining  
14 eligibility to possess a pistol under RCW 9.41.040 and 9.41.045 and/or  
15 any firearm after the final implementation date of the Brady Handgun  
16 Control Act. Once the systems (~~is~~) are established, a dealer shall  
17 use the state system and the national instant criminal background check  
18 system, provided for by the Brady Handgun Control Act (~~(H.R. 1025,~~  
19 ~~103rd Cong., 1st Sess. (1993))~~), to make criminal background checks of  
20 applicants to purchase firearms. Upon the implementation of the state  
21 instant check system, all inquiries from dealers shall be forwarded to  
22 the Washington state patrol. The inquiries shall be made to and the  
23 applicant shall be approved or denied by the chief of the Washington  
24 state patrol or his or her designee. The fees for use of this system  
25 shall be placed in the firearms eligibility instant check system  
26 account for the purpose of paying development, operational, and  
27 maintenance costs of this system. The fees shall be paid by the  
28 dealers. However, the dealer may pass on the costs to the purchaser.  
29 However, (~~a~~) the chief of (~~police or sheriff~~) the Washington state  
30 patrol, or a designee (~~of either~~), shall continue to check the  
31 department of social and health services' electronic data base and with  
32 other agencies or resources as appropriate, to determine whether  
33 applicants are ineligible under RCW 9.41.040 to possess a firearm.

34 (3) In any case under subsection (1) (c) or (d) of this section  
35 where the applicant has an outstanding warrant for his or her arrest  
36 from any court of competent jurisdiction for a felony or misdemeanor,  
37 the dealer shall hold the delivery of the pistol until the warrant for  
38 arrest is served and satisfied by appropriate court appearance. The  
39 local jurisdiction for purposes of the sale shall confirm the existence

1 of outstanding warrants within seventy-two hours after notification of  
2 the application to purchase a pistol is received. The local  
3 jurisdiction shall also immediately confirm the satisfaction of the  
4 warrant on request of the dealer so that the hold may be released if  
5 the warrant was for an offense other than an offense making a person  
6 ineligible under RCW 9.41.040 to possess a pistol.

7 (4) In any case where the chief or sheriff of the local  
8 jurisdiction or the chief of the Washington state patrol, upon  
9 implementation of the state instant check system, has reasonable  
10 grounds based on the following circumstances: (a) Open criminal  
11 charges, (b) pending criminal proceedings, (c) pending commitment  
12 proceedings, (d) an outstanding warrant for an offense making a person  
13 ineligible under RCW 9.41.040 to possess a pistol, or (e) an arrest for  
14 an offense making a person ineligible under RCW 9.41.040 to possess a  
15 pistol, if the records of disposition have not yet been reported or  
16 entered sufficiently to determine eligibility to purchase a pistol, the  
17 local jurisdiction or the chief of the Washington state patrol, upon  
18 implementation of the state instant check system, may hold the sale and  
19 delivery of the pistol beyond five days up to thirty days in order to  
20 confirm existing records in this state or elsewhere. After thirty  
21 days, the hold will be lifted unless an extension of the thirty days is  
22 approved by a local district court or municipal court for good cause  
23 shown. ((An applicant)) A dealer shall be notified of each hold placed  
24 on the sale by local law enforcement or the chief of the Washington  
25 state patrol, upon implementation of the state instant check system,  
26 and of any application to the court for additional hold period to  
27 confirm records or confirm the identity of the applicant.

28 (5) At the time of applying for the purchase of a pistol, the  
29 purchaser shall sign in triplicate and deliver to the dealer an  
30 application containing his or her full name, street address of  
31 residence, date and place of birth, race, and gender; the date and hour  
32 of the application; the applicant's driver's license number or state  
33 identification card number; a description of the pistol including the  
34 make, model, caliber and manufacturer's number; and a statement that  
35 the purchaser is eligible to possess a pistol under RCW 9.41.040.

36 The application shall contain a warning substantially as follows:

37 CAUTION: Although state and local laws do not differ, federal  
38 law and state law on the possession of firearms differ. If you  
39 are prohibited by federal law from possessing a firearm, you

1        may be prosecuted in federal court.    State permission to  
2        purchase a firearm is not a defense to a federal prosecution.

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

7        The dealer shall, by the end of the business day, sign and attach  
8        his or her address and deliver the original of the application and such  
9        other documentation as required under subsection (1) of this section to  
10       the chief of police of the municipality or the sheriff of the county of  
11       which the purchaser is a resident or the chief of the Washington state  
12       patrol, upon implementation of the state instant check system. For the  
13       purposes of this section, delivery of the application and such other  
14       documentation shall include posting in the United States postal  
15       service, or if acceptable to the chief of police of the municipality,  
16       the sheriff of the county, or the state patrol, electronic  
17       transmission. The dealer shall deliver the pistol to the purchaser  
18       following the period of time specified in this section unless the  
19       dealer is notified of an investigative hold as described in subsection  
20       (4) of this section or is notified in writing by the chief of police of  
21       the municipality (~~or~~), the sheriff of the county, or the Washington  
22       state patrol whichever is applicable, denying the purchaser's  
23       application to purchase and the grounds thereof. The application shall  
24       not be denied unless the purchaser is not eligible to possess a pistol  
25       under RCW 9.41.040 or 9.41.045, or the Brady Handgun Control Act.

26       The chief of police of the municipality (~~or~~), the sheriff of the  
27       county, or the Washington state patrol shall retain or destroy  
28       applications to purchase a pistol in accordance with the requirements  
29       of 18 U.S.C. Sec. 922.

30       (6) A person who knowingly makes a false statement regarding  
31       identity or eligibility requirements on the application to purchase a  
32       pistol is guilty of false swearing under RCW 9A.72.040.

33       (7) This section does not apply to sales to licensed dealers for  
34       resale or to the sale of antique firearms.

35       **Sec. 11.** RCW 9.41.0975 and 1994 1st sp.s. c 7 s 413 are each  
36       amended to read as follows:

37       (1) The state, local governmental entities, any public or private  
38       agency, and the employees of any state or local governmental entity or

1 public or private agency, acting in good faith, are immune from  
2 liability:

3 (a) For failure to prevent the sale or transfer of a firearm to a  
4 person whose receipt or possession of the firearm is unlawful;

5 (b) For preventing the sale or transfer of a firearm to a person  
6 who may lawfully receive or possess a firearm;

7 (c) For issuing a concealed pistol license to a person ineligible  
8 for such a license;

9 (d) For failing to issue a concealed pistol license to a person  
10 eligible for such a license;

11 (e) For revoking or failing to revoke an issued concealed pistol  
12 license; (~~or~~)

13 (f) For errors in preparing or transmitting information as part of  
14 determining a person's eligibility to receive or possess a firearm, or  
15 eligibility for a concealed pistol license;

16 (g) For issuing a dealer's license to a person ineligible for such  
17 a license; or

18 (h) For failing to issue a dealer's license to a person eligible  
19 for such a license.

20 (2) An application may be made to a court of competent jurisdiction  
21 for a writ of mandamus:

22 (a) Directing an issuing agency to issue a concealed pistol license  
23 wrongfully refused;

24 (b) Directing a law enforcement agency to approve an application to  
25 purchase wrongfully denied; or

26 (c) Directing that erroneous information resulting either in the  
27 wrongful refusal to issue a concealed pistol license or in the wrongful  
28 denial of a purchase application be corrected.

29 The application for the writ may be made in the county in which the  
30 application for a concealed pistol license or to purchase a pistol was  
31 made, or in Thurston county, at the discretion of the petitioner. A  
32 court shall provide an expedited hearing for an application brought  
33 under this subsection (2) for a writ of mandamus. A person granted a  
34 writ of mandamus under this subsection (2) shall be awarded reasonable  
35 attorneys' fees and costs.

36 **Sec. 12.** RCW 9.41.098 and 1994 1st sp.s. c 7 s 414 are each  
37 amended to read as follows:

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

3 (a) Found concealed on a person not authorized by RCW 9.41.060 or  
4 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute  
5 defense to forfeiture if the person possessed a valid Washington  
6 concealed pistol license within the preceding two years and has not  
7 become ineligible for a concealed pistol license in the interim.  
8 Before the firearm may be returned, the person must pay the past due  
9 renewal fee and the current renewal fee;

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

12 (c) Found in the possession of a person prohibited from possessing  
13 the firearm under RCW 9.41.040 or 9.41.045;

14 (d) Found in the possession or under the control of a person at the  
15 time the person committed or was arrested for committing a serious  
16 offense or a crime in which a firearm was used or displayed or a felony  
17 violation of the Uniform Controlled Substances Act, chapter 69.50 RCW;

18 (e) Found (~~(concealed on)~~) in the possession or under the control  
19 of a person who is in any place in which a concealed pistol license is  
20 required, and who is under the influence of any drug or under the  
21 influence of intoxicating liquor, as defined in chapter 46.61 RCW;

22 (f) Found in the possession of a person free on bail or personal  
23 recognizance pending trial, appeal, or sentencing for a serious offense  
24 or a crime in which a firearm was used or displayed, except that  
25 violations of Title 77 RCW shall not result in forfeiture under this  
26 section;

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

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

33 (i) Known to have been used in the commission of a serious offense  
34 or a crime in which a firearm was used or displayed or a felony  
35 violation of the Uniform Controlled Substances Act, chapter 69.50 RCW.

36 (2) Upon order of forfeiture, the court in its discretion may order  
37 destruction of any forfeited firearm. A court may temporarily retain  
38 forfeited firearms needed for evidence.

1 (a) Except as provided in (b), (c), and (d) of this subsection,  
2 firearms that are: (i) Judicially forfeited and no longer needed for  
3 evidence; or (ii) forfeited due to a failure to make a claim under RCW  
4 63.32.010 or 63.40.010; may be disposed of in any manner determined by  
5 the local legislative authority. Any proceeds of an auction or trade  
6 may be retained by the legislative authority. This subsection (2)(a)  
7 applies only to firearms that come into the possession of the law  
8 enforcement agency after June 30, 1993, and applies only if the law  
9 enforcement agency has complied with (b) of this subsection, except  
10 that firearms being retained for criminal investigation and/or court  
11 proceedings may be retained until the completion of that process.

12 By midnight, June 30, 1993, every law enforcement agency shall  
13 prepare an inventory, under oath, of every firearm that has been  
14 judicially forfeited, has been seized and may be subject to judicial  
15 forfeiture, or that has been, or may be, forfeited due to a failure to  
16 make a claim under RCW 63.32.010 or 63.40.010.

17 (b) Except as provided in (c) of this subsection, of the  
18 inventoried firearms a law enforcement agency shall destroy illegal  
19 firearms, may retain a maximum of ten percent of legal forfeited  
20 firearms for agency use, and shall either:

21 (i) Comply with the provisions for the auction of firearms in RCW  
22 9.41.098 that were in effect immediately preceding May 7, 1993; or

23 (ii) Trade, auction, or arrange for the auction of, rifles and  
24 shotguns. In addition, the law enforcement agency shall either trade,  
25 auction, or arrange for the auction of, short firearms, or shall pay a  
26 fee of twenty-five dollars to the state treasurer for every short  
27 firearm neither auctioned nor traded, to a maximum of fifty thousand  
28 dollars. The fees shall be accompanied by an inventory, under oath, of  
29 every short firearm listed in the inventory required by (a) of this  
30 subsection, that has been neither traded nor auctioned. The state  
31 treasurer shall credit the fees to the firearms range account  
32 established in RCW 77.12.720. All trades or auctions of firearms under  
33 this subsection shall be to licensed dealers. Proceeds of any auction  
34 less costs, including actual costs of storage and sale, shall be  
35 forwarded to the firearms range account established in RCW 77.12.720.

36 (c) Antique firearms and firearms recognized as curios, relics, and  
37 firearms of particular historical significance by the United States  
38 treasury department bureau of alcohol, tobacco, and firearms are exempt



1 from destruction and shall be disposed of by auction or trade to  
2 licensed dealers.

3 (d) Firearms in the possession of the Washington state patrol on or  
4 after May 7, 1993, that are judicially forfeited and no longer needed  
5 for evidence, or forfeited due to a failure to make a claim under RCW  
6 63.35.020, must be disposed of as follows: (i) Firearms illegal for  
7 any person to possess must be destroyed; (ii) the Washington state  
8 patrol may retain a maximum of ten percent of legal firearms for agency  
9 use; and (iii) all other legal firearms must be auctioned or traded to  
10 licensed dealers. The Washington state patrol may retain any proceeds  
11 of an auction or trade.

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

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

26 **Sec. 13.** RCW 9.41.110 and 1994 1st sp.s. c 7 s 416 are each  
27 amended to read as follows:

28 (1) No dealer may sell or otherwise transfer, or expose for sale or  
29 transfer, or have in his or her possession with intent to sell, or  
30 otherwise transfer, any pistol without being licensed as provided in  
31 this section.

32 (2) No dealer may sell or otherwise transfer, or expose for sale  
33 or transfer, or have in his or her possession with intent to sell, or  
34 otherwise transfer, any firearm other than a pistol without being  
35 licensed as provided in this section.

36 (3) No dealer may sell or otherwise transfer, or expose for sale  
37 or transfer, or have in his or her possession with intent to sell, or

1 otherwise transfer, any ammunition without being licensed as provided  
2 in this section.

3 (4) The duly constituted licensing authorities of any city, town,  
4 or political subdivision of this state shall grant licenses to dealers  
5 whose businesses are within its jurisdiction in forms prescribed by the  
6 director of licensing effective for not more than one year from the  
7 date of issue permitting the licensee to sell firearms within this  
8 state subject to the following conditions, for breach of any of which  
9 the license shall be forfeited pursuant to Title 34 RCW and the  
10 licensee subject to punishment as provided in RCW 9.41.010 through  
11 9.41.810. A licensing authority shall forward a copy of each license  
12 granted to the department of licensing. The department of licensing  
13 shall notify the department of revenue of the name and address of each  
14 dealer licensed under this section.

15 (5)(a) A licensing authority shall, within thirty days after the  
16 filing of an application of any person for a dealer's license,  
17 determine whether to grant the license. However, if the applicant does  
18 not have a valid permanent Washington driver's license or Washington  
19 state identification card, or has not been a resident of the state for  
20 the previous consecutive ninety days, the licensing authority shall  
21 have up to sixty days to determine whether to issue a license. No  
22 person shall qualify for a license under this section without first  
23 receiving a federal firearms license and undergoing fingerprinting and  
24 a background check. In addition, no person ineligible to possess a  
25 firearm under RCW 9.41.040 or ineligible for a concealed pistol license  
26 under RCW 9.41.070 shall qualify for a dealer's license.

27 (b) A dealer shall require every employee who may sell a firearm in  
28 the course of his or her employment to undergo fingerprinting and a  
29 background check. A dealer shall not be issued a license until all  
30 required employees submit fingerprints for this check. The fee for  
31 this background check is thirty-five dollars and shall be distributed  
32 as follows:

33 (i) Ten dollars shall be paid to the agency taking the fingerprints  
34 of the person licensed; and

35 (ii) Twenty-five dollars shall be paid to the Washington state  
36 patrol for the purpose of conducting a fingerprint-based background  
37 check. The fee to the Washington state patrol shall be used only for  
38 the cost of the background check.

1 An employee must be eligible to possess a firearm, and must not  
2 have been convicted of a crime that would make the person ineligible  
3 for a concealed pistol license, before being permitted to sell a  
4 firearm. Every employee shall comply with requirements concerning  
5 purchase applications and restrictions on delivery of pistols that are  
6 applicable to dealers. Dealers who knowingly allow ineligible  
7 employees to sell firearms shall be subject to revocation of their  
8 licenses by the licensing authorities.

9 (6)(a) Except as otherwise provided in (b) of this subsection, the  
10 business shall be carried on only in the building designated in the  
11 license. For the purpose of this section, advertising firearms for  
12 sale shall not be considered the carrying on of business.

13 (b) A dealer may conduct business temporarily at a location other  
14 than the building designated in the license, if the temporary location  
15 is within Washington state and is the location of a gun show sponsored  
16 by a national, state, or local organization, or an affiliate of any  
17 such organization, devoted to the collection, competitive use, or other  
18 sporting use of firearms in the community. Nothing in this subsection  
19 (6)(b) authorizes a dealer to conduct business in or from a motorized  
20 or towed vehicle.

21 In conducting business temporarily at a location other than the  
22 building designated in the license, the dealer shall comply with all  
23 other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and  
24 9.41.110. The license of a dealer who fails to comply with the  
25 requirements of RCW 9.41.080 and 9.41.090 and subsection ~~((+8))~~ (9) of  
26 this section while conducting business at a temporary location shall be  
27 revoked, and the dealer shall be permanently ineligible for a dealer's  
28 license.

29 (7) The license or a copy thereof, certified by the issuing  
30 authority, shall be displayed on the premises in the area where  
31 firearms are sold, or at the temporary location, where it can easily be  
32 read.

33 (8) Corporations with multiple sales outlets shall obtain a  
34 separate dealer's license for each location. The individual locations  
35 must have the licenses issued under the name of the manager or his or  
36 her designee. In the event that the person named on the license is no  
37 longer employed at that location, the corporation may continue to sell  
38 firearms at that location for no more than ninety days without  
39 providing the new manager or designee information to the licensing

1 authority. If the new manager or designee has within the past year  
2 been found eligible to sell firearms after an employee background check  
3 no additional background check is required. Otherwise, he or she shall  
4 satisfy the requirements of this section within thirty days of hire.

5 (9)(a) No pistol may be sold: (i) In violation of any provisions  
6 of RCW 9.41.010 through 9.41.810; nor (ii) may a pistol be sold under  
7 any circumstances unless the purchaser is personally known to the  
8 dealer or shall present clear evidence of his or her identity.

9 (b) A dealer who sells or delivers any firearm in violation of RCW  
10 9.41.080 is guilty of a class C felony. In addition to any other  
11 penalty provided for by law, the dealer is subject to mandatory  
12 permanent revocation of his or her dealer's license and permanent  
13 ineligibility for a dealer's license.

14 (c) The license fee for pistols shall be one hundred twenty-five  
15 dollars. The license fee for firearms other than pistols shall be one  
16 hundred twenty-five dollars. The license fee for ammunition shall be  
17 one hundred twenty-five dollars. Any dealer who obtains any license  
18 under subsection (1), (2), or (3) of this section may also obtain the  
19 remaining licenses without payment of any fee. The fees received under  
20 this section shall be distributed as follows:

21 (i) Ten dollars shall be paid to the agency taking the fingerprints  
22 of the person licensed;

23 (ii) Twenty-five dollars shall be paid to the issuing authority for  
24 the purpose of enforcing this chapter;

25 (iii) Twenty-five dollars shall be paid to the Washington state  
26 patrol for the purposes of conducting a fingerprint-based background  
27 check;

28 (iv) Twenty-four dollars shall be paid to the federal bureau of  
29 investigation for the purposes of conducting a fingerprint-based  
30 background check;

31 (v) Five dollars shall be paid to the department of licensing for  
32 costs associated with this chapter; and

33 (vi) The remainder shall be deposited in the account under RCW  
34 69.50.520.

35 The licensing authority may waive fingerprint submissions for any  
36 dealer who has had fingerprints submitted and has successfully passed  
37 such a background check within the past two years for the purpose of  
38 (A) issuance of a dealer's license, or (B) issuance of a concealed  
39 pistol license. In such event, the fees not submitted to the

1 Washington state patrol or the federal bureau of investigation shall be  
2 deposited in the account under RCW 69.50.520.

3 ~~((9)(a))~~ (10) A true record in triplicate shall be made of every  
4 pistol sold, in a book kept for the purpose, the form of which may be  
5 prescribed by the director of licensing and shall be personally signed  
6 by the purchaser and by the person effecting the sale, each in the  
7 presence of the other, and shall contain the date of sale, the caliber,  
8 make, model and manufacturer's number of the weapon, the name, address,  
9 occupation, and place of birth of the purchaser and a statement signed  
10 by the purchaser that he or she is not ineligible under RCW 9.41.040 to  
11 possess a firearm.

12 ~~((b) One copy shall within six hours be sent by certified mail to~~  
13 ~~the chief of police of the municipality or the sheriff of the county of~~  
14 ~~which the purchaser is a resident; the duplicate the dealer shall~~  
15 ~~within seven days send to the director of licensing; the triplicate the~~  
16 ~~dealer shall retain for six years.~~

17 ~~(10))~~ (11) Subsections (2) through ~~((9))~~ (10) of this section  
18 shall not apply to sales at wholesale.

19 ~~((11))~~ (12) The dealer's licenses authorized to be issued by this  
20 section are general licenses covering all sales by the licensee within  
21 the effective period of the licenses. The department shall provide a  
22 single application form for dealer's licenses and a single license form  
23 which shall indicate the type or types of licenses granted.

24 ~~((12))~~ (13) Except as provided in RCW 9.41.090, every city, town,  
25 and political subdivision of this state is prohibited from requiring  
26 the purchaser to secure a permit to purchase or from requiring the  
27 dealer to secure an individual permit for each sale.

28 **Sec. 14.** RCW 9.41.170 and 1994 c 190 s 1 are each amended to read  
29 as follows:

30 (1) It is a class C felony for any person who is not a citizen of  
31 the United States to carry or possess any firearm, without first having  
32 obtained an alien firearm license from the director of licensing.  
33 Except as provided in subsection (2) of this section, the director of  
34 licensing may issue an alien firearm license only upon receiving from  
35 (i) the consul domiciled in this state representing the country of the  
36 alien, or (ii) the law enforcement authority of the country of the  
37 alien, a certified copy of the alien's criminal history in the alien's  
38 country indicating the alien is not ineligible under RCW 9.41.040 to

1 own, possess, or control a firearm, and the consul's attestation that  
2 the alien is a responsible person.

3 (2)(a) Subject to the additional requirements of (b) of this  
4 subsection, the director of licensing may issue an alien firearm  
5 license without a certified copy of the alien's criminal history or the  
6 consul's attestation required by subsection (1) of this section, if the  
7 alien has been a resident of this state for at least two years and:  
8 (i) The alien is from a country without a consul domiciled within this  
9 state, or (ii) the consul has failed to provide, within ninety days  
10 after a request by the alien, the criminal history or attestation  
11 required by subsection (1) of this section.

12 (b) Before issuing an alien firearm license under this subsection  
13 (2), the director of licensing shall ask the local law enforcement  
14 agency of the jurisdiction in which the alien resides to complete a  
15 background check to determine the alien's eligibility under RCW  
16 9.41.040 to own, possess, or control a firearm. The law enforcement  
17 agency shall complete a background check within thirty days after the  
18 request, unless the alien does not have a valid Washington driver's  
19 license or Washington state identification card. In the latter case,  
20 the law enforcement agency shall complete the background check within  
21 sixty days after the request.

22 A signed application for an alien firearm license shall constitute  
23 a waiver of confidentiality and written request that the department of  
24 social and health services, mental health institutions, and other  
25 health care facilities release information relevant to the applicant's  
26 eligibility for an alien firearm license to an inquiring law  
27 enforcement agency.

28 (3) The fee for an alien firearm license shall be twenty-five  
29 dollars, and the license shall be valid for four years from the date of  
30 issue.

31 (4) This section shall not apply to Canadian citizens resident in  
32 a province which has an enactment or public policy providing  
33 substantially similar privilege to residents of the state of Washington  
34 and who are carrying or possessing weapons for the purpose of using  
35 them in the hunting of game while such persons are in the act of  
36 hunting, or while on a hunting trip, or while such persons are  
37 competing in a bona fide trap or skeet shoot or any other organized  
38 contest where rifles, pistols, or shotguns are used. Nothing in this  
39 section shall be construed to allow aliens to hunt or fish in this

1 state without first having obtained a regular hunting or fishing  
2 license.

3 **Sec. 15.** RCW 9.41.190 and 1994 1st sp.s. c 7 s 420 are each  
4 amended to read as follows:

5 (1) It is unlawful for any person to manufacture, own, buy, sell,  
6 loan, furnish, transport, or have in possession or under control, any  
7 machine gun, short-barreled shotgun, or short-barreled rifle; or any  
8 part designed and intended solely and exclusively for use in a machine  
9 gun, short-barreled shotgun, or short-barreled rifle, or in converting  
10 a weapon into a machine gun, short-barreled shotgun, or short-barreled  
11 rifle; or to assemble or repair any machine gun, short-barreled  
12 shotgun, or short-barreled rifle.

13 (2) This section shall not apply to:

14 (a) Any peace officer in the discharge of official duty or  
15 traveling to or from official duty, or to any officer or member of the  
16 armed forces of the United States or the state of Washington in the  
17 discharge of official duty or traveling to or from official duty; or

18 (b) A person, including an employee of such person if the employee  
19 has undergone fingerprinting and a background check as described in RCW  
20 9.41.110(5)(b), who or which is exempt from or licensed under federal  
21 law, and engaged in the production, manufacture, repair, or testing of  
22 machine guns, short-barreled shotguns, or short-barreled rifles:

23 (i) To be used or purchased by the armed forces of the United  
24 States;

25 (ii) To be used or purchased by federal, state, county, or  
26 municipal law enforcement agencies; or

27 (iii) For exportation in compliance with all applicable federal  
28 laws and regulations.

29 (3) It shall be an affirmative defense to a prosecution brought  
30 under this section that the machine gun, short-barreled shotgun, or  
31 short-barreled rifle was acquired prior to July 1, 1994, and is  
32 possessed in compliance with federal law.

33 (4) Any person violating this section is guilty of a class C  
34 felony.

35 **Sec. 16.** RCW 9.41.280 and 1994 1st sp.s. c 7 s 427 are each  
36 amended to read as follows:

1 (1) It is unlawful for a person to carry onto, or to possess on,  
2 public or private elementary or secondary school premises, school-  
3 provided transportation, or areas of facilities while being used  
4 exclusively by public or private schools:

5 (a) Any firearm;

6 (b) Any other dangerous weapon as defined in RCW 9.41.250;

7 (c) Any device commonly known as "nun-chu-ka sticks", consisting of  
8 two or more lengths of wood, metal, plastic, or similar substance  
9 connected with wire, rope, or other means;

10 (d) Any device, commonly known as "throwing stars", which are  
11 multi-pointed, metal objects designed to embed upon impact from any  
12 aspect; or

13 (e) Any air gun, including any air pistol or air rifle, designed to  
14 propel a BB, pellet, or other projectile by the discharge of compressed  
15 air, carbon dioxide, or other gas.

16 (2) Any such person violating subsection (1) of this section is  
17 guilty of a gross misdemeanor. If any person is convicted of a  
18 violation of subsection (1)(a) of this section, the person shall  
19 ~~((lose))~~ have his or her concealed pistol license, if any revoked for  
20 a period of five years. Anyone convicted under this subsection is  
21 prohibited from applying for a concealed pistol license for a period of  
22 five years. The court shall send notice of the revocation to the  
23 department of licensing, and the city, town, or county which issued the  
24 license.

25 Any violation of subsection (1) of this section by elementary or  
26 secondary school students constitutes grounds for expulsion from the  
27 state's public schools in accordance with RCW 28A.600.010. However,  
28 any violation of subsection (1)(a) of this section by an elementary or  
29 secondary school student shall result in expulsion for an indefinite  
30 period of time in accordance with RCW 28A.600.010. An appropriate  
31 school authority shall promptly notify law enforcement and the  
32 student's parent or guardian regarding any allegation or indication of  
33 such violation.

34 (3) Subsection (1) of this section does not apply to:

35 (a) Any student or employee of a private military academy when on  
36 the property of the academy;

37 (b) Any person engaged in military, law enforcement, or school  
38 district security activities;



1 (c) Any person who is involved in a convention, showing,  
2 demonstration, lecture, or firearms safety course authorized by school  
3 authorities in which the firearms of collectors or instructors are  
4 handled or displayed;

5 (d) Any person while the person is participating in a firearms or  
6 air gun competition approved by the school or school district;

7 (e) Any person in possession of a pistol who has been issued a  
8 license under RCW 9.41.070, or is exempt from the licensing requirement  
9 by RCW 9.41.060, while picking up or dropping off a student;

10 (f) Any nonstudent at least eighteen years of age legally in  
11 possession of a firearm or dangerous weapon that is secured within an  
12 attended vehicle or concealed from view within a locked unattended  
13 vehicle while conducting legitimate business at the school;

14 (g) Any nonstudent at least eighteen years of age who is in lawful  
15 possession of an unloaded firearm, secured in a vehicle while  
16 conducting legitimate business at the school; or

17 (h) Any law enforcement officer of the federal, state, or local  
18 government agency.

19 (4) Subsections (1) (c) and (d) of this section do not apply to any  
20 person who possesses nun-chu-ka sticks, throwing stars, or other  
21 dangerous weapons to be used in martial arts classes authorized to be  
22 conducted on the school premises.

23 (5) Except as provided in subsection (3)(b), (c), (f), and (h) of  
24 this section, firearms are not permitted in a public or private school  
25 building.

26 (6) "GUN-FREE ZONE" signs shall be posted around school facilities  
27 giving warning of the prohibition of the possession of firearms on  
28 school grounds.

29 **Sec. 17.** RCW 9.41.800 and 1994 1st sp.s. c 7 s 430 are each  
30 amended to read as follows:

31 (1) Any court when entering an order authorized under RCW  
32 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
33 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070  
34 shall, upon a showing by clear and convincing evidence, that a party  
35 has: Used, displayed, or threatened to use a firearm or other  
36 dangerous weapon in a serious offense, or previously committed any  
37 offense that makes him or her ineligible to possess a firearm under the  
38 provisions of RCW 9.41.040:

1 (a) Require the party to surrender any firearm or other dangerous  
2 weapon;

3 (b) Require the party to surrender any concealed pistol license  
4 issued under RCW 9.41.070;

5 (c) Prohibit the party from obtaining or possessing a firearm or  
6 other dangerous weapon;

7 (d) Prohibit the party from obtaining or possessing a concealed  
8 pistol license.

9 (2) Any court when entering an order authorized under RCW  
10 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
11 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070  
12 may, upon a showing by a preponderance of the evidence but not by clear  
13 and convincing evidence, that a party has: Used, displayed, or  
14 threatened to use a firearm or other dangerous weapon in a serious  
15 offense, or previously committed any offense that makes him or her  
16 ineligible to possess a pistol under the provisions of RCW 9.41.040:

17 (a) Require the party to surrender any firearm or other dangerous  
18 weapon;

19 (b) Require the party to surrender a concealed pistol license  
20 issued under RCW 9.41.070;

21 (c) Prohibit the party from obtaining or possessing a firearm or  
22 other dangerous weapon;

23 (d) Prohibit the party from obtaining or possessing a concealed  
24 pistol license.

25 (3) The court may order temporary surrender of a firearm or other  
26 dangerous weapon without notice to the other party if it finds, on the  
27 basis of the moving affidavit or other evidence, that irreparable  
28 injury could result if an order is not issued until the time for  
29 response has elapsed.

30 (4) In addition to the provisions of subsections (1), (2), and (3)  
31 of this section, the court may enter an order requiring a party to  
32 comply with the provisions in subsection (1) of this section if it  
33 finds that the possession of a firearm or other dangerous weapon by any  
34 party presents a serious and imminent threat to public health or  
35 safety, or to the health or safety of any individual.

36 (5) The requirements of subsections (1), (2), and (4) of this  
37 section may be for a period of time less than the duration of the  
38 order.

1 (6) The court may require the party to surrender any firearm or  
2 other dangerous weapon in his or her immediate possession or control or  
3 subject to his or her immediate possession or control to the sheriff of  
4 the county having jurisdiction of the proceeding, the chief of police  
5 of the municipality having jurisdiction, or to the restrained or  
6 enjoined party's counsel or to any person designated by the court. In  
7 the event the court orders surrender to either the sheriff or the chief  
8 of police, the respective agency is held harmless for any damage  
9 incurred during the period of safekeeping unless the agency is grossly  
10 negligent in the care of the firearms or weapons.

11 NEW SECTION. Sec. 18. A new section is added to chapter 9.41 RCW  
12 to read as follows:

13 The firearms eligibility instant check system account is created in  
14 the custody of the state treasurer. All receipts from fees collected  
15 under RCW 9.41.090(2) shall be deposited into the account.  
16 Expenditures from the account may be used only for development,  
17 operational, and maintenance costs of the state firearms eligibility  
18 instant check system. Only the chief of the Washington state patrol or  
19 the chief's designee may authorize expenditures from the account. The  
20 account is subject to allotment procedures under chapter 43.88 RCW, but  
21 no appropriation is required for expenditures.

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