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**SUBSTITUTE HOUSE BILL 1052**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Moeller, Williams, Blake, Chase, and Kretz)

READ FIRST TIME 02/02/09.

1            AN ACT Relating to firearm licenses for persons from different  
2 countries; amending RCW 9.41.070, 9.41.097, and 9.41.0975; adding a new  
3 section to chapter 9.41 RCW; repealing RCW 9.41.170; and prescribing  
4 penalties.

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

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

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

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

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

37 (h) A person who knowingly makes a false statement regarding  
38 citizenship or identity on an application for an alien firearm license

1 is guilty of false swearing under RCW 9A.72.040. In addition to any  
2 other penalty provided for by law, the alien firearm license of a  
3 person who knowingly makes a false statement shall be revoked, and the  
4 person shall be permanently ineligible for an alien firearm license.

5 (i) A nonimmigrant alien may apply for an alien firearm license to  
6 the county in which the applicant resides.

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

10 (a) A valid passport and visa showing he or she is in the country  
11 legally;

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

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

17 (ii) An invitation to participate in a trade show or sport shooting  
18 event being conducted in this state, another state, or another country  
19 that is contiguous with this state.

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

22 (a) Valid documentation as required for entry into the United  
23 States;

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

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

29 (ii) An invitation to participate in a trade show or sport shooting  
30 event being conducted in this state, another state, or another country  
31 that is contiguous with this state.

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

34 (1) The chief of police of a municipality or the sheriff of a  
35 county shall within thirty days after the filing of an application of  
36 any person, issue a license to such person to carry a pistol concealed  
37 on his or her person within this state for five years from date of

1 issue, for the purposes of protection or while engaged in business,  
2 sport, or while traveling. However, if the applicant does not have a  
3 valid permanent Washington driver's license or Washington state  
4 identification card or has not been a resident of the state for the  
5 previous consecutive ninety days, the issuing authority shall have up  
6 to sixty days after the filing of the application to issue a license.  
7 The issuing authority shall not refuse to accept completed applications  
8 for concealed pistol licenses during regular business hours.

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

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

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

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

16 (d) He or she is subject to a court order or injunction regarding  
17 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
18 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060,  
19 26.50.070, or 26.26.590;

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

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

24 (g) He or she has been ordered to forfeit a firearm under RCW  
25 9.41.098(1)(e) within one year before filing an application to carry a  
26 pistol concealed on his or her person.

27 No person convicted of a felony may have his or her right to  
28 possess firearms restored or his or her privilege to carry a concealed  
29 pistol restored, unless the person has been granted relief from  
30 disabilities by the secretary of the treasury under 18 U.S.C. Sec.  
31 925(c), or RCW 9.41.040 (3) or (4) applies.

32 (2) The issuing authority shall check with the national crime  
33 information center, the Washington state patrol electronic database,  
34 the department of social and health services electronic database, and  
35 with other agencies or resources as appropriate, to determine whether  
36 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess  
37 a firearm and therefore ineligible for a concealed pistol license.

1 This subsection applies whether the applicant is applying for a new  
2 concealed pistol license or to renew a concealed pistol license.

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

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

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

24 The license and application shall contain a warning substantially  
25 as follows:

26 CAUTION: Although state and local laws do not differ, federal  
27 law and state law on the possession of firearms differ. If you  
28 are prohibited by federal law from possessing a firearm, you  
29 may be prosecuted in federal court. A state license is not a  
30 defense to a federal prosecution.

31 The license shall contain a description of the major differences  
32 between state and federal law and an explanation of the fact that local  
33 laws and ordinances on firearms are preempted by state law and must be  
34 consistent with state law. The application shall contain questions  
35 about the applicant's eligibility under RCW 9.41.040 to possess a  
36 pistol, the applicant's place of birth, and whether the applicant is a  
37 United States citizen. The applicant shall not be required to produce  
38 a birth certificate or other evidence of citizenship. A person who is

1 not a citizen of the United States shall, if applicable, meet the  
2 additional requirements of ((RCW 9.41.170)) section 1 of this act and  
3 produce proof of compliance with ((RCW 9.41.170)) section 1 of this act  
4 upon application. The license ((shall)) may be in triplicate ((and))  
5 or in a form to be prescribed by the department of licensing.

6 The original thereof shall be delivered to the licensee, the  
7 duplicate shall within seven days be sent to the director of licensing  
8 and the triplicate shall be preserved for six years, by the authority  
9 issuing the license.

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

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

19 The fee shall be distributed as follows:

- 20 (a) Fifteen dollars shall be paid to the state general fund;
- 21 (b) Four dollars shall be paid to the agency taking the  
22 fingerprints of the person licensed;
- 23 (c) Fourteen dollars shall be paid to the issuing authority for the  
24 purpose of enforcing this chapter; and
- 25 (d) Three dollars to the firearms range account in the general  
26 fund.

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

30 The renewal fee shall be distributed as follows:

- 31 (a) Fifteen dollars shall be paid to the state general fund;
- 32 (b) Fourteen dollars shall be paid to the issuing authority for the  
33 purpose of enforcing this chapter; and
- 34 (c) Three dollars to the firearms range account in the general  
35 fund.

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

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

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

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

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

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

28 (11) A political subdivision of the state shall not modify the  
29 requirements of this section or chapter, nor may a political  
30 subdivision ask the applicant to voluntarily submit any information not  
31 required by this section.

32 (12) A person who knowingly makes a false statement regarding  
33 citizenship or identity on an application for a concealed pistol  
34 license is guilty of false swearing under RCW 9A.72.040. In addition  
35 to any other penalty provided for by law, the concealed pistol license  
36 of a person who knowingly makes a false statement shall be revoked, and  
37 the person shall be permanently ineligible for a concealed pistol  
38 license.



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

2 (a) To the municipality or to the county in which the applicant  
3 resides if the applicant resides in a municipality;

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

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

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

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

15 (2) Mental health information received by: (a) The department of  
16 licensing pursuant to RCW 9.41.047 or (~~9.41.170~~) section 1 of this  
17 act; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c)  
18 a chief of police or sheriff pursuant to RCW 9.41.090 or (~~9.41.170~~)  
19 section 1 of this act; (d) a court or law enforcement agency pursuant  
20 to subsection (1) of this section, shall not be disclosed except as  
21 provided in RCW 42.56.240(4).

22 **Sec. 4.** RCW 9.41.0975 and 1996 c 295 s 9 are each amended to read  
23 as follows:

24 (1) The state, local governmental entities, any public or private  
25 agency, and the employees of any state or local governmental entity or  
26 public or private agency, acting in good faith, are immune from  
27 liability:

28 (a) For failure to prevent the sale or transfer of a firearm to a  
29 person whose receipt or possession of the firearm is unlawful;

30 (b) For preventing the sale or transfer of a firearm to a person  
31 who may lawfully receive or possess a firearm;

32 (c) For issuing a concealed pistol license or alien firearm license  
33 to a person ineligible for such a license;

34 (d) For failing to issue a concealed pistol license or alien  
35 firearm license to a person eligible for such a license;

1 (e) For revoking or failing to revoke an issued concealed pistol  
2 license or alien firearm license;

3 (f) For errors in preparing or transmitting information as part of  
4 determining a person's eligibility to receive or possess a firearm, or  
5 eligibility for a concealed pistol license or alien firearm license;

6 (g) For issuing a dealer's license to a person ineligible for such  
7 a license; or

8 (h) For failing to issue a dealer's license to a person eligible  
9 for such a license.

10 (2) An application may be made to a court of competent jurisdiction  
11 for a writ of mandamus:

12 (a) Directing an issuing agency to issue a concealed pistol license  
13 or alien firearm license wrongfully refused;

14 (b) Directing a law enforcement agency to approve an application to  
15 purchase wrongfully denied;

16 (c) Directing that erroneous information resulting either in the  
17 wrongful refusal to issue a concealed pistol license or alien firearm  
18 license or in the wrongful denial of a purchase application be  
19 corrected; or

20 (d) Directing a law enforcement agency to approve a dealer's  
21 license wrongfully denied.

22 The application for the writ may be made in the county in which the  
23 application for a concealed pistol license or alien firearm license or  
24 to purchase a pistol was made, or in Thurston county, at the discretion  
25 of the petitioner. A court shall provide an expedited hearing for an  
26 application brought under this subsection (2) for a writ of mandamus.  
27 A person granted a writ of mandamus under this subsection (2) shall be  
28 awarded reasonable attorneys' fees and costs.

29 NEW SECTION. **Sec. 5.** RCW 9.41.170 (Alien's license to carry  
30 firearms--Exception) and 1996 c 295 s 11, 1994 c 190 s 1, 1979 c 158 s  
31 3, 1969 ex.s. c 90 s 1, & 1953 c 109 s 1 are each repealed.

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