

SENATE BILL REPORT

ESHB 1041

As Reported by Senate Committee On:
Judiciary, March 24, 2011

Title: An act relating to including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions.

Brief Description: Including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Green, Angel, Goodman, McCune, Kelley, Hope, Dammeier, Warnick, Blake, Hurst, Moeller and Upthegrove).

Brief History: Passed House: 3/04/11, 84-13.

Committee Activity: Judiciary: 3/23/11, 3/24/11 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Baxter, Carrell, Kohl-Welles, Regala and Roach.

Staff: Lidia Mori (786-7755)

Background: State law regulates the possession, use, and transfer of firearms and other weapons under the Firearms and Dangerous Weapons Law. Among other things, this chapter imposes restrictions on the carrying of certain firearms and prohibits possession of weapons in certain places.

A person is prohibited from carrying a concealed pistol in Washington unless the person has a valid concealed pistol license and there are also restrictions on the carrying of pistols in vehicles. A person may not carry a loaded pistol in a vehicle unless the person has a concealed pistol license and either the pistol is on the person, the person is within the vehicle at all times the pistol is present, or the pistol is locked within the vehicle and concealed from view. An unloaded pistol kept in a vehicle must be locked within the vehicle and concealed from view.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A number of exemptions are provided from the requirements relating to carrying concealed pistols and carrying pistols in a vehicle. Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this state or another state are exempt, as are retired Washington law enforcement officers. Also exempt are federal officers and military members, persons engaged in various firearms manufacturing or dealing jobs, and persons engaged in various activities such as sport shooting, gun collecting, or outdoor recreation. The Firearms and Dangerous Weapons Law also prohibits possession of weapons in certain places. Weapons are prohibited in court facilities, taverns and bars, and restricted areas of jails and law enforcement facilities, public mental health facilities, and commercial airports. Weapons include firearms, explosives, spring-blade knives, daggers, dirks, sling shots, sand clubs, and metal knuckles. There is an exemption from these restrictions for law enforcement personnel and military and security personnel while engaged in official business.

Summary of Bill (Recommended Amendments): Correctional personnel and community correction officers who have completed government-sponsored law enforcement firearms training and have been subject to a check through the national instant criminal background check system (NICBCS) or an equivalent background check within the past five years are exempt from restrictions on carrying a concealed pistol; carrying a pistol in a vehicle; and possession of weapons in court facilities under certain circumstances and restricted areas of jails, law enforcement facilities, public mental health facilities, and commercial airports. If a background check is necessary, the person seeking the waiver from the requirement to have a concealed pistol license must pay the cost for the background check. Correctional personnel are not exempt from the restriction on possessing firearms in taverns and bars.

Retired correctional personnel and community corrections officers who have completed government-sponsored law enforcement firearms training are exempt from restrictions on the carrying of a concealed pistol on the person or in a vehicle. The exemption applies only if the person has obtained documentation from the agency in the state from which the person retired stating that the person retired for service or physical disability, and has not been convicted or found not guilty by reason of insanity of a crime making the person ineligible for a concealed pistol license.

Government-sponsored law enforcement firearms training must be training the correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

The exemptions created by the act do not create a duty on the part of the state or a local government with respect to the off-duty use or misuse of a firearm by correctional personnel. The state; local governments; and their officers, employees, and agents are not liable for damages caused by the use or misuse of a firearm by off-duty correctional personnel based on a claim of negligence in the provision of government-sponsored firearms training.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): Community corrections officers are included in the exemption from the requirement to have a concealed pistol license. Correctional personnel and community

correction officers who have completed government-sponsored law enforcement firearms training and have been subject to a check through NICBCS or an equivalent background check within the past five years are exempt from restrictions on carrying a concealed pistol; carrying a pistol in a vehicle; and possession of weapons in court facilities under certain circumstances and restricted areas of jails, law enforcement facilities, public mental health facilities, and commercial airports. If a background check is necessary, the person seeking the waiver from the requirement to have a concealed pistol license must pay the cost for the background check. It is clarified that the requirement of government sponsored law enforcement firearms training does not impose any requirement that the training be provided by the correctional facility but instead must be training that is part of the person's employment.

Appropriation: None.

Fiscal Note: Not requested.

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 Engrossed Substitute House Bill: PRO: This bill is important to my people, we've had instances out in the community where correctional employees have had negative interactions with former inmates. One instance involved a former inmate turning a gas hose on a correctional person who was pumping gas into her car at a gas station. Our officers are highly trained; we receive basically the same training that police officers do. We go through yearly background checks – anyone that handles a firearm out in the jails goes through the same training. A lot of the offenders, when they get released, go back into the communities, and I myself have been confronted by former inmates when I've been out with my family. It causes a lot of apprehension. We are asking to be given the same dignity, respect, and rights that police officers have since we do get the same training, background checks, and psychological evaluations.

Persons Testifying: PRO: Ronnie Matsen, Department of Corrections, Teamsters 117; Mark Gjurasic, King County Adult Corrections Guild.