

---

HOUSE BILL 3221

---

State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Moeller, Buck, Blake, Clements, Eickmeyer and Kretz

Read first time 01/26/2006. Referred to Committee on Judiciary.

1            AN ACT Relating to alien firearm licenses; amending RCW 9.41.070,  
2 9.41.097, and 9.41.097; adding a new section to chapter 9.41 RCW;  
3 repealing RCW 9.41.170; prescribing penalties; providing an effective  
4 date; and providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 9.41 RCW  
7 to read as follows:

8            (1)(a) It is a class C felony for a nonimmigrant alien residing in  
9 Washington to carry or possess any firearm, without having first  
10 obtained an alien firearm license.

11            (b) The chief of police of a municipality or the sheriff of a  
12 county shall within sixty days after the filing of an application of a  
13 nonimmigrant alien residing in the state of Washington, issue an alien  
14 firearm license to such person to carry or possess a firearm for the  
15 purposes of hunting and sport shooting. The permit shall be good for  
16 two years or until the nonimmigrant alien permanently leaves the state.  
17 The issuing authority shall not refuse to accept completed applications  
18 for alien firearm licenses during regular business hours. The

1 applicant's privilege to bear arms may not be denied, unless the  
2 applicant's alien firearm license is in a revoked status, or the  
3 applicant:

4 (i) Is ineligible to possess a firearm under the provisions of RCW  
5 9.41.040 or 9.41.045;

6 (ii) Is subject to a court order or injunction regarding firearms  
7 pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050,  
8 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or  
9 26.26.590;

10 (iii) Is free on bond or personal recognizance pending trial,  
11 appeal, or sentencing for a felony offense; or

12 (iv) Has an outstanding warrant for his or her arrest from any  
13 court of competent jurisdiction for a felony or misdemeanor.

14 No nonimmigrant alien convicted of a felony may have his or her  
15 privilege to possess firearms granted unless the person has been  
16 granted relief from disabilities by the secretary of the treasury under  
17 18 U.S.C. Sec. 925(c), or unless RCW 9.41.040(3) or (4) applies.

18 (c) 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 firearm.

24 (d) The license application shall bear the full name, residential  
25 address, telephone number at the option of the applicant, date and  
26 place of birth, race, gender, description, not more than two complete  
27 sets of fingerprints, and signature of the applicant, a copy of the  
28 applicant's passport and visa showing the applicant is in the country  
29 legally, and a valid Washington hunting license or documentation that  
30 the applicant is a member of a sport shooting club.

31 A signed application for an alien firearm license shall constitute  
32 a waiver of confidentiality and written request that the department of  
33 social and health services, mental health institutions, and other  
34 health care facilities release information relevant to the applicant's  
35 eligibility for an alien firearm license to an inquiring court or law  
36 enforcement agency.

37 The application for an original license shall include two complete  
38 sets of fingerprints to be forwarded to the Washington state patrol.

1 The license and application shall contain a warning substantially  
2 as follows:

3 CAUTION: Although state and local laws do not differ, federal  
4 law and state law on the possession of firearms differ. If you  
5 are prohibited by federal law from possessing a firearm, you  
6 may be prosecuted in federal court. A state license is not a  
7 defense to a federal prosecution.

8 The license shall contain a description of the major differences  
9 between state and federal law and an explanation of the fact that local  
10 laws and ordinances on firearms are preempted by state law and must be  
11 consistent with state law. The application shall contain questions  
12 about the applicant's eligibility under RCW 9.41.040 to possess a  
13 firearm. The nonimmigrant alien applicant shall be required to produce  
14 a passport and visa as evidence of being in the country legally.

15 The license shall be in triplicate and in a form to be prescribed  
16 by the department of licensing. The original thereof shall be  
17 delivered to the licensee, the duplicate shall within seven days be  
18 sent to the director of licensing and the triplicate shall be preserved  
19 for six years, by the authority issuing the license.

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

23 (e) The nonrefundable fee, paid upon application, for the two-year  
24 license shall be fifty-five dollars plus additional charges imposed by  
25 the federal bureau of investigation that are passed on to the  
26 applicant. No other state or local branch or unit of government may  
27 impose any additional charges on the applicant for the issuance of the  
28 license. The fee shall be distributed as follows:

29 (i) Fifteen dollars shall be paid to the department of licensing;  
30 (ii) Twenty five dollars shall be paid to the state patrol; and  
31 (iii) Fifteen dollars shall be paid to the law enforcement agency  
32 conducting the background check.

33 (f) Payment shall be by cash, check, or money order at the option  
34 of the applicant. Additional methods of payment may be allowed at the  
35 option of the issuing authority.

36 (g) A political subdivision of the state shall not modify the  
37 requirements of this section or chapter, nor may a political

1 subdivision ask the applicant to voluntarily submit any information not  
2 required by this section.

3 (h) A person who knowingly makes a false statement regarding  
4 citizenship or identity on an application for an alien firearm license  
5 is guilty of false swearing under RCW 9A.72.040. In addition to any  
6 other penalty provided for by law, the alien firearm license of a  
7 person who knowingly makes a false statement shall be revoked, and the  
8 person shall be permanently ineligible for an alien firearm license.

9 (i) A nonimmigrant alien may apply for an alien firearm license:

10 (i) To the municipality or to the county in which the applicant  
11 resides if the applicant resides in a municipality;

12 (ii) To the county in which the applicant resides if the applicant  
13 resides in an unincorporated area.

14 (2) It is a class C felony for a nonimmigrant alien, who is not a  
15 resident of Washington or a citizen of Canada, to carry or possess any  
16 firearm unless the alien possesses:

17 (a) A valid passport and visa showing they are in the country  
18 legally;

19 (b) An approved United States department of the treasury ATF-6 NIA  
20 application and permit for temporary importation of firearms and  
21 ammunition by nonimmigrant aliens; and

22 (c)(i) A valid hunting license issued by a state or territory of  
23 the United States; or

24 (ii) An invitation to participate in a trade show or sport shooting  
25 event.

26 (3) It is a class C felony for a citizen of Canada to carry or  
27 possess any firearm unless he or she possesses:

28 (a) Valid documentation as required for entry into the United  
29 States;

30 (b) An approved United States department of the treasury ATF-6 NIA  
31 application and permit for temporary importation of firearms and  
32 ammunition by nonimmigrant aliens; and

33 (c)(i) A valid hunting license issued by a state or territory of  
34 the United States; or

35 (ii) An invitation to participate in a trade show or sport shooting  
36 event.

1       **Sec. 2.** RCW 9.41.070 and 2002 c 302 s 703 are each amended to read  
2 as follows:

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

15       The applicant's constitutional right to bear arms shall not be  
16 denied, unless:

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

19       (b) The applicant's concealed pistol license is in a revoked  
20 status;

21       (c) He or she is under twenty-one years of age;

22       (d) He or she is subject to a court order or injunction regarding  
23 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
24 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,  
25 26.50.070, or 26.26.590;

26       (e) He or she is free on bond or personal recognizance pending  
27 trial, appeal, or sentencing for a felony offense;

28       (f) He or she has an outstanding warrant for his or her arrest from  
29 any court of competent jurisdiction for a felony or misdemeanor; or

30       (g) He or she has been ordered to forfeit a firearm under RCW  
31 9.41.098(1)(e) within one year before filing an application to carry a  
32 pistol concealed on his or her person.

33       No person convicted of a felony may have his or her right to  
34 possess firearms restored or his or her privilege to carry a concealed  
35 pistol restored, unless the person has been granted relief from  
36 disabilities by the secretary of the treasury under 18 U.S.C. Sec.  
37 925(c), or RCW 9.41.040 (3) or (4) applies.

1 (2) The issuing authority shall check with the national crime  
2 information center, the Washington state patrol electronic data base,  
3 the department of social and health services electronic data base, and  
4 with other agencies or resources as appropriate, to determine whether  
5 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess  
6 a firearm and therefore ineligible for a concealed pistol license.  
7 This subsection applies whether the applicant is applying for a new  
8 concealed pistol license or to renew a concealed pistol license.

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

16 (4) The license application shall bear the full name, residential  
17 address, telephone number at the option of the applicant, date and  
18 place of birth, race, gender, description, not more than two complete  
19 sets of fingerprints, and signature of the licensee, and the licensee's  
20 driver's license number or state identification card number if used for  
21 identification in applying for the license. A signed application for  
22 a concealed pistol license shall constitute a waiver of confidentiality  
23 and written request that the department of social and health services,  
24 mental health institutions, and other health care facilities release  
25 information relevant to the applicant's eligibility for a concealed  
26 pistol license to an inquiring court or law enforcement agency.

27 The application for an original license shall include two complete  
28 sets of fingerprints to be forwarded to the Washington state patrol.

29 The license and application shall contain a warning substantially  
30 as follows:

31 CAUTION: Although state and local laws do not differ, federal  
32 law and state law on the possession of firearms differ. If you  
33 are prohibited by federal law from possessing a firearm, you  
34 may be prosecuted in federal court. A state license is not a  
35 defense to a federal prosecution.

36 The license shall contain a description of the major differences  
37 between state and federal law and an explanation of the fact that local  
38 laws and ordinances on firearms are preempted by state law and must be

1 consistent with state law. The application shall contain questions  
2 about the applicant's eligibility under RCW 9.41.040 to possess a  
3 pistol, the applicant's place of birth, and whether the applicant is a  
4 United States citizen. The applicant shall not be required to produce  
5 a birth certificate or other evidence of citizenship. A person who is  
6 not a citizen of the United States shall meet the additional  
7 requirements of (~~RCW 9.41.170~~) section 1 of this act and produce  
8 proof of compliance with (~~RCW 9.41.170~~) section 1 of this act upon  
9 application. The license shall be in triplicate and in a form to be  
10 prescribed by the department of licensing.

11 The original thereof shall be delivered to the licensee, the  
12 duplicate shall within seven days be sent to the director of licensing  
13 and the triplicate shall be preserved for six years, by the authority  
14 issuing the license.

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

18 (5) The nonrefundable fee, paid upon application, for the original  
19 five-year license shall be thirty-six dollars plus additional charges  
20 imposed by the Federal Bureau of Investigation that are passed on to  
21 the applicant. No other state or local branch or unit of government  
22 may impose any additional charges on the applicant for the issuance of  
23 the license.

24 The fee shall be distributed as follows:

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

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

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

30 (d) Three dollars to the firearms range account in the general  
31 fund.

32 (6) The nonrefundable fee for the renewal of such license shall be  
33 thirty-two dollars. No other branch or unit of government may impose  
34 any additional charges on the applicant for the renewal of the license.

35 The renewal fee shall be distributed as follows:

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

37 (b) Fourteen dollars shall be paid to the issuing authority for the  
38 purpose of enforcing this chapter; and

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

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

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

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

15 (a) Three dollars shall be deposited in the state wildlife (~~fund~~)  
16 account and used exclusively first for the printing and distribution of  
17 a pamphlet on the legal limits of the use of firearms, firearms safety,  
18 and the preemptive nature of state law, and subsequently the support of  
19 volunteer instructors in the basic firearms safety training program  
20 conducted by the department of fish and wildlife. The pamphlet shall  
21 be given to each applicant for a license; and

22 (b) Seven dollars shall be paid to the issuing authority for the  
23 purpose of enforcing this chapter.

24 (10) Notwithstanding the requirements of subsections (1) through  
25 (9) of this section, the chief of police of the municipality or the  
26 sheriff of the county of the applicant's residence may issue a  
27 temporary emergency license for good cause pending review under  
28 subsection (1) of this section. However, a temporary emergency license  
29 issued under this subsection shall not exempt the holder of the license  
30 from any records check requirement. Temporary emergency licenses shall  
31 be easily distinguishable from regular licenses.

32 (11) A political subdivision of the state shall not modify the  
33 requirements of this section or chapter, nor may a political  
34 subdivision ask the applicant to voluntarily submit any information not  
35 required by this section.

36 (12) A person who knowingly makes a false statement regarding  
37 citizenship or identity on an application for a concealed pistol  
38 license is guilty of false swearing under RCW 9A.72.040. In addition

1 to any other penalty provided for by law, the concealed pistol license  
2 of a person who knowingly makes a false statement shall be revoked, and  
3 the person shall be permanently ineligible for a concealed pistol  
4 license.

5 (13) A person may apply for a concealed pistol license:

6 (a) To the municipality or to the county in which the applicant  
7 resides if the applicant resides in a municipality;

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

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

11 **Sec. 3.** RCW 9.41.097 and 1994 sp.s. c 7 s 412 are each amended to  
12 read as follows:

13 (1) The department of social and health services, mental health  
14 institutions, and other health care facilities shall, upon request of  
15 a court or law enforcement agency, supply such relevant information as  
16 is necessary to determine the eligibility of a person to possess a  
17 pistol or to be issued a concealed pistol license under RCW 9.41.070 or  
18 to purchase a pistol under RCW 9.41.090.

19 (2) Mental health information received by: (a) The department of  
20 licensing pursuant to RCW 9.41.047 or (~~9.41.170~~) section 1 of this  
21 act; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c)  
22 a chief of police or sheriff pursuant to RCW 9.41.090 or (~~9.41.170~~)  
23 section 1 of this act; (d) a court or law enforcement agency pursuant  
24 to subsection (1) of this section, shall not be disclosed except as  
25 provided in RCW 42.17.318.

26 **Sec. 4.** RCW 9.41.097 and 2005 c 274 s 202 are each amended to read  
27 as follows:

28 (1) The department of social and health services, mental health  
29 institutions, and other health care facilities shall, upon request of  
30 a court or law enforcement agency, supply such relevant information as  
31 is necessary to determine the eligibility of a person to possess a  
32 pistol or to be issued a concealed pistol license under RCW 9.41.070 or  
33 to purchase a pistol under RCW 9.41.090.

34 (2) Mental health information received by: (a) The department of  
35 licensing pursuant to RCW 9.41.047 or (~~9.41.170~~) section 1 of this  
36 act; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c)

1 a chief of police or sheriff pursuant to RCW 9.41.090 or ((9.41.170))  
2 section 1 of this act; (d) a court or law enforcement agency pursuant  
3 to subsection (1) of this section, shall not be disclosed except as  
4 provided in RCW 42.56.240(4).

5 NEW SECTION. **Sec. 5.** RCW 9.41.170 (Alien's license to carry  
6 firearms--Exception) and 1996 c 295 s 11, 1994 c 190 s 1, 1979 c 158 s  
7 3, 1969 ex.s. c 90 s 1, & 1953 c 109 s 1 are each repealed.

8 NEW SECTION. **Sec. 6.** Section 3 of this act expires July 1, 2006.

9 NEW SECTION. **Sec. 7.** Section 4 of this act takes effect July 1,  
10 2006.

--- END ---