
HOUSE BILL 1687

State of Washington

59th Legislature

2005 Regular Session

By Representatives Moeller, Talcott, O'Brien, Ericks, Lovick, Tom, Roberts, Appleton, Kagi, Hunter and Chase

Read first time 02/02/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to firearms; amending RCW 9.41.047; creating a new
2 section; and declaring an emergency.

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

4 **Sec. 1.** RCW 9.41.047 and 1996 c 295 s 3 are each amended to read
5 as follows:

6 (1) At the time a person is convicted or found not guilty by reason
7 of insanity of an offense making the person ineligible to possess a
8 firearm, or at the time a person is committed by court order under RCW
9 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment,
10 the convicting or committing court shall notify the person, orally and
11 in writing, that the person must immediately surrender any concealed
12 pistol license and that the person may not possess a firearm unless his
13 or her right to do so is restored by a court of record. For purposes
14 of this section a convicting court includes a court in which a person
15 has been found not guilty by reason of insanity.

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

1 (2) Upon receipt of the information provided for by subsection (1)
2 of this section, the department of licensing shall determine if the
3 convicted or committed person has a concealed pistol license. If the
4 person does have a concealed pistol license, the department of
5 licensing shall immediately notify the license-issuing authority which,
6 upon receipt of such notification, shall immediately revoke the
7 license.

8 (3)(a) A person who is prohibited from possessing a firearm, by
9 reason of having been involuntarily committed for mental health
10 treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or
11 equivalent statutes of another jurisdiction may, upon discharge,
12 petition a court of record to have his or her right to possess a
13 firearm restored. At the time of commitment, the court shall
14 specifically state to the person that he or she is barred from
15 possession of firearms.

16 (b) The secretary of social and health services shall develop
17 appropriate rules to create an approval process under this subsection.
18 The rules must provide for the restoration of the right to possess a
19 firearm upon a showing in a court of competent jurisdiction that the
20 person is no longer required to participate in an inpatient or
21 outpatient treatment program, is no longer required to take medication
22 to treat any condition related to the commitment, and does not present
23 a substantial danger to himself or herself, others, or the public.
24 Unlawful possession of a firearm under this subsection shall be
25 punished as a class C felony under chapter 9A.20 RCW.

26 (c) A person petitioning the court under this subsection (3) shall
27 bear the burden of proving by a preponderance of the evidence that the
28 circumstances resulting in the commitment no longer exist and are not
29 reasonably likely to recur. If a preponderance of the evidence in the
30 record supports a finding that the person petitioning the court has
31 engaged in violence and that it is more likely than not that the person
32 will engage in violence after his or her right to possess a firearm is
33 restored, the person shall bear the burden of proving by clear, cogent,
34 and convincing evidence that he or she does not present a substantial
35 danger to the safety of others.

36 (4) No person who has been found not guilty by reason of insanity
37 may petition a court for restoration of the right to possess a firearm

1 unless the person meets the requirements for the restoration of the
2 right to possess a firearm that would have applied under RCW
3 9.41.040(4) if the person had been found guilty of the crime.

4 NEW SECTION. Sec. 2. If any part of this act is found to be in
5 conflict with federal requirements, the conflicting part of this act is
6 hereby declared to be inoperative solely to the extent of the conflict,
7 and such finding or determination does not affect the operation of the
8 remainder of this act. Rules adopted under this act must meet federal
9 requirements.

10 NEW SECTION. Sec. 3. If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. Sec. 4. This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

--- END ---