

# SENATE BILL REPORT

## 2SHB 1052

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As Reported by Senate Committee On:  
Judiciary, March 27, 2009

**Title:** An act relating to firearm licenses for persons from different countries.

**Brief Description:** Concerning firearm licenses for persons from other countries.

**Sponsors:** House Committee on General Government Appropriations (originally sponsored by Representatives Moeller, Williams, Blake, Chase and Kretz).

**Brief History:** Passed House: 3/03/09, 97-0.

**Committee Activity:** Judiciary: 3/24/09, 3/27/09 [DPA].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles, Roach and Tom.

**Staff:** Brandon Roché (786-7405)

**Background:** Alien Firearm Licenses. It is a class C felony for a person who is not a citizen of the United States to possess a firearm in Washington unless the person has obtained an alien firearms license from the Department of Licensing (DOL). Based on the language in the Alien Firearms License statute and the requirements of federal law, the DOL has interpreted the Alien Firearms License statute to allow only those noncitizens who are residents of Washington to obtain an alien firearms license.

An alien firearm license is valid for a period of five years. An applicant for an alien firearm license must pay a fee of \$55 to the DOL plus additional charges imposed by the Federal Bureau of Investigation (FBI) that are passed on to the applicant. The DOL must distribute the fee as follows: \$15 to the DOL; \$25 to the Washington State Patrol; and \$15 to the local law enforcement agency conducting the background check.

Federal Law. The federal Gun Control Act generally prohibits aliens admitted to the United States under non-immigrant visas from importing firearms into or possessing firearms within the United States. There is an exception for those non-immigrant aliens who are either admitted to the United States for lawful hunting or sporting purposes or in possession of a

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hunting license lawfully issued in the United States. The definition of "non-immigrant alien" under federal law encompasses persons who have been granted the right to travel or temporarily reside in the United States (e.g., foreign students and foreign workers). Permanent resident aliens and persons in the United States under asylum or refugee status are not non-immigrant aliens.

**Summary of Bill (Recommended Amendments):** The Alien Firearms License statute is repealed and new requirements for the possession of firearms by noncitizens are established. The prohibition on a noncitizen's possession of a firearm without an alien firearm license only applies to non-immigrant aliens. A noncitizen who is not a non-immigrant alien (e.g., a permanent resident alien) is no longer subject to a criminal penalty for possessing a firearm without having obtained an alien firearm license.

Non-immigrants Residing in Washington. It is a class C felony for a non-immigrant alien residing in Washington to carry or possess any firearm without having an alien firearm license. An applicant for an alien firearm license may apply to the county sheriff where the applicant resides, and the sheriff has 60 days to issue the license. The license allows the applicant to carry or possess a firearm for the purpose of hunting and sport shooting, and it expires two years after issuance or when the person permanently leaves the state.

An applicant for an alien firearm license must submit a copy of a passport and visa showing that the applicant is in the country legally and a valid Washington hunting license or documentation that the applicant is a member of a sport shooting club. The county sheriff must conduct a fingerprint-based background check through the National Crime Information Center, the Washington State Patrol (WSP), the Department of Social and Health Services databases, and other appropriate agencies to determine whether the applicant is ineligible to possess a firearm under state law.

The fee for the license is \$50, plus additional charges imposed by the WSP and the FBI that are passed on to the applicant. The fee is retained by the county sheriff issuing the license.

Non-immigrants Who Do Not Reside in Washington. It is a class C felony for a non-immigrant alien who is not a resident of Washington to carry or possess a firearm in Washington unless that person possesses a valid passport and visa, or in the case of a Canadian citizen, valid documentation for entry into the United States; an approved Department of Treasury ATF Form 6NIA application and permit, if required under federal law; and a valid hunting license or an invitation to participate in a trade show or sport shooting event.

Law enforcement agencies and other entities are provided immunity for activities associated with the issuance or denial of an alien firearm license.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments):** The law is reinstated that makes it a class C felony for a person who is not a citizen of the United States to possess firearms. There are three exceptions to this:

1. A lawful permanent resident may possess firearms. A definition of a lawful permanent resident is added.

2. A nonimmigrant alien who is a resident of Washington may obtain an alien firearm license in order to possess firearms. A definition of who is a nonimmigrant alien is added. An alien firearms license is obtained through the sheriff of the county where the person resides.
3. A nonimmigrant alien who is not a resident of Washington does not need to obtain an alien firearms license.

An alien firearms license is valid for two years. The sheriff is authorized to collect and keep the \$50 application fee as well as pass along costs associated with the requisite background checks.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Second Substitute House Bill:** PRO: The impetus for the bill was to allow participants in the upcoming Winter Olympic games in Vancouver to participate in shooting events in Washington in preparation for the games. This would also encourage out of country people to come to the state of Washington to hunt. We have no problem with the proposed amendment.

**Persons Testifying:** PRO: Representative Moeller, prime sponsor; Ed Owens, Hunters Heritage Council.