

ESHB 1041 - S COMM AMD
By Committee on Judiciary

ADOPTED AS AMENDED 04/05/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.41.060 and 2005 c 453 s 3 are each amended to read
4 as follows:

5 The provisions of RCW 9.41.050 shall not apply to:

6 (1) Marshals, sheriffs, prison or jail wardens or their deputies,
7 correctional personnel and community corrections officers who have
8 completed government-sponsored law enforcement firearms training and
9 have been subject to a check through the national instant criminal
10 background check system or an equivalent background check within the
11 past five years, or other law enforcement officers of this state or
12 another state. Correctional personnel and community corrections
13 officers seeking the waiver provided for by this section are required
14 to pay for any background check that is needed in order to exercise the
15 waiver;

16 (2) Members of the armed forces of the United States or of the
17 national guard or organized reserves, when on duty;

18 (3) Officers or employees of the United States duly authorized to
19 carry a concealed pistol;

20 (4) Any person engaged in the business of manufacturing, repairing,
21 or dealing in firearms, or the agent or representative of the person,
22 if possessing, using, or carrying a pistol in the usual or ordinary
23 course of the business;

24 (5) Regularly enrolled members of any organization duly authorized
25 to purchase or receive pistols from the United States or from this
26 state;

27 (6) Regularly enrolled members of clubs organized for the purpose
28 of target shooting, when those members are at or are going to or from
29 their places of target practice;

1 (7) Regularly enrolled members of clubs organized for the purpose
2 of modern and antique firearm collecting, when those members are at or
3 are going to or from their collector's gun shows and exhibits;

4 (8) Any person engaging in a lawful outdoor recreational activity
5 such as hunting, fishing, camping, hiking, or horseback riding, only
6 if, considering all of the attendant circumstances, including but not
7 limited to whether the person has a valid hunting or fishing license,
8 it is reasonable to conclude that the person is participating in lawful
9 outdoor activities or is traveling to or from a legitimate outdoor
10 recreation area;

11 (9) Any person while carrying a pistol unloaded and in a closed
12 opaque case or secure wrapper; ((or))

13 (10) Law enforcement officers retired for service or physical
14 disabilities, except for those law enforcement officers retired because
15 of mental or stress-related disabilities. This subsection applies only
16 to a retired officer who has: (a) Obtained documentation from a law
17 enforcement agency within Washington state from which he or she retired
18 that is signed by the agency's chief law enforcement officer and that
19 states that the retired officer was retired for service or physical
20 disability; and (b) not been convicted or found not guilty by reason of
21 insanity of a crime making him or her ineligible for a concealed pistol
22 license; or

23 (11) Correctional personnel and community corrections officers who
24 have completed government-sponsored law enforcement firearms training
25 and who are retired for service or physical disabilities, except for
26 correctional personnel or community corrections officers retired
27 because of mental or stress-related disabilities. This subsection
28 applies only if the person has: (a) Obtained documentation from the
29 agency within Washington state from which the person retired that
30 states that the person was retired for service or physical disability;
31 and (b) not been convicted or found not guilty by reason of insanity of
32 a crime making him or her ineligible for a concealed pistol license.
33 Government-sponsored law enforcement firearms training must be training
34 that correctional personnel and community corrections officers receive
35 as part of their job requirement and reference to such training does
36 not constitute a mandate that it be provided by the correctional
37 facility.

1 **Sec. 2.** RCW 9.41.300 and 2008 c 33 s 1 are each amended to read as
2 follows:

3 (1) It is unlawful for any person to enter the following places
4 when he or she knowingly possesses or knowingly has under his or her
5 control a weapon:

6 (a) The restricted access areas of a jail, or of a law enforcement
7 facility, or any place used for the confinement of a person (i)
8 arrested for, charged with, or convicted of an offense, (ii) held for
9 extradition or as a material witness, or (iii) otherwise confined
10 pursuant to an order of a court, except an order under chapter 13.32A
11 or 13.34 RCW. Restricted access areas do not include common areas of
12 egress or ingress open to the general public;

13 (b) Those areas in any building which are used in connection with
14 court proceedings, including courtrooms, jury rooms, judge's chambers,
15 offices and areas used to conduct court business, waiting areas, and
16 corridors adjacent to areas used in connection with court proceedings.
17 The restricted areas do not include common areas of ingress and egress
18 to the building that is used in connection with court proceedings, when
19 it is possible to protect court areas without restricting ingress and
20 egress to the building. The restricted areas shall be the minimum
21 necessary to fulfill the objective of this subsection (1)(b).

22 For purposes of this subsection (1)(b), "weapon" means any firearm,
23 explosive as defined in RCW 70.74.010, or any weapon of the kind
24 usually known as slung shot, sand club, or metal knuckles, or any
25 knife, dagger, dirk, or other similar weapon that is capable of causing
26 death or bodily injury and is commonly used with the intent to cause
27 death or bodily injury.

28 In addition, the local legislative authority shall provide either
29 a stationary locked box sufficient in size for pistols and key to a
30 weapon owner for weapon storage, or shall designate an official to
31 receive weapons for safekeeping, during the owner's visit to restricted
32 areas of the building. The locked box or designated official shall be
33 located within the same building used in connection with court
34 proceedings. The local legislative authority shall be liable for any
35 negligence causing damage to or loss of a weapon either placed in a
36 locked box or left with an official during the owner's visit to
37 restricted areas of the building.

1 The local judicial authority shall designate and clearly mark those
2 areas where weapons are prohibited, and shall post notices at each
3 entrance to the building of the prohibition against weapons in the
4 restricted areas;

5 (c) The restricted access areas of a public mental health facility
6 certified by the department of social and health services for inpatient
7 hospital care and state institutions for the care of the mentally ill,
8 excluding those facilities solely for evaluation and treatment.
9 Restricted access areas do not include common areas of egress and
10 ingress open to the general public;

11 (d) That portion of an establishment classified by the state liquor
12 control board as off-limits to persons under twenty-one years of age;
13 or

14 (e) The restricted access areas of a commercial service airport
15 designated in the airport security plan approved by the federal
16 transportation security administration, including passenger screening
17 checkpoints at or beyond the point at which a passenger initiates the
18 screening process. These areas do not include airport drives, general
19 parking areas and walkways, and shops and areas of the terminal that
20 are outside the screening checkpoints and that are normally open to
21 unscreened passengers or visitors to the airport. Any restricted
22 access area shall be clearly indicated by prominent signs indicating
23 that firearms and other weapons are prohibited in the area.

24 (2) Cities, towns, counties, and other municipalities may enact
25 laws and ordinances:

26 (a) Restricting the discharge of firearms in any portion of their
27 respective jurisdictions where there is a reasonable likelihood that
28 humans, domestic animals, or property will be jeopardized. Such laws
29 and ordinances shall not abridge the right of the individual guaranteed
30 by Article I, section 24 of the state Constitution to bear arms in
31 defense of self or others; and

32 (b) Restricting the possession of firearms in any stadium or
33 convention center, operated by a city, town, county, or other
34 municipality, except that such restrictions shall not apply to:

35 (i) Any pistol in the possession of a person licensed under RCW
36 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

37 (ii) Any showing, demonstration, or lecture involving the
38 exhibition of firearms.

1 (3)(a) Cities, towns, and counties may enact ordinances restricting
2 the areas in their respective jurisdictions in which firearms may be
3 sold, but, except as provided in (b) of this subsection, a business
4 selling firearms may not be treated more restrictively than other
5 businesses located within the same zone. An ordinance requiring the
6 cessation of business within a zone shall not have a shorter
7 grandfather period for businesses selling firearms than for any other
8 businesses within the zone.

9 (b) Cities, towns, and counties may restrict the location of a
10 business selling firearms to not less than five hundred feet from
11 primary or secondary school grounds, if the business has a storefront,
12 has hours during which it is open for business, and posts
13 advertisements or signs observable to passersby that firearms are
14 available for sale. A business selling firearms that exists as of the
15 date a restriction is enacted under this subsection (3)(b) shall be
16 grandfathered according to existing law.

17 (4) Violations of local ordinances adopted under subsection (2) of
18 this section must have the same penalty as provided for by state law.

19 (5) The perimeter of the premises of any specific location covered
20 by subsection (1) of this section shall be posted at reasonable
21 intervals to alert the public as to the existence of any law
22 restricting the possession of firearms on the premises.

23 (6) Subsection (1) of this section does not apply to:

24 (a) A person engaged in military activities sponsored by the
25 federal or state governments, while engaged in official duties;

26 (b) Law enforcement personnel, except that subsection (1)(b) of
27 this section does apply to a law enforcement officer who is present at
28 a courthouse building as a party to an action under chapter 10.14,
29 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
30 has alleged the existence of domestic violence as defined in RCW
31 26.50.010; or

32 (c) Security personnel while engaged in official duties.

33 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
34 apply to correctional personnel or community corrections officers who
35 have completed government-sponsored law enforcement firearms training,
36 except that subsection (1)(b) of this section does apply to a
37 correctional employee or community corrections officer who is present
38 at a courthouse building as a party to an action under chapter 10.14,

1 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
2 has alleged the existence of domestic violence as defined in RCW
3 26.50.010.

4 (8) Subsection (1)(a) of this section does not apply to a person
5 licensed pursuant to RCW 9.41.070 who, upon entering the place or
6 facility, directly and promptly proceeds to the administrator of the
7 facility or the administrator's designee and obtains written permission
8 to possess the firearm while on the premises or checks his or her
9 firearm. The person may reclaim the firearms upon leaving but must
10 immediately and directly depart from the place or facility.

11 ~~((+8))~~ (9) Subsection (1)(c) of this section does not apply to any
12 administrator or employee of the facility or to any person who, upon
13 entering the place or facility, directly and promptly proceeds to the
14 administrator of the facility or the administrator's designee and
15 obtains written permission to possess the firearm while on the
16 premises.

17 ~~((+9))~~ (10) Subsection (1)(d) of this section does not apply to
18 the proprietor of the premises or his or her employees while engaged in
19 their employment.

20 ~~((+10))~~ (11) Government-sponsored law enforcement firearms
21 training must be training that correctional personnel and community
22 corrections officers receive as part of their job requirement and
23 reference to such training does not constitute a mandate that it be
24 provided by the correctional facility.

25 (12) Any person violating subsection (1) of this section is guilty
26 of a gross misdemeanor.

27 ~~((+11))~~ (13) "Weapon" as used in this section means any firearm,
28 explosive as defined in RCW 70.74.010, or instrument or weapon listed
29 in RCW 9.41.250.

30 NEW SECTION. Sec. 3. A new section is added to chapter 9.41 RCW
31 to read as follows:

32 The exemptions from firearms restrictions in RCW 9.41.060 and
33 9.41.300 for correctional personnel and community corrections officers
34 who complete government-sponsored law enforcement firearms training do
35 not create a duty on the part of the state or local governmental
36 entities with respect to the off-duty conduct of correctional personnel

1 and community corrections officers involving the use or misuse of a
2 firearm.

3 The state of Washington, local governmental entities, and their
4 officers, employees, and agents are not liable for any civil damages
5 caused by the use or misuse of a firearm by off-duty correctional
6 personnel or community corrections officers based on any act or
7 omission in the provision of government-sponsored firearms training to
8 the correctional personnel or community corrections officers."

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9 On page 1, line 4 of the title, after "restrictions;" strike the
10 remainder of the title and insert "amending RCW 9.41.060 and 9.41.300;
11 and adding a new section to chapter 9.41 RCW."

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