

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2420**

54th Legislature  
1996 Regular Session

Passed by the House March 5, 1996  
Yeas 73 Nays 22

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**Speaker of the  
House of Representatives**

Passed by the Senate March 1, 1996  
Yeas 49 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2420** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2420**

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AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

**State of Washington                      54th Legislature                      1996 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives McMorris, Sheahan, Thompson, Koster, Buck, Mastin, McMahan, Grant, Schoesler, Crouse, Chandler, Dyer, Smith, Campbell, Goldsmith, Radcliff, Boldt, Mulliken, Beeksma, Robertson, Morris, Fuhrman, L. Thomas, Sterk, D. Schmidt, Johnson, Chappell, Carrell, Hatfield, Sheldon, Sherstad, Stevens, Honeyford, Elliot, Huff, Van Luven, B. Thomas, Pennington, Kessler and Benton)

Read first time 02/02/96.

1            AN ACT Relating to possession of firearms; amending RCW 9.41.050,  
2 9.41.060, 9.41.070, 9.41.075, 9.41.0975, 9.41.098, 9.41.170, 9.41.190,  
3 9.41.280, and 9.41.800; reenacting and amending RCW 9.41.010, 9.41.040,  
4 9.41.047, and 9.41.090; and prescribing penalties.

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

6            **Sec. 1.** RCW 9.41.010 and 1994 sp.s. c 7 s 401 and 1994 c 121 s 1  
7 are each reenacted and amended to read as follows:

8            Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10           (1) "Firearm" means a weapon or device from which a projectile or  
11 projectiles may be fired by an explosive such as gunpowder.

12           (2) "Pistol" means any firearm with a barrel less than (~~twelve~~)  
13 sixteen inches in length, or is designed to be held and fired by the  
14 use of a single hand.

15           (3) "Rifle" means a weapon designed or redesigned, made or remade,  
16 and intended to be fired from the shoulder and designed or redesigned,  
17 made or remade, and intended to use the energy of the explosive in a  
18 fixed metallic cartridge to fire only a single projectile through a  
19 rifled bore for each single pull of the trigger.

1 (4) "Short-barreled rifle" means a rifle having one or more barrels  
2 less than sixteen inches in length and any weapon made from a rifle by  
3 any means of modification if such modified weapon has an overall length  
4 of less than twenty-six inches.

5 (5) "Shotgun" means a weapon with one or more barrels, designed or  
6 redesigned, made or remade, and intended to be fired from the shoulder  
7 and designed or redesigned, made or remade, and intended to use the  
8 energy of the explosive in a fixed shotgun shell to fire through a  
9 smooth bore either a number of ball shot or a single projectile for  
10 each single pull of the trigger.

11 (6) "Short-barreled shotgun" means a shotgun having one or more  
12 barrels less than eighteen inches in length and any weapon made from a  
13 shotgun by any means of modification if such modified weapon has an  
14 overall length of less than twenty-six inches.

15 (7) "Machine gun" means any firearm known as a machine gun,  
16 mechanical rifle, submachine gun, or any other mechanism or instrument  
17 not requiring that the trigger be pressed for each shot and having a  
18 reservoir clip, disc, drum, belt, or other separable mechanical device  
19 for storing, carrying, or supplying ammunition which can be loaded into  
20 the firearm, mechanism, or instrument, and fired therefrom at the rate  
21 of five or more shots per second.

22 (8) "Antique firearm" means a firearm or replica of a firearm not  
23 designed or redesigned for using rim fire or conventional center fire  
24 ignition with fixed ammunition and manufactured in or before 1898,  
25 including any matchlock, flintlock, percussion cap, or similar type of  
26 ignition system and also any firearm using fixed ammunition  
27 manufactured in or before 1898, for which ammunition is no longer  
28 manufactured in the United States and is not readily available in the  
29 ordinary channels of commercial trade.

30 (9) "Loaded" means:

31 (a) There is a cartridge in the chamber of the firearm;

32 (b) ~~((Bullets))~~ Cartridges are in a clip that is locked in place in  
33 the firearm;

34 (c) There is a cartridge in the cylinder of the firearm, if the  
35 firearm is a revolver; ~~((or))~~

36 (d) There is a cartridge in the tube~~((r))~~ or magazine~~((r or other~~  
37 ~~compartment of the firearm))~~ that is inserted in the action; or

38 (e) There is a ball in the barrel and the firearm is capped or  
39 primed if the firearm is a muzzle loader.

1 (10) "Dealer" means a person engaged in the business of selling  
2 firearms ((~~or ammunition~~)) at wholesale or retail who has, or is  
3 required to have, a federal firearms license under 18 U.S.C. Sec.  
4 923(a). A person who does not have, and is not required to have, a  
5 federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer  
6 if that person makes only occasional sales, exchanges, or purchases of  
7 firearms for the enhancement of a personal collection or for a hobby,  
8 or sells all or part of his or her personal collection of firearms.

9 (11) "Crime of violence" means:

10 (a) Any of the following felonies, as now existing or hereafter  
11 amended: Any felony defined under any law as a class A felony or an  
12 attempt to commit a class A felony, criminal solicitation of or  
13 criminal conspiracy to commit a class A felony, manslaughter in the  
14 first degree, manslaughter in the second degree, indecent liberties if  
15 committed by forcible compulsion, ((~~rape in the second degree,~~))  
16 kidnapping in the second degree, arson in the second degree, assault in  
17 the second degree, assault of a child in the second degree, extortion  
18 in the first degree, burglary in the second degree, residential  
19 burglary, and robbery in the second degree;

20 (b) Any conviction for a felony offense in effect at any time prior  
21 to ((~~July 1, 1976~~)) the effective date of this act, which is comparable  
22 to a felony classified as a crime of violence in (a) of this  
23 subsection; and

24 (c) Any federal or out-of-state conviction for an offense  
25 comparable to a felony classified as a crime of violence under (a) or  
26 (b) of this subsection.

27 (12) "Serious offense" means any of the following felonies or a  
28 felony attempt to commit any of the following felonies, as now existing  
29 or hereafter amended:

30 (a) Any crime of violence;

31 (b) Any felony violation of the uniform controlled substances act,  
32 chapter 69.50 RCW, that is classified as a class B felony or that has  
33 a maximum term of imprisonment of at least ten years;

34 (c) Child molestation in the second degree;

35 ((~~(c) Controlled substance homicide;~~))

36 (d) Incest when committed against a child under age fourteen;

37 (e) Indecent liberties;

38 (f) Leading organized crime;

39 (g) Promoting prostitution in the first degree;

1 (h) Rape in the third degree;  
2 (i) Reckless endangerment in the first degree;  
3 (j) Sexual exploitation;  
4 (~~(j)~~) (k) Vehicular assault;  
5 (~~(k)~~) (l) Vehicular homicide, when proximately caused by the  
6 driving of any vehicle by any person while under the influence of  
7 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the  
8 operation of any vehicle in a reckless manner;

9 (~~(l)~~) (m) Any other class B felony offense with a finding of  
10 sexual motivation, as "sexual motivation" is defined under RCW  
11 9.94A.030;

12 (~~(m)~~) (n) Any other felony with a deadly weapon verdict under RCW  
13 9.94A.125; or

14 (~~(n)~~) (o) Any felony offense in effect at any time prior to  
15 (~~July 1, 1994,~~) the effective date of this act that is comparable to  
16 a serious offense, or any federal or out-of-state conviction for an  
17 offense that under the laws of this state would be a felony classified  
18 as a serious offense.

19 (13) "Law enforcement officer" includes a general authority  
20 Washington peace officer as defined in RCW 10.93.020, or a specially  
21 commissioned Washington peace officer as defined in RCW 10.93.020.  
22 "Law enforcement officer" also includes a limited authority Washington  
23 peace officer as defined in RCW 10.93.020 if such officer is duly  
24 authorized by his or her employer to carry a concealed pistol.

25 (14) "Felony" means any felony offense under the laws of this state  
26 or any federal or out-of-state offense comparable to a felony offense  
27 under the laws of this state.

28 (15) "Sell" refers to the actual approval of the delivery of a  
29 firearm in consideration of payment or promise of payment of a certain  
30 price in money.

31 (16) "Barrel length" means the distance from the bolt face of a  
32 closed action down the length of the axis of the bore to the crown of  
33 the muzzle, or in the case of a barrel with attachments to the end of  
34 any legal device permanently attached to the end of the muzzle.

35 (17) "Family or household member" means "family" or "household  
36 member" as used in RCW 10.99.020.

37 **Sec. 2.** RCW 9.41.040 and 1995 c 129 s 16 (Initiative Measure No.  
38 159) are each reenacted and amended to read as follows:

1 (1)(a) A person, whether an adult or juvenile, is guilty of the  
2 crime of unlawful possession of a firearm in the first degree, if the  
3 person owns, has in his or her possession, or has in his or her control  
4 any firearm after having previously been convicted in this state or  
5 elsewhere of any serious offense as defined in this chapter (~~(7~~  
6 ~~residential burglary, reckless endangerment in the first degree, any~~  
7 ~~felony violation of the Uniform Controlled Substances Act, chapter~~  
8 ~~69.50 RCW, classified as a class A or class B felony, or with a maximum~~  
9 ~~sentence of at least ten years, or both, or equivalent statutes of~~  
10 ~~another jurisdiction, except as otherwise provided in subsection (3) or~~  
11 ~~(4) of this section~~)).

12 (b) A person, whether an adult or juvenile, is guilty of the crime  
13 of unlawful possession of a firearm in the second degree, if the person  
14 does not qualify under (a) of this subsection for the crime of unlawful  
15 possession of a firearm in the first degree and the person owns, has in  
16 his or her possession, or has in his or her control any firearm:

17 (i) After having previously been convicted in this state or  
18 elsewhere of any (~~(remaining)~~) felony (~~(violation of the Uniform~~  
19 ~~Controlled Substances Act, chapter 69.50 RCW, or equivalent statutes of~~  
20 ~~another jurisdiction)~~) not specifically listed as prohibiting firearm  
21 possession under (a) of this subsection, (~~(any remaining felony in~~  
22 ~~which a firearm was used or displayed and the felony is not~~  
23 ~~specifically listed as prohibiting firearm possession under (a) of this~~  
24 ~~subsection,)~~) or any ((domestic violence offense enumerated in RCW  
25 10.99.020(2), or any harassment offense enumerated in RCW 9A.46.060,  
26 except as otherwise provided in subsection (3) or (4) of this section))  
27 of the following crimes when committed by one family or household  
28 member against another, committed on or after July 1, 1993: Assault in  
29 the fourth degree, coercion, stalking, reckless endangerment in the  
30 second degree, criminal trespass in the first degree, or violation of  
31 the provisions of a protection order or no-contact order restraining  
32 the person or excluding the person from a residence (RCW 26.50.060,  
33 26.50.070, 26.50.130, or 10.99.040);

34 (ii) (~~(After having previously been convicted on three occasions~~  
35 ~~within five years of driving a motor vehicle or operating a vessel~~  
36 ~~while under the influence of intoxicating liquor or any drug, unless~~  
37 ~~his or her right to possess a firearm has been restored as provided in~~  
38 ~~RCW 9.41.047;~~

1       ~~(iii))~~) After having previously been involuntarily committed for  
2 mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77  
3 RCW, or equivalent statutes of another jurisdiction, unless his or her  
4 right to possess a firearm has been restored as provided in RCW  
5 9.41.047; ~~((and/or~~

6       ~~(iv))~~) (iii) If the person is under eighteen years of age, except  
7 as provided in RCW 9.41.042; and/or

8       (iv) If the person is free on bond or personal recognizance pending  
9 trial, appeal, or sentencing for a serious offense as defined in RCW  
10 9.41.010.

11       (2)(a) Unlawful possession of a firearm in the first degree is a  
12 class B felony, punishable under chapter 9A.20 RCW.

13       (b) Unlawful possession of a firearm in the second degree is a  
14 class C felony, punishable under chapter 9A.20 RCW.

15       (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as  
16 used in this ~~(section)~~ chapter, a person has been "convicted",  
17 whether in an adult court or adjudicated in a juvenile court, at such  
18 time as a plea of guilty has been accepted, or a verdict of guilty has  
19 been filed, notwithstanding the pendency of any future proceedings  
20 including but not limited to sentencing or disposition, post-trial or  
21 post-factfinding motions, and appeals. Conviction includes a dismissal  
22 entered after a period of probation, suspension or deferral of  
23 sentence, and also includes equivalent dispositions by courts in  
24 jurisdictions other than Washington state. A person shall not be  
25 precluded from possession of a firearm if the conviction has been the  
26 subject of a pardon, annulment, certificate of rehabilitation, or other  
27 equivalent procedure based on a finding of the rehabilitation of the  
28 person convicted or the conviction or disposition has been the subject  
29 of a pardon, annulment, or other equivalent procedure based on a  
30 finding of innocence. Where no record of the court's disposition of  
31 the charges can be found, there shall be a rebuttable presumption that  
32 the person was not convicted of the charge.

33       (4) Notwithstanding subsection (1) of this section, a person  
34 convicted of an offense prohibiting the possession of a firearm under  
35 this section other than murder, manslaughter, robbery, rape, indecent  
36 liberties, arson, assault, kidnapping, extortion, burglary, or  
37 violations with respect to controlled substances under RCW 69.50.401(a)  
38 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
39 and who received a dismissal of the charge under RCW 9.95.240, shall

1 not be precluded from possession of a firearm as a result of the  
2 conviction. Notwithstanding any other provisions of this section, if  
3 a person is prohibited from possession of a firearm under subsection  
4 (1) of this section and has not previously been convicted of a sex  
5 offense prohibiting firearm ownership under subsection (1) of this  
6 section and/or any felony defined under any law as a class A felony or  
7 with a maximum sentence of at least twenty years, or both, the  
8 individual may petition a court of record to have his or her right to  
9 possess a firearm restored:

10 (a) Under RCW 9.41.047; and/or

11 (b)(i) If the conviction was for a felony offense, after five or  
12 more consecutive years in the community without being convicted or  
13 currently charged with any felony, gross misdemeanor, or misdemeanor  
14 crimes, if the individual has no prior felony convictions that prohibit  
15 the possession of a firearm counted as part of the offender score under  
16 RCW 9.94A.360; or

17 (ii) If the conviction was for a nonfelony offense, after three or  
18 more consecutive years in the community without being convicted or  
19 currently charged with any felony, gross misdemeanor, or misdemeanor  
20 crimes, if the individual has no prior felony convictions that prohibit  
21 the possession of a firearm counted as part of the offender score under  
22 RCW 9.94A.360 and the individual has completed all conditions of the  
23 sentence.

24 (5) In addition to any other penalty provided for by law, if a  
25 person under the age of eighteen years is found by a court to have  
26 possessed a firearm in a vehicle in violation of subsection (1) of this  
27 section or to have committed an offense while armed with a firearm  
28 during which offense a motor vehicle served an integral function, the  
29 court shall notify the department of licensing within twenty-four hours  
30 and the person's privilege to drive shall be revoked under RCW  
31 46.20.265.

32 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or  
33 interpreted as preventing an offender from being charged and  
34 subsequently convicted for the separate felony crimes of theft of a  
35 firearm or possession of a stolen firearm, or both, in addition to  
36 being charged and subsequently convicted under this section for  
37 unlawful possession of a firearm in the first or second degree.  
38 Notwithstanding any other law, if the offender is convicted under this  
39 section for unlawful possession of a firearm in the first or second



1 degree and for the felony crimes of theft of a firearm or possession of  
2 a stolen firearm, or both, then the offender shall serve consecutive  
3 sentences for each of the felony crimes of conviction listed in this  
4 subsection.

5 (7) Each firearm unlawfully possessed under this section shall be  
6 a separate offense.

7 **Sec. 3.** RCW 9.41.047 and 1994 sp.s. c 7 s 404 are each reenacted  
8 and amended to read as follows:

9 (1)((~~a~~)) At the time a person is convicted of an offense making  
10 the person ineligible to possess a firearm, or at the time a person is  
11 committed by court order under RCW 71.05.320, 71.34.090, or chapter  
12 10.77 RCW for mental health treatment, the convicting or committing  
13 court shall notify the person, orally and in writing, that the person  
14 must immediately surrender any concealed pistol license and that the  
15 person may not possess a firearm unless his or her right to do so is  
16 restored by a court of record.

17 The convicting or committing court also shall forward a copy of the  
18 person's driver's license or identicard, or comparable information, to  
19 the department of licensing, along with the date of conviction or  
20 commitment.

21 (2) Upon receipt of the information provided for by subsection (1)  
22 of this section, the department of licensing shall determine if the  
23 convicted or committed person has a concealed pistol license. If the  
24 person does have a concealed pistol license, the department of  
25 licensing shall immediately notify the license-issuing authority which,  
26 upon receipt of such notification, shall immediately revoke the  
27 license.

28 (~~3~~) (~~A person who is prohibited from possessing a firearm by~~  
29 ~~reason of having previously been convicted on three occasions of~~  
30 ~~driving a motor vehicle or operating a vessel while under the influence~~  
31 ~~of intoxicating liquor or any drug may, after five continuous years~~  
32 ~~without further conviction for any alcohol-related offense, petition a~~  
33 ~~court of record to have his or her right to possess a firearm restored.~~

34 (~~4~~))(a) A person who is prohibited from possessing a firearm, by  
35 reason of having been ((either:

36 (ii))) involuntarily committed for mental health treatment under  
37 RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of

1 another jurisdiction((7)) may, upon discharge, petition a court of  
2 record to have his or her right to possess a firearm restored.

3 ~~((b) At a minimum, a petition under this subsection (4) shall~~  
4 ~~include the following:~~

5 ~~(i) The fact, date, and place of commitment;~~

6 ~~(ii) The place of treatment;~~

7 ~~(iii) The fact and date of release from commitment;~~

8 ~~(iv) A certified copy of the most recent order, if one exists, of~~  
9 ~~commitment, with the findings of fact and conclusions of law; and~~

10 ~~(v) A statement by the person that he or she is no longer required~~  
11 ~~to participate in an inpatient or outpatient treatment program, is no~~  
12 ~~longer required to take medication to treat any condition related to~~  
13 ~~the commitment, and does not present a substantial danger to himself or~~  
14 ~~herself, to others, or to the public safety.)) At the time of~~  
15 ~~commitment, the court shall specifically state to the person that he or~~  
16 ~~she is barred from possession of firearms.~~

17 (b) The secretary of social and health services shall develop  
18 appropriate rules to create an approval process under this subsection.  
19 The rules must provide for the restoration of the right to possess a  
20 firearm upon a showing in a court of competent jurisdiction that the  
21 person is no longer required to participate in an inpatient or  
22 outpatient treatment program, is no longer required to take medication  
23 to treat any condition related to the commitment, and does not present  
24 a substantial danger to himself or herself, others, or the public.  
25 Unlawful possession of a firearm under this subsection shall be  
26 punished as a class C felony under chapter 9A.20 RCW.

27 (c) A person petitioning the court under this subsection ~~((4))~~  
28 (3) shall bear the burden of proving by a preponderance of the evidence  
29 that the circumstances resulting in the commitment no longer exist and  
30 are not reasonably likely to recur.

31 **Sec. 4.** RCW 9.41.050 and 1994 sp.s. c 7 s 405 are each amended to  
32 read as follows:

33 (1)(a) Except in the person's place of abode or fixed place of  
34 business, a person shall not carry a pistol concealed on his or her  
35 person without a license to carry a concealed pistol.

36 (b) Every licensee shall have his or her concealed pistol license  
37 in his or her immediate possession at all times that he or she is  
38 required by this section to have a concealed pistol license and shall

1 display the same upon demand to any police officer or to any other  
2 person when and if required by law to do so. Any violation of this  
3 subsection (1)(b) shall be a class 1 civil infraction under chapter  
4 7.84 RCW and shall be punished accordingly pursuant to chapter 7.84 RCW  
5 and the infraction rules for courts of limited jurisdiction.

6 (2) A person shall not carry or place a loaded pistol in any  
7 vehicle unless the person has a license to carry a concealed pistol  
8 and: (a) The pistol is on the licensee's person, (b) the licensee is  
9 within the vehicle at all times that the pistol is there, or (c) the  
10 licensee is away from the vehicle and the pistol is locked within the  
11 vehicle and concealed from view from outside the vehicle.

12 (3) A person at least eighteen years of age who is in possession of  
13 an unloaded pistol shall not leave the unloaded pistol in a vehicle  
14 unless the unloaded pistol is locked within the vehicle and concealed  
15 from view from outside the vehicle.

16 (4) Except as otherwise provided in this chapter, no person may  
17 carry a firearm unless it is unloaded and enclosed in an opaque case or  
18 secure wrapper or the person is:

19 (a) Licensed under RCW 9.41.070 to carry a concealed pistol;

20 (b) In attendance at a hunter's safety course or a firearms safety  
21 course;

22 (c) Engaging in practice in the use of a firearm or target shooting  
23 at an established range authorized by the governing body of the  
24 jurisdiction in which such range is located or any other area where the  
25 discharge of a firearm is not prohibited;

26 (d) Engaging in an organized competition involving the use of a  
27 firearm, or participating in or practicing for a performance by an  
28 organized group that uses firearms as a part of the performance;

29 (e) ~~((Hunting or trapping under a valid license issued to the~~  
30 ~~person under Title 77 RCW)) Engaging in a lawful outdoor recreational  
31 activity such as hunting, fishing, camping, hiking, or horseback  
32 riding, only if, considering all of the attendant circumstances,  
33 including but not limited to whether the person has a valid hunting or  
34 fishing license, it is reasonable to conclude that the person is  
35 participating in lawful outdoor activities or is traveling to or from  
36 a legitimate outdoor recreation area;~~

37 (f) In an area where the discharge of a firearm is permitted, and  
38 is not trespassing;

1 (g) Traveling with any unloaded firearm in the person's possession  
2 to or from any activity described in (b), (c), (d), (e), or (f) of this  
3 subsection, except as provided in (h) of this subsection;

4 (h) Traveling in a motor vehicle with a firearm, other than a  
5 pistol, that is unloaded and locked in the trunk or other compartment  
6 of the vehicle, ~~((secured))~~ placed in a gun rack, or otherwise secured  
7 in place in a vehicle, provided that this subsection (4)(h) does not  
8 apply to motor homes if the firearms are not within the driver's  
9 compartment of the motor home while the vehicle is in operation.  
10 Notwithstanding (a) of this subsection, and subject to federal and  
11 state park regulations regarding firearm possession therein, a motor  
12 home shall be considered a residence when parked at a recreational  
13 park, campground, or other temporary residential setting for the  
14 purposes of enforcement of this chapter;

15 (i) On real property under the control of the person or a relative  
16 of the person;

17 (j) At his or her residence;

18 (k) Is a member of the armed forces of the United States, national  
19 guard, or organized reserves, when on duty;

20 (l) Is a law enforcement officer; ~~((or))~~

21 (m) Carrying a firearm from or to a vehicle for the purpose of  
22 taking or removing the firearm to or from a place of business for  
23 repair; or

24 (n) An armed private security guard or armed private detective  
25 licensed by the department of licensing, while on duty or enroute to  
26 and from employment.

27 (5) Violation of any of the prohibitions of subsections (2) through  
28 (4) of this section is a misdemeanor.

29 (6) Nothing in this section permits the possession of firearms  
30 illegal to possess under state or federal law.

31 ~~((+6+))~~ (7) Any city, town, or county may enact an ordinance to  
32 exempt itself from the prohibition of subsection (4) of this section.

33 **Sec. 5.** RCW 9.41.060 and 1995 c 392 s 1 are each amended to read  
34 as follows:

35 The provisions of RCW 9.41.050 shall not apply to:

36 (1) Marshals, sheriffs, prison or jail wardens or their deputies,  
37 or other law enforcement officers;

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

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

5 (4) Any person engaged in the business of manufacturing, repairing,  
6 or dealing in firearms, or the agent or representative of the person,  
7 if possessing, using, or carrying a pistol in the usual or ordinary  
8 course of the business;

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

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

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

18 (8) (~~Individual hunters when on a hunting, camping, or fishing~~  
19 ~~trip~~) Any person engaging in a lawful outdoor recreational activity  
20 such as hunting, fishing, camping, hiking, or horseback riding, only  
21 if, considering all of the attendant circumstances, including but not  
22 limited to whether the person has a valid hunting or fishing license,  
23 it is reasonable to conclude that the person is participating in lawful  
24 outdoor activities or is traveling to or from a legitimate outdoor  
25 recreation area;

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

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

37 **Sec. 6.** RCW 9.41.070 and 1995 c 351 s 1 are each amended to read  
38 as follows:

1 (1) The chief of police of a municipality or the sheriff of a  
2 county shall within thirty days after the filing of an application of  
3 any person, issue a license to such person to carry a pistol concealed  
4 on his or her person within this state for five years from date of  
5 issue, for the purposes of protection or while engaged in business,  
6 sport, or while traveling. However, if the applicant does not have a  
7 valid permanent Washington driver's license or Washington state  
8 identification card or has not been a resident of the state for the  
9 previous consecutive ninety days, the issuing authority shall have up  
10 to sixty days after the filing of the application to issue a license.  
11 The issuing authority shall not refuse to accept completed applications  
12 for concealed pistol licenses during regular business hours.

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

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

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

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

20 (d) He or she is subject to a court order or injunction regarding  
21 firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045,  
22 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137,  
23 26.50.060, or 26.50.070;

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

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

28 (g) He or she has been ordered to forfeit a firearm under RCW  
29 9.41.098(1)(e) within one year before filing an application to carry a  
30 pistol concealed on his or her person(~~;~~ or

31 ~~(h)(i) He or she has been convicted of any crime against a child or  
32 other person listed in RCW 43.43.830(5).~~

33 ~~(ii) Except as provided in (h)(iii) of this subsection, any person  
34 who becomes ineligible for a concealed pistol license as a result of a  
35 conviction for a crime listed in (h)(i) of this subsection and then  
36 successfully completes all terms of his or her sentence, as evidenced  
37 by a certificate of discharge issued under RCW 9.94A.220 in the case of  
38 a sentence under chapter 9.94A RCW, and has not again been convicted of  
39 any crime and is not under indictment for any crime, may, one year or~~

1 longer after such successful sentence completion, petition a court of  
2 record for a declaration that the person is no longer ineligible for a  
3 concealed pistol license under (h)(i) of this subsection)).

4 ((~~(iii)~~)) No person convicted of a (~~serious offense as defined in~~  
5 ~~RCW 9.41.010~~) felony may have his or her right to possess firearms  
6 restored or his or her privilege to carry a concealed pistol restored,  
7 unless the person has been granted relief from disabilities by the  
8 secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040  
9 (3) or (4) applies.

10 (2) The issuing authority shall check with the national crime  
11 information center, the Washington state patrol electronic data base,  
12 the department of social and health services electronic data base, and  
13 with other agencies or resources as appropriate, to determine whether  
14 the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess  
15 a firearm and therefore ineligible for a concealed pistol license.  
16 This subsection applies whether the applicant is applying for a new  
17 concealed pistol license or to renew a concealed pistol license.

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

25 (4) The license application shall bear the full name, residential  
26 address, telephone number at the option of the applicant, date and  
27 place of birth, race, gender, description, not more than two complete  
28 sets of fingerprints, and signature of the licensee, and the licensee's  
29 driver's license number or state identification card number if used for  
30 identification in applying for the license. A signed application for  
31 a concealed pistol license shall constitute a waiver of confidentiality  
32 and written request that the department of social and health services,  
33 mental health institutions, and other health care facilities release  
34 information relevant to the applicant's eligibility for a concealed  
35 pistol license to an inquiring court or law enforcement agency.

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

38 The license and application shall contain a warning substantially  
39 as follows:

1 CAUTION: Although state and local laws do not differ, federal  
2 law and state law on the possession of firearms differ. If you  
3 are prohibited by federal law from possessing a firearm, you  
4 may be prosecuted in federal court. A state license is not a  
5 defense to a federal prosecution.

6 The license shall contain a description of the major differences  
7 between state and federal law and an explanation of the fact that local  
8 laws and ordinances on firearms are preempted by state law and must be  
9 consistent with state law. The application shall contain questions  
10 about the applicant's eligibility under RCW 9.41.040 to possess a  
11 pistol, the applicant's place of birth, and whether the applicant is a  
12 United States citizen. The applicant shall not be required to produce  
13 a birth certificate or other evidence of citizenship. A person who is  
14 not a citizen of the United States shall meet the additional  
15 requirements of RCW 9.41.170 and produce proof of compliance with RCW  
16 9.41.170 upon application. The license shall be in triplicate and in  
17 a form to be prescribed by the department of licensing.

18 The original thereof shall be delivered to the licensee, the  
19 duplicate shall within seven days be sent (~~by registered mail~~) to the  
20 director of licensing and the triplicate shall be preserved for six  
21 years, by the authority issuing the license.

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

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

31 The fee shall be distributed as follows:

32 (a) Fifteen dollars shall be paid to the state general fund;

33 (b) Four dollars shall be paid to the agency taking the  
34 fingerprints of the person licensed;

35 (c) Fourteen dollars shall be paid to the issuing authority for the  
36 purpose of enforcing this chapter; and

37 (d) Three dollars to the firearms range account in the general  
38 fund.



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

4 The renewal fee shall be distributed as follows:

5 (a) Fifteen dollars shall be paid to the state general fund;

6 (b) Fourteen dollars shall be paid to the issuing authority for the  
7 purpose of enforcing this chapter; and

8 (c) Three dollars to the firearms range account in the general  
9 fund.

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

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

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

22 (a) Three dollars shall be deposited in the state wildlife fund and  
23 used exclusively for the printing and distribution of a pamphlet on the  
24 legal limits of the use of firearms, firearms safety, and the  
25 preemptive nature of state law. The pamphlet shall be given to each  
26 applicant for a license; and

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

29 (10) Notwithstanding the requirements of subsections (1) through  
30 (9) of this section, the chief of police of the municipality or the  
31 sheriff of the county of the applicant's residence may issue a  
32 temporary emergency license for good cause pending review under  
33 subsection (1) of this section. However, a temporary emergency license  
34 issued under this subsection shall not exempt the holder of the license  
35 from any records check requirement. Temporary emergency licenses shall  
36 be easily distinguishable from regular licenses.

37 (11) A political subdivision of the state shall not modify the  
38 requirements of this section or chapter, nor may a political

1 subdivision ask the applicant to voluntarily submit any information not  
2 required by this section.

3 (12) A person who knowingly makes a false statement regarding  
4 citizenship or identity on an application for a concealed pistol  
5 license is guilty of false swearing under RCW 9A.72.040. In addition  
6 to any other penalty provided for by law, the concealed pistol license  
7 of a person who knowingly makes a false statement shall be revoked, and  
8 the person shall be permanently ineligible for a concealed pistol  
9 license.

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

11 (a) To the municipality or to the county in which the applicant  
12 resides if the applicant resides in a municipality;

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

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

16 **Sec. 7.** RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to  
17 read as follows:

18 (1) ~~((The))~~ A concealed pistol license shall be revoked by the  
19 license-issuing authority immediately upon:

20 (a) Discovery by the issuing authority that the person ~~((was))~~ is  
21 ineligible under RCW 9.41.070 for a concealed pistol license when  
22 applying for the license or license renewal;

23 (b) Conviction of the licensee of an offense, or commitment of the  
24 licensee for mental health treatment, that makes a person ineligible  
25 under RCW 9.41.040 to possess a firearm;

26 (c) Conviction of the licensee for a third violation of this  
27 chapter within five calendar years; or

28 (d) An order that the licensee forfeit a firearm under RCW  
29 9.41.098(1)~~((+d))~~ (e).

30 ~~((a) Unless the person may lawfully possess a pistol without a  
31 concealed pistol license, an ineligible person to whom a concealed  
32 pistol license was issued shall, within fourteen days of license  
33 revocation, lawfully transfer ownership of any pistol acquired while  
34 the person was in possession of the license.~~

35 ~~((b) Upon discovering a person issued a concealed pistol license was  
36 ineligible for the license, the issuing authority shall contact the  
37 department of licensing to determine whether the person purchased a  
38 pistol while in possession of the license. If the person did purchase~~

1 a pistol while in possession of the concealed pistol license, if the  
2 person may not lawfully possess a pistol without a concealed pistol  
3 license, the issuing authority shall require the person to present  
4 satisfactory evidence of having lawfully transferred ownership of the  
5 pistol. The issuing authority shall require the person to produce the  
6 evidence within fifteen days of the revocation of the license.

7 ~~(3))~~ When a licensee is ordered to forfeit a firearm under RCW  
8 9.41.098(1)(~~(d)~~) (e), the issuing authority shall:

9 (a) On the first forfeiture, revoke the license for one year;

10 (b) On the second forfeiture, revoke the license for two years; or

11 (c) On the third or subsequent forfeiture, revoke the license for  
12 five years.

13 Any person whose license is revoked as a result of a forfeiture of  
14 a firearm under RCW 9.41.098(~~(1)(d)~~) may not reapply for a new  
15 license until the end of the revocation period.

16 ~~((4))~~ (3) The issuing authority shall notify, in writing, the  
17 department of licensing of the revocation or denial of a license. The  
18 department of licensing shall record the revocation or denial. Denial  
19 information shall be maintained by the department of licensing for the  
20 purposes of background checks and statistical research.

21 (4) Unless otherwise provided, revocation periods for concealed  
22 pistol licenses shall be consistent with restoration periods set forth  
23 in RCW 9.41.047, or three years, whichever is the longer.

24 (5) Any person whose license is revoked may not reapply for a new  
25 license until the end of the revocation period.

26 (6) Notice of revocation of a license shall additionally require  
27 the license holder to surrender the license to the issuing authority.  
28 Refusal to comply with this requirement within thirty days is a  
29 misdemeanor and shall be punished accordingly.

30 **Sec. 8.** RCW 9.41.090 and 1994 sp.s. c 7 s 410 and 1994 c 264 s 1  
31 are each reenacted and amended to read as follows:

32 (1) In addition to the other requirements of this chapter, no  
33 dealer may deliver a pistol to the purchaser thereof until:

34 (a) The purchaser produces a valid concealed pistol license and the  
35 dealer has recorded the purchaser's name, license number, and issuing  
36 agency, such record to be made in triplicate and processed as provided  
37 in subsection (5) of this section. For purposes of this subsection  
38 (1)(a), a "valid concealed pistol license" does not include a temporary

1 emergency license, and does not include any license issued before July  
2 1, 1996, unless the issuing agency conducted a records search for  
3 disqualifying crimes under RCW 9.41.070 at the time of issuance;

4 (b) The dealer is notified in writing by the chief of police or the  
5 sheriff of the jurisdiction in which the purchaser resides that the  
6 purchaser is eligible to possess a pistol under RCW 9.41.040 and that  
7 the application to purchase is approved by the chief of police or  
8 sheriff; or

9 (c) Five business days, meaning days on which state offices are  
10 open, have elapsed from the time of receipt of the application for the  
11 purchase thereof as provided herein by the chief of police or sheriff  
12 designated in subsection (5) of this section, and, when delivered, the  
13 pistol shall be securely wrapped and shall be unloaded. However, if  
14 the purchaser does not have a valid permanent Washington driver's  
15 license or state identification card or has not been a resident of the  
16 state for the previous consecutive ninety days, the waiting period  
17 under this subsection (1)(c) shall be up to sixty days.

18 (2)(a) Except as provided in (b) of this subsection, in determining  
19 whether the purchaser meets the requirements of RCW 9.41.040, the chief  
20 of police or sheriff, or the designee of either, shall check with the  
21 national crime information center, the Washington state patrol  
22 electronic data base, the department of social and health services  
23 electronic data base, and with other agencies or resources as  
24 appropriate, to determine whether the applicant is ineligible under RCW  
25 9.41.040 to possess a firearm.

26 (b) Once the system is established, a dealer shall use the state  
27 system and national instant criminal background check system, provided  
28 for by the Brady Handgun ~~((Control))~~ Violence Prevention Act ~~((H.R.~~  
29 ~~1025, 103rd Cong., 1st Sess. (1993)))~~ (18 U.S.C. Sec. 921 et seq.), to  
30 make criminal background checks of applicants to purchase firearms.  
31 However, a chief of police or sheriff, or a designee of either, shall  
32 continue to check the department of social and health services'  
33 electronic data base and with other agencies or resources as  
34 appropriate, to determine whether applicants are ineligible under RCW  
35 9.41.040 to possess a firearm.

36 (3) In any case under subsection (1)(c) of this section where the  
37 applicant has an outstanding warrant for his or her arrest from any  
38 court of competent jurisdiction for a felony or misdemeanor, the dealer  
39 shall hold the delivery of the pistol until the warrant for arrest is

1 served and satisfied by appropriate court appearance. The local  
2 jurisdiction for purposes of the sale shall confirm the existence of  
3 outstanding warrants within seventy-two hours after notification of the  
4 application to purchase a pistol is received. The local jurisdiction  
5 shall also immediately confirm the satisfaction of the warrant on  
6 request of the dealer so that the hold may be released if the warrant  
7 was for an offense other than an offense making a person ineligible  
8 under RCW 9.41.040 to possess a pistol.

9 (4) In any case where the chief or sheriff of the local  
10 jurisdiction has reasonable grounds based on the following  
11 circumstances: (a) Open criminal charges, (b) pending criminal  
12 proceedings, (c) pending commitment proceedings, (d) an outstanding  
13 warrant for an offense making a person ineligible under RCW 9.41.040 to  
14 possess a pistol, or (e) an arrest for an offense making a person  
15 ineligible under RCW 9.41.040 to possess a pistol, if the records of  
16 disposition have not yet been reported or entered sufficiently to  
17 determine eligibility to purchase a pistol, the local jurisdiction may  
18 hold the sale and delivery of the pistol beyond five days up to thirty  
19 days in order to confirm existing records in this state or elsewhere.  
20 After thirty days, the hold will be lifted unless an extension of the  
21 thirty days is approved by a local district court or municipal court  
22 for good cause shown. ((An applicant)) A dealer shall be notified of  
23 each hold placed on the sale by local law enforcement and of any  
24 application to the court for additional hold period to confirm records  
25 or confirm the identity of the applicant.

26 (5) At the time of applying for the purchase of a pistol, the  
27 purchaser shall sign in triplicate and deliver to the dealer an  
28 application containing his or her full name, ((street)) residential  
29 address, date and place of birth, race, and gender; the date and hour  
30 of the application; the applicant's driver's license number or state  
31 identification card number; a description of the pistol including the  
32 make, model, caliber and manufacturer's number if available at the time  
33 of applying for the purchase of a pistol. If the manufacturer's number  
34 is not available, the application may be processed, but delivery of the  
35 pistol to the purchaser may not occur unless the manufacturer's number  
36 is recorded on the application by the dealer and transmitted to the  
37 chief of police of the municipality or the sheriff of the county in  
38 which the purchaser resides; and a statement that the purchaser is  
39 eligible to possess a pistol under RCW 9.41.040.

1 The application shall contain a warning substantially as follows:

2 CAUTION: Although state and local laws do not differ, federal  
3 law and state law on the possession of firearms differ. If you  
4 are prohibited by federal law from possessing a firearm, you  
5 may be prosecuted in federal court. State permission to  
6 purchase a firearm is not a defense to a federal prosecution.

7 The purchaser shall be given a copy of the department of fish and  
8 wildlife pamphlet on the legal limits of the use of firearms, firearms  
9 safety, and the fact that local laws and ordinances on firearms are  
10 preempted by state law and must be consistent with state law.

11 The dealer shall, by the end of the business day, sign and attach  
12 his or her address and deliver (~~the original~~) a copy of the  
13 application and such other documentation as required under subsection  
14 (1) of this section to the chief of police of the municipality or the  
15 sheriff of the county of which the purchaser is a resident. The  
16 triplicate shall be retained by the dealer for six years. The dealer  
17 shall deliver the pistol to the purchaser following the period of time  
18 specified in this section unless the dealer is notified of an  
19 investigative hold under subsection (4) of this section in writing by  
20 the chief of police of the municipality or the sheriff of the county,  
21 whichever is applicable, denying the purchaser's application to  
22 purchase and the grounds thereof. The application shall not be denied  
23 unless the purchaser is not eligible to possess a pistol under RCW  
24 9.41.040 or 9.41.045, or federal law.

25 The chief of police of the municipality or the sheriff of the  
26 county shall retain or destroy applications to purchase a pistol in  
27 accordance with the requirements of 18 U.S.C. Sec. 922.

28 (6) A person who knowingly makes a false statement regarding  
29 identity or eligibility requirements on the application to purchase a  
30 pistol is guilty of false swearing under RCW 9A.72.040.

31 (7) This section does not apply to sales to licensed dealers for  
32 resale or to the sale of antique firearms.

33 **Sec. 9.** RCW 9.41.0975 and 1994 sp.s. c 7 s 413 are each amended to  
34 read as follows:

35 (1) The state, local governmental entities, any public or private  
36 agency, and the employees of any state or local governmental entity or

1 public or private agency, acting in good faith, are immune from  
2 liability:

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

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

7 (c) For issuing a concealed pistol license to a person ineligible  
8 for such a license;

9 (d) For failing to issue a concealed pistol license to a person  
10 eligible for such a license;

11 (e) For revoking or failing to revoke an issued concealed pistol  
12 license; (~~(e)~~)

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

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

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

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

22 (a) Directing an issuing agency to issue a concealed pistol license  
23 wrongfully refused;

24 (b) Directing a law enforcement agency to approve an application to  
25 purchase wrongfully denied; (~~(b)~~)

26 (c) Directing that erroneous information resulting either in the  
27 wrongful refusal to issue a concealed pistol license or in the wrongful  
28 denial of a purchase application be corrected; or

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

31 The application for the writ may be made in the county in which the  
32 application for a concealed pistol license or to purchase a pistol was  
33 made, or in Thurston county, at the discretion of the petitioner. A  
34 court shall provide an expedited hearing for an application brought  
35 under this subsection (2) for a writ of mandamus. A person granted a  
36 writ of mandamus under this subsection (2) shall be awarded reasonable  
37 attorneys' fees and costs.

1       **Sec. 10.** RCW 9.41.098 and 1994 sp.s. c 7 s 414 are each amended to  
2 read as follows:

3       (1) The superior courts and the courts of limited jurisdiction of  
4 the state may order forfeiture of a firearm which is proven to be:

5       (a) Found concealed on a person not authorized by RCW 9.41.060 or  
6 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute  
7 defense to forfeiture if the person possessed a valid Washington  
8 concealed pistol license within the preceding two years and has not  
9 become ineligible for a concealed pistol license in the interim.  
10 Before the firearm may be returned, the person must pay the past due  
11 renewal fee and the current renewal fee;

12       (b) Commercially sold to any person without an application as  
13 required by RCW 9.41.090;

14       (c) ~~((Found))~~ In the possession of a person prohibited from  
15 possessing the firearm under RCW 9.41.040 or 9.41.045;

16       (d) ~~((Found))~~ In the possession or under the control of a person at  
17 the time the person committed or was arrested for committing a  
18 ~~((serious offense))~~ felony or committing a nonfelony crime in which a  
19 firearm was used or displayed (~~or a felony violation of the Uniform~~  
20 Controlled Substances Act, chapter 69.50 RCW));

21       (e) ~~((Found concealed on))~~ In the possession of a person who is in  
22 any place in which a concealed pistol license is required, and who is  
23 under the influence of any drug or under the influence of intoxicating  
24 liquor, as defined in chapter 46.61 RCW;

25       (f) ~~((Found))~~ In the possession of a person free on bail or  
26 personal recognizance pending trial, appeal, or sentencing for a  
27 ~~((serious offense))~~ felony or for a nonfelony crime in which a firearm  
28 was used or displayed, except that violations of Title 77 RCW shall not  
29 result in forfeiture under this section;

30       (g) ~~((Found))~~ In the possession of a person found to have been  
31 mentally incompetent while in possession of a firearm when apprehended  
32 or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

33       (h) ~~((Known to have been))~~ Used or displayed by a person in the  
34 violation of a proper written order of a court of general jurisdiction;  
35 or

36       (i) ~~((Known to have been))~~ Used in the commission of a ~~((serious~~  
37 offense)) felony or of a nonfelony crime in which a firearm was used or  
38 displayed (~~or a felony violation of the Uniform Controlled Substances~~  
39 Act, chapter 69.50 RCW)).



1 (2) Upon order of forfeiture, the court in its discretion may order  
2 destruction of any forfeited firearm. A court may temporarily retain  
3 forfeited firearms needed for evidence.

4 (a) Except as provided in (b), (c), and (d) of this subsection,  
5 firearms that are: (i) Judicially forfeited and no longer needed for  
6 evidence; or (ii) forfeited due to a failure to make a claim under RCW  
7 63.32.010 or 63.40.010; may be disposed of in any manner determined by  
8 the local legislative authority. Any proceeds of an auction or trade  
9 may be retained by the legislative authority. This subsection (2)(a)  
10 applies only to firearms that come into the possession of the law  
11 enforcement agency after June 30, 1993(~~, and applies only if the law~~  
12 ~~enforcement agency has complied with (b) of this subsection)~~).

13 By midnight, June 30, 1993, every law enforcement agency shall  
14 prepare an inventory, under oath, of every firearm that has been  
15 judicially forfeited, has been seized and may be subject to judicial  
16 forfeiture, or that has been, or may be, forfeited due to a failure to  
17 make a claim under RCW 63.32.010 or 63.40.010.

18 (b) Except as provided in (c) of this subsection, of the  
19 inventoried firearms a law enforcement agency shall destroy illegal  
20 firearms, may retain a maximum of ten percent of legal forfeited  
21 firearms for agency use, and shall either:

22 (i) Comply with the provisions for the auction of firearms in RCW  
23 9.41.098 that were in effect immediately preceding May 7, 1993; or

24 (ii) Trade, auction, or arrange for the auction of, rifles and  
25 shotguns. In addition, the law enforcement agency shall either trade,  
26 auction, or arrange for the auction of, short firearms, or shall pay a  
27 fee of twenty-five dollars to the state treasurer for every short  
28 firearm neither auctioned nor traded, to a maximum of fifty thousand  
29 dollars. The fees shall be accompanied by an inventory, under oath, of  
30 every short firearm listed in the inventory required by (a) of this  
31 subsection, that has been neither traded nor auctioned. The state  
32 treasurer shall credit the fees to the firearms range account  
33 established in RCW 77.12.720. All trades or auctions of firearms under  
34 this subsection shall be to licensed dealers. Proceeds of any auction  
35 less costs, including actual costs of storage and sale, shall be  
36 forwarded to the firearms range account established in RCW 77.12.720.

37 (c) Antique firearms and firearms recognized as curios, relics, and  
38 firearms of particular historical significance by the United States  
39 treasury department bureau of alcohol, tobacco, and firearms are exempt

1 from destruction and shall be disposed of by auction or trade to  
2 licensed dealers.

3 (d) Firearms in the possession of the Washington state patrol on or  
4 after May 7, 1993, that are judicially forfeited and no longer needed  
5 for evidence, or forfeited due to a failure to make a claim under RCW  
6 63.35.020, must be disposed of as follows: (i) Firearms illegal for  
7 any person to possess must be destroyed; (ii) the Washington state  
8 patrol may retain a maximum of ten percent of legal firearms for agency  
9 use; and (iii) all other legal firearms must be auctioned or traded to  
10 licensed dealers. The Washington state patrol may retain any proceeds  
11 of an auction or trade.

12 (3) The court shall order the firearm returned to the owner upon a  
13 showing that there is no probable cause to believe a violation of  
14 subsection (1) of this section existed or the firearm was stolen from  
15 the owner or the owner neither had knowledge of nor consented to the  
16 act or omission involving the firearm which resulted in its forfeiture.

17 (4) A law enforcement officer of the state or of any county or  
18 municipality may confiscate a firearm found to be in the possession of  
19 a person under circumstances specified in subsection (1) of this  
20 section. After confiscation, the firearm shall not be surrendered  
21 except: (a) To the prosecuting attorney for use in subsequent legal  
22 proceedings; (b) for disposition according to an order of a court  
23 having jurisdiction as provided in subsection (1) of this section; or  
24 (c) to the owner if the proceedings are dismissed or as directed in  
25 subsection (3) of this section.

26 **Sec. 11.** RCW 9.41.170 and 1994 c 190 s 1 are each amended to read  
27 as follows:

28 (1) It is a class C felony for any person who is not a citizen of  
29 the United States to carry or possess any firearm, without first having  
30 obtained an alien firearm license from the director of licensing. In  
31 order to be eligible for a license, an alien must provide proof that he  
32 or she is lawfully present in the United States, which the director of  
33 licensing shall verify through the appropriate authorities. Except as  
34 provided in subsection (2)(a) of this section, and subject to the  
35 additional requirements of subsection (2)(b) of this section, the  
36 director of licensing may issue an alien firearm license only upon  
37 receiving from the consul domiciled in this state representing the  
38 country of the alien, a certified copy of the alien's criminal history

1 in the alien's country indicating the alien is not ineligible under RCW  
2 9.41.040 to own, possess, or control a firearm, and the consul's  
3 attestation that the alien is a responsible person.

4 (2)(a) Subject to the additional requirements of (b) of this  
5 subsection, the director of licensing may issue an alien firearm  
6 license without a certified copy of the alien's criminal history or the  
7 consul's attestation required by subsection (1) of this section, if the  
8 alien has been a resident of this state for at least two years and:  
9 (i) The alien is from a country without a consul domiciled within this  
10 state, or (ii) the consul has failed to provide, within ninety days  
11 after a request by the alien, the criminal history or attestation  
12 required by subsection (1) of this section.

13 (b) Before issuing an alien firearm license under subsection (1) of  
14 this section or this subsection (2), the director of licensing shall  
15 ask the local law enforcement agency of the jurisdiction in which the  
16 alien resides to complete a background and fingerprint check to  
17 determine the alien's eligibility under RCW 9.41.040 to own, possess,  
18 or control a firearm. The law enforcement agency shall complete a  
19 background check within thirty days after the request, unless the alien  
20 does not have a valid Washington driver's license or Washington state  
21 identification card. In the latter case, the law enforcement agency  
22 shall complete the background check within sixty days after the  
23 request.

24 A signed application for an alien firearm license shall constitute  
25 a waiver of confidentiality and written request that the department of  
26 social and health services, mental health institutions, and other  
27 health care facilities release information relevant to the applicant's  
28 eligibility for an alien firearm license to an inquiring law  
29 enforcement agency.

30 (3) The ~~((fee for an))~~ alien firearm license shall be ~~((twenty-five~~  
31 ~~dollars, and the license shall be))~~ valid for ~~((four))~~ five years from  
32 the date of issue so long as the alien is lawfully present in the  
33 United States. The nonrefundable fee, paid upon application, for the  
34 five-year license shall be fifty-five dollars plus additional charges  
35 imposed by the federal bureau of investigation that are passed on to  
36 the applicant. The fee shall be distributed as follows:

37 (a) Fifteen dollars shall be paid to the department of licensing;

38 (b) Twenty-five dollars shall be paid to the Washington state  
39 patrol; and

1        (c) Fifteen dollars shall be paid to the local law enforcement  
2 agency conducting the background check.

3        (4) This section shall not apply to Canadian citizens resident in  
4 a province which has an enactment or public policy providing  
5 substantially similar privilege to residents of the state of Washington  
6 and who are carrying or possessing weapons for the purpose of using  
7 them in the hunting of game while such persons are in the act of  
8 hunting, or while on a hunting trip, or while such persons are  
9 competing in a bona fide trap or skeet shoot or any other organized  
10 contest where rifles, pistols, or shotguns are used. Nothing in this  
11 section shall be construed to allow aliens to hunt or fish in this  
12 state without first having obtained a regular hunting or fishing  
13 license.

14        **Sec. 12.** RCW 9.41.190 and 1994 sp.s. c 7 s 420 are each amended to  
15 read as follows:

16        (1) It is unlawful for any person to manufacture, own, buy, sell,  
17 loan, furnish, transport, or have in possession or under control, any  
18 machine gun, short-barreled shotgun, or short-barreled rifle; or any  
19 part designed and intended solely and exclusively for use in a machine  
20 gun, short-barreled shotgun, or short-barreled rifle, or in converting  
21 a weapon into a machine gun, short-barreled shotgun, or short-barreled  
22 rifle; or to assemble or repair any machine gun, short-barreled  
23 shotgun, or short-barreled rifle.

24        (2) This section shall not apply to:

25        (a) Any peace officer in the discharge of official duty or  
26 traveling to or from official duty, or to any officer or member of the  
27 armed forces of the United States or the state of Washington in the  
28 discharge of official duty or traveling to or from official duty; or

29        (b) A person, including an employee of such person if the employee  
30 has undergone fingerprinting and a background check under RCW  
31 9.41.110(3)(b), who or which is exempt from or licensed under federal  
32 law, and engaged in the production, manufacture, repair, or testing of  
33 machine guns, short-barreled shotguns, or short-barreled rifles:

34        (i) To be used or purchased by the armed forces of the United  
35 States;

36        (ii) To be used or purchased by federal, state, county, or  
37 municipal law enforcement agencies or their employees; or

1 (iii) For exportation in compliance with all applicable federal  
2 laws and regulations.

3 (3) It shall be an affirmative defense to a prosecution brought  
4 under this section that the machine gun, short-barreled shotgun, or  
5 short-barreled rifle was acquired prior to July 1, 1994, and is  
6 possessed in compliance with federal law.

7 (4) Any person violating this section is guilty of a class C  
8 felony.

9 **Sec. 13.** RCW 9.41.280 and 1995 c 87 s 1 are each amended to read  
10 as follows:

11 (1) It is unlawful for a person to carry onto, or to possess on,  
12 public or private elementary or secondary school premises, school-  
13 provided transportation, or areas of facilities while being used  
14 exclusively by public or private schools:

15 (a) Any firearm;

16 (b) Any other dangerous weapon as defined in RCW 9.41.250;

17 (c) Any device commonly known as "nun-chu-ka sticks", consisting of  
18 two or more lengths of wood, metal, plastic, or similar substance  
19 connected with wire, rope, or other means;

20 (d) Any device, commonly known as "throwing stars", which are  
21 multi-pointed, metal objects designed to embed upon impact from any  
22 aspect; or

23 (e) Any air gun, including any air pistol or air rifle, designed to  
24 propel a BB, pellet, or other projectile by the discharge of compressed  
25 air, carbon dioxide, or other gas.

26 (2) Any such person violating subsection (1) of this section is  
27 guilty of a gross misdemeanor. If any person is convicted of a  
28 violation of subsection (1)(a) of this section, the person shall  
29 (~~lose~~) have his or her concealed pistol license, if any revoked for  
30 a period of three years. Anyone convicted under this subsection is  
31 prohibited from applying for a concealed pistol license for a period of  
32 three years. The court shall send notice of the revocation to the  
33 department of licensing, and the city, town, or county which issued the  
34 license.

35 Any violation of subsection (1) of this section by elementary or  
36 secondary school students constitutes grounds for expulsion from the  
37 state's public schools in accordance with RCW 28A.600.010. An  
38 appropriate school authority shall promptly notify law enforcement and

1 the student's parent or guardian regarding any allegation or indication  
2 of such violation.

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

4 (a) Any student or employee of a private military academy when on  
5 the property of the academy;

6 (b) Any person engaged in military, law enforcement, or school  
7 district security activities;

8 (c) Any person who is involved in a convention, showing,  
9 demonstration, lecture, or firearms safety course authorized by school  
10 authorities in which the firearms of collectors or instructors are  
11 handled or displayed;

12 (d) Any person while the person is participating in a firearms or  
13 air gun competition approved by the school or school district;

14 (e) Any person in possession of a pistol who has been issued a  
15 license under RCW 9.41.070, or is exempt from the licensing requirement  
16 by RCW 9.41.060, while picking up or dropping off a student;

17 (f) Any nonstudent at least eighteen years of age legally in  
18 possession of a firearm or dangerous weapon that is secured within an  
19 attended vehicle or concealed from view within a locked unattended  
20 vehicle while conducting legitimate business at the school;

21 (g) Any nonstudent at least eighteen years of age who is in lawful  
22 possession of an unloaded firearm, secured in a vehicle while  
23 conducting legitimate business at the school; or

24 (h) Any law enforcement officer of the federal, state, or local  
25 government agency.

26 (4) Subsections (1)(c) and (d) of this section do not apply to any  
27 person who possesses nun-chu-ka sticks, throwing stars, or other  
28 dangerous weapons to be used in martial arts classes authorized to be  
29 conducted on the school premises.

30 (5) Except as provided in subsection (3)(b), (c), (f), and (h) of  
31 this section, firearms are not permitted in a public or private school  
32 building.

33 (6) "GUN-FREE ZONE" signs shall be posted around school facilities  
34 giving warning of the prohibition of the possession of firearms on  
35 school grounds.

36 **Sec. 14.** RCW 9.41.800 and 1994 sp.s. c 7 s 430 are each amended to  
37 read as follows:

1 (1) Any court when entering an order authorized under RCW  
2 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
3 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070  
4 shall, upon a showing by clear and convincing evidence, that a party  
5 has: Used, displayed, or threatened to use a firearm or other  
6 dangerous weapon in a (~~serious offense~~) felony, or previously  
7 committed any offense that makes him or her ineligible to possess a  
8 firearm under the provisions of RCW 9.41.040:

9 (a) Require the party to surrender any firearm or other dangerous  
10 weapon;

11 (b) Require the party to surrender any concealed pistol license  
12 issued under RCW 9.41.070;

13 (c) Prohibit the party from obtaining or possessing a firearm or  
14 other dangerous weapon;

15 (d) Prohibit the party from obtaining or possessing a concealed  
16 pistol license.

17 (2) Any court when entering an order authorized under RCW  
18 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,  
19 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070  
20 may, upon a showing by a preponderance of the evidence but not by clear  
21 and convincing evidence, that a party has: Used, displayed, or  
22 threatened to use a firearm or other dangerous weapon in a (~~serious  
23 offense~~) felony, or previously committed any offense that makes him or  
24 her ineligible to possess a pistol under the provisions of RCW  
25 9.41.040:

26 (a) Require the party to surrender any firearm or other dangerous  
27 weapon;

28 (b) Require the party to surrender a concealed pistol license  
29 issued under RCW 9.41.070;

30 (c) Prohibit the party from obtaining or possessing a firearm or  
31 other dangerous weapon;

32 (d) Prohibit the party from obtaining or possessing a concealed  
33 pistol license.

34 (3) The court may order temporary surrender of a firearm or other  
35 dangerous weapon without notice to the other party if it finds, on the  
36 basis of the moving affidavit or other evidence, that irreparable  
37 injury could result if an order is not issued until the time for  
38 response has elapsed.

1           (4) In addition to the provisions of subsections (1), (2), and (3)  
2 of this section, the court may enter an order requiring a party to  
3 comply with the provisions in subsection (1) of this section if it  
4 finds that the possession of a firearm or other dangerous weapon by any  
5 party presents a serious and imminent threat to public health or  
6 safety, or to the health or safety of any individual.

7           (5) The requirements of subsections (1), (2), and (4) of this  
8 section may be for a period of time less than the duration of the  
9 order.

10          (6) The court may require the party to surrender any firearm or  
11 other dangerous weapon in his or her immediate possession or control or  
12 subject to his or her immediate possession or control to the sheriff of  
13 the county having jurisdiction of the proceeding, the chief of police  
14 of the municipality having jurisdiction, or to the restrained or  
15 enjoined party's counsel or to any person designated by the court.

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