
SUBSTITUTE HOUSE BILL 1041

State of Washington

62nd Legislature

2011 Regular Session

By House Judiciary (originally sponsored by Representatives Green, Angel, Goodman, McCune, Kelley, Hope, Dammeier, Warnick, Blake, Hurst, Moeller, and Upthegrove)

READ FIRST TIME 02/01/11.

1 AN ACT Relating to including correctional employees who have
2 completed government-sponsored law enforcement firearms training to the
3 lists of law enforcement personnel that are exempt from certain firearm
4 restrictions; amending RCW 9.41.060 and 9.41.300; and adding a new
5 section to chapter 9.41 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 9.41.060 and 2005 c 453 s 3 are each amended to read
8 as follows:

9 The provisions of RCW 9.41.050 shall not apply to:

10 (1) Marshals, sheriffs, prison or jail wardens or their deputies,
11 correctional personnel who have completed government-sponsored law
12 enforcement firearms training, or other law enforcement officers of
13 this state or another state;

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

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

18 (4) Any person engaged in the business of manufacturing, repairing,

1 or dealing in firearms, or the agent or representative of the person,
2 if possessing, using, or carrying a pistol in the usual or ordinary
3 course of the business;

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

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

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

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

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

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

32 (11) Correctional personnel who have completed government-sponsored
33 law enforcement firearms training and who are retired for service or
34 physical disabilities, except for correctional personnel retired
35 because of mental or stress-related disabilities. This subsection
36 applies only if the person has: (a) Obtained documentation from the
37 agency within Washington state from which the person retired that

1 states that the person was retired for service or physical disability;
2 and (b) not been convicted or found not guilty by reason of insanity of
3 a crime making him or her ineligible for a concealed pistol license.

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

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

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

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

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

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

1 negligence causing damage to or loss of a weapon either placed in a
2 locked box or left with an official during the owner's visit to
3 restricted areas of the building.

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

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

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

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

27 (2) Cities, towns, counties, and other municipalities may enact
28 laws and ordinances:

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

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

1 (i) Any pistol in the possession of a person licensed under RCW
2 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

3 (ii) Any showing, demonstration, or lecture involving the
4 exhibition of firearms.

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

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

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

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

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

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

30 (b) Law enforcement personnel, and correctional personnel who have
31 completed government-sponsored law enforcement firearms training,
32 except that subsection (1)(b) of this section does apply to a law
33 enforcement officer or correctional employee who is present at a
34 courthouse building as a party to an action under chapter 10.14, 10.99,
35 or 26.50 RCW, or an action under Title 26 RCW where any party has
36 alleged the existence of domestic violence as defined in RCW 26.50.010;
37 or

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

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

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

14 (9) Subsection (1)(d) of this section does not apply to the
15 proprietor of the premises or his or her employees while engaged in
16 their employment.

17 (10) Any person violating subsection (1) of this section is guilty
18 of a gross misdemeanor.

19 (11) "Weapon" as used in this section means any firearm, explosive
20 as defined in RCW 70.74.010, or instrument or weapon listed in RCW
21 9.41.250.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.41 RCW
23 to read as follows:

24 The exemptions from firearms restrictions in RCW 9.41.060 and
25 9.41.300 for correctional personnel who complete government-sponsored
26 law enforcement firearms training do not create a duty on the part of
27 the state or local governmental entities with respect to the off-duty
28 conduct of correctional personnel involving the use or misuse of a
29 firearm.

30 The state of Washington, local governmental entities, and their
31 officers, employees, and agents are not liable for any civil damages
32 caused by the use or misuse of a firearm by off-duty correctional
33 personnel based on any act or omission in the provision of government-
34 sponsored firearms training to the correctional personnel.

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