
ENGROSSED SUBSTITUTE HOUSE BILL 3148

State of Washington 60th Legislature 2008 Regular Session

By House Judiciary (originally sponsored by Representative Moeller)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to firearm licenses for persons from different
2 countries; amending RCW 9.41.070 and 9.41.097; adding a new section to
3 chapter 9.41 RCW; repealing RCW 9.41.170; prescribing penalties; and
4 declaring an emergency.

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

1 be denied, unless the applicant's alien firearm license is in a revoked
2 status, or the applicant:

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

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

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

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

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

17 (c) The issuing authority shall check with the national crime
18 information center, the Washington state patrol electronic data base,
19 the department of social and health services electronic data base, and
20 with other agencies or resources as appropriate, to determine whether
21 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess
22 a firearm.

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

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

36 The application for an original license shall include a complete
37 set 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) A political subdivision of the state shall not modify the
24 requirements of this section or chapter, nor may a political
25 subdivision ask the applicant to voluntarily submit any information not
26 required by this section.

27 (f) A person who knowingly makes a false statement regarding
28 citizenship or identity on an application for an alien firearm license
29 is guilty of false swearing under RCW 9A.72.040. In addition to any
30 other penalty provided for by law, the alien firearm license of a
31 person who knowingly makes a false statement shall be revoked, and the
32 person shall be permanently ineligible for an alien firearm license.

33 (g) A nonimmigrant alien may apply for an alien firearm license to
34 the county in which the applicant resides.

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

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

3 (b) An approved United States department of justice ATF-6 NIA
4 application and permit for temporary importation of firearms and
5 ammunition by nonimmigrant aliens; and

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

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

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

12 (a) Valid documentation as required for entry into the United
13 States;

14 (b) An approved United States department of justice ATF-6 NIA
15 application and permit for temporary importation of firearms and
16 ammunition by nonimmigrant aliens; and

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

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

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

23 (1) The chief of police of a municipality or the sheriff of a
24 county shall within thirty days after the filing of an application of
25 any person, issue a license to such person to carry a pistol concealed
26 on his or her person within this state for five years from date of
27 issue, for the purposes of protection or while engaged in business,
28 sport, or while traveling. However, if the applicant does not have a
29 valid permanent Washington driver's license or Washington state
30 identification card or has not been a resident of the state for the
31 previous consecutive ninety days, the issuing authority shall have up
32 to sixty days after the filing of the application to issue a license.
33 The issuing authority shall not refuse to accept completed applications
34 for concealed pistol licenses during regular business hours.

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

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

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

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

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

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

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

14 (g) He or she has been ordered to forfeit a firearm under RCW
15 9.41.098(1)(e) within one year before filing an application to carry a
16 pistol concealed on his or her person.

17 No person convicted of a felony may have his or her right to
18 possess firearms restored or his or her privilege to carry a concealed
19 pistol restored, unless the person has been granted relief from
20 disabilities by the secretary of the treasury under 18 U.S.C. Sec.
21 925(c), or RCW 9.41.040 (3) or (4) applies.

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

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

37 (4) The license application shall bear the full name, residential
38 address, telephone number at the option of the applicant, date and

1 place of birth, race, gender, description, (~~not more than two~~) a
2 complete set(~~s~~) of fingerprints, and signature of the licensee, and
3 the licensee's driver's license number or state identification card
4 number if used for identification in applying for the license. A
5 signed application for a concealed pistol license shall constitute a
6 waiver of confidentiality and written request that the department of
7 social and health services, mental health institutions, and other
8 health care facilities release information relevant to the applicant's
9 eligibility for a concealed pistol license to an inquiring court or law
10 enforcement agency.

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

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

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

20 The license shall contain a description of the major differences
21 between state and federal law and an explanation of the fact that local
22 laws and ordinances on firearms are preempted by state law and must be
23 consistent with state law. The application shall contain questions
24 about the applicant's eligibility under RCW 9.41.040 to possess a
25 pistol, the applicant's place of birth, and whether the applicant is a
26 United States citizen. The applicant shall not be required to produce
27 a birth certificate or other evidence of citizenship. A person who is
28 not a citizen of the United States shall meet the additional
29 requirements of (~~RCW 9.41.170~~) section 1 of this act and produce
30 proof of compliance with (~~RCW 9.41.170~~) section 1 of this act upon
31 application. The license shall be in triplicate and in a form to be
32 prescribed by the department of licensing.

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

37 The department of licensing shall make available to law enforcement

1 and corrections agencies, in an on-line format, all information
2 received under this subsection.

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

9 The fee shall be distributed as follows:

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

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

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

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

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

20 The renewal fee shall be distributed as follows:

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

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

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

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

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

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

1 (a) Three dollars shall be deposited in the state wildlife fund and
2 used exclusively first for the printing and distribution of a pamphlet
3 on the legal limits of the use of firearms, firearms safety, and the
4 preemptive nature of state law, and subsequently the support of
5 volunteer instructors in the basic firearms safety training program
6 conducted by the department of fish and wildlife. The pamphlet shall
7 be given to each applicant for a license; and

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

10 (10) Notwithstanding the requirements of subsections (1) through
11 (9) of this section, the chief of police of the municipality or the
12 sheriff of the county of the applicant's residence may issue a
13 temporary emergency license for good cause pending review under
14 subsection (1) of this section. However, a temporary emergency license
15 issued under this subsection shall not exempt the holder of the license
16 from any records check requirement. Temporary emergency licenses shall
17 be easily distinguishable from regular licenses.

18 (11) A political subdivision of the state shall not modify the
19 requirements of this section or chapter, nor may a political
20 subdivision ask the applicant to voluntarily submit any information not
21 required by this section.

22 (12) A person who knowingly makes a false statement regarding
23 citizenship or identity on an application for a concealed pistol
24 license is guilty of false swearing under RCW 9A.72.040. In addition
25 to any other penalty provided for by law, the concealed pistol license
26 of a person who knowingly makes a false statement shall be revoked, and
27 the person shall be permanently ineligible for a concealed pistol
28 license.

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

30 (a) To the municipality or to the county in which the applicant
31 resides if the applicant resides in a municipality;

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

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

35 **Sec. 3.** RCW 9.41.097 and 2005 c 274 s 202 are each amended to read
36 as follows:

37 (1) The department of social and health services, mental health

1 institutions, and other health care facilities shall, upon request of
2 a court or law enforcement agency, supply such relevant information as
3 is necessary to determine the eligibility of a person to possess a
4 pistol or to be issued a concealed pistol license under RCW 9.41.070 or
5 to purchase a pistol under RCW 9.41.090.

6 (2) Mental health information received by: (a) The department of
7 licensing pursuant to RCW 9.41.047 or (~~9.41.170~~) section 1 of this
8 act; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c)
9 a chief of police or sheriff pursuant to RCW 9.41.090 or (~~9.41.170~~)
10 section 1 of this act; (d) a court or law enforcement agency pursuant
11 to subsection (1) of this section, shall not be disclosed except as
12 provided in RCW 42.56.240(4).

13 NEW SECTION. Sec. 4. RCW 9.41.170 (Alien's license to carry
14 firearms--Exception) and 1996 c 295 s 11, 1994 c 190 s 1, 1979 c 158 s
15 3, 1969 ex.s. c 90 s 1, & 1953 c 109 s 1 are each repealed.

16 NEW SECTION. Sec. 5. This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and takes effect
19 immediately.

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