
SENATE BILL 5343

State of Washington 59th Legislature 2005 Regular Session

By Senators Kohl-Welles, Fairley, Regala, Kline and Thibaudeau

Read first time 01/20/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to the sale of firearms at gun shows and events;
2 amending RCW 9.41.010; adding a new section to chapter 9.41 RCW; and
3 prescribing penalties.

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

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

7 (1) Except as otherwise provided in subsection (6) of this section,
8 a person who, while at a gun show or event, offers to sell or transfer
9 a firearm to another person must be licensed as a dealer under 18
10 U.S.C. Sec. 923 and post the license in accordance with 27 C.F.R. Secs.
11 178.91 and 178.100(a).

12 (2) The licensed dealer shall:

13 (a) Perform a background check of the prospective transferee in
14 accordance with RCW 9.41.090 and 18 U.S.C. Sec. 921 et seq.; and

15 (b) Obtain approval of a transfer from the local law enforcement
16 agency for a handgun or the Federal Bureau of Investigation, national
17 crime information center, for a long gun, in accordance with RCW
18 9.41.090 and 18 U.S.C. Sec. 921 et seq.

1 (3) The licensed dealer who performs the background check on a
2 prospective transferee shall record the transfer, as provided in RCW
3 9.41.090 and 18 U.S.C. Sec. 922 and shall retain the records in the
4 same manner as when conducting a sale, rental, or exchange at retail,
5 as provided in RCW 9.41.090 and in 18 U.S.C. Sec. 922.

6 (4) The Washington state patrol will establish a reasonable fee to
7 cover costs for each background check conducted at a gun show or event.

8 (5) A person who organizes, promotes, or otherwise sponsors a gun
9 show or event shall:

10 (a) Ensure that any person who, while at the gun show or event,
11 offers to sell or transfer a firearm to another person complies with
12 the requirements of subsection (2)(a) of this section;

13 (b) Provide the services of a person licensed as a dealer under 18
14 U.S.C. Sec. 923 to conduct the transactions described in subsection
15 (2)(a) of this section; and

16 (c) Post prominently a notice, in a form to be described by the
17 director of the department of licensing or his or her designee, setting
18 forth the requirements for a background check as provided in this
19 section.

20 (6) A person other than a dealer may only offer for sale or
21 transfer a firearm while at a gun show or event, if any resulting sale
22 or transfer of the firearm is conducted through a person licensed as a
23 dealer under 18 U.S.C. Sec. 923, and that licensed dealer performs a
24 background check in accordance with RCW 9.41.090 and 18 U.S.C. Sec. 921
25 et seq.

26 (7) A violation of this section is a gross misdemeanor.

27 **Sec. 2.** RCW 9.41.010 and 2001 c 300 s 2 are each amended to read
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

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

33 (2) "Pistol" means any firearm with a barrel less than sixteen
34 inches in length, or is designed to be held and fired by the use of a
35 single hand.

36 (3) "Rifle" means a weapon designed or redesigned, made or remade,
37 and intended to be fired from the shoulder and designed or redesigned,

1 made or remade, and intended to use the energy of the explosive in a
2 fixed metallic cartridge to fire only a single projectile through a
3 rifled bore for each single pull of the trigger.

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

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

14 (6) "Short-barreled shotgun" means a shotgun having one or more
15 barrels less than eighteen inches in length and any weapon made from a
16 shotgun by any means of modification if such modified weapon has an
17 overall length of less than twenty-six 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) Cartridges are in a clip that is locked in place in the
36 firearm;

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

1 (d) There is a cartridge in the tube or magazine that is inserted
2 in the action; or

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

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

14 (11) "Crime of violence" means:

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

25 (b) Any conviction for a felony offense in effect at any time prior
26 to June 6, 1996, which is comparable to a felony classified as a crime
27 of violence in (a) of this subsection; and

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

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

34 (a) Any crime of violence;

35 (b) Any felony violation of the uniform controlled substances act,
36 chapter 69.50 RCW, that is classified as a class B felony or that has
37 a maximum term of imprisonment of at least ten years;

38 (c) Child molestation in the second degree;

1 (d) Incest when committed against a child under age fourteen;
2 (e) Indecent liberties;
3 (f) Leading organized crime;
4 (g) Promoting prostitution in the first degree;
5 (h) Rape in the third degree;
6 (i) Drive-by shooting;
7 (j) Sexual exploitation;
8 (k) Vehicular assault, when caused by the operation or driving of
9 a vehicle by a person while under the influence of intoxicating liquor
10 or any drug or by the operation or driving of a vehicle in a reckless
11 manner;
12 (l) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (m) Any other class B felony offense with a finding of sexual
17 motivation, as "sexual motivation" is defined under RCW 9.94A.030;
18 (n) Any other felony with a deadly weapon verdict under RCW
19 9.94A.602; or
20 (o) Any felony offense in effect at any time prior to June 6, 1996,
21 that is comparable to a serious offense, or any federal or out-of-state
22 conviction for an offense that under the laws of this state would be a
23 felony classified as a serious offense.
24 (13) "Law enforcement officer" includes a general authority
25 Washington peace officer as defined in RCW 10.93.020, or a specially
26 commissioned Washington peace officer as defined in RCW 10.93.020.
27 "Law enforcement officer" also includes a limited authority Washington
28 peace officer as defined in RCW 10.93.020 if such officer is duly
29 authorized by his or her employer to carry a concealed pistol.
30 (14) "Felony" means any felony offense under the laws of this state
31 or any federal or out-of-state offense comparable to a felony offense
32 under the laws of this state.
33 (15) "Sell" refers to the actual approval of the delivery of a
34 firearm in consideration of payment or promise of payment of a certain
35 price in money.
36 (16) "Barrel length" means the distance from the bolt face of a
37 closed action down the length of the axis of the bore to the crown of

1 the muzzle, or in the case of a barrel with attachments to the end of
2 any legal device permanently attached to the end of the muzzle.

3 (17) "Family or household member" means "family" or "household
4 member" as used in RCW 10.99.020.

5 (18)(a) "Gun show or event" means a place or event, a gun trade
6 show, gun collectors' show, flea market, or auction, other than a
7 permanent retail store, at which three or more individuals assemble to
8 display, sell, lease, or transfer new or used firearms or firearm
9 components to the public and that is not exempt from collecting sales
10 tax under RCW 82.08.0251.

11 (b) "Gun show or event" includes a place or event where ten or more
12 firearms are offered for transfer or transferred.

13 (c) "Gun show or event" includes, but is not limited to, an area
14 near the gun show or event that the sponsor knows or should reasonably
15 know will be used for parking for the gun show or event.

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