

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2420

Chapter 295, Laws of 1996

(partial veto)

54th Legislature
1996 Regular Session

FIREARMS POSSESSION--REVISIONS

EFFECTIVE DATE: 6/6/96

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

CLYDE BALLARD

**Speaker of the
House of Representatives**

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

JOEL PRITCHARD

President of the Senate

Approved March 30, 1996, with the
exception of sections 7 and 12, which
are vetoed.

MIKE LOWRY

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.

TIMOTHY A. MARTIN

Chief Clerk

FILED

March 30, 1996 - 4:29 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2420

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 (2) ~~((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. 7 was vetoed. See message at end of chapter.

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

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

35 (a) The purchaser produces a valid concealed pistol license and the
36 dealer has recorded the purchaser's name, license number, and issuing
37 agency, such record to be made in triplicate and processed as provided
38 in subsection (5) of this section. For purposes of this subsection

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

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

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

19 (2)(a) Except as provided in (b) of this subsection, in determining
20 whether the purchaser meets the requirements of RCW 9.41.040, the chief
21 of police or sheriff, or the designee of either, shall check with the
22 national crime information center, the Washington state patrol
23 electronic data base, the department of social and health services
24 electronic data base, and with other agencies or resources as
25 appropriate, to determine whether the applicant is ineligible under RCW
26 9.41.040 to possess a firearm.

27 (b) Once the system is established, a dealer shall use the state
28 system and national instant criminal background check system, provided
29 for by the Brady Handgun (~~((Control))~~) Violence Prevention Act (~~((H.R.~~
30 ~~1025, 103rd Cong., 1st Sess. (1993)))~~) (18 U.S.C. Sec. 921 et seq.), to
31 make criminal background checks of applicants to purchase firearms.
32 However, a chief of police or sheriff, or a designee of either, shall
33 continue to check the department of social and health services'
34 electronic data base and with other agencies or resources as
35 appropriate, to determine whether applicants are ineligible under RCW
36 9.41.040 to possess a firearm.

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

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

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

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

1 which the purchaser resides; and a statement that the purchaser is
2 eligible to possess a pistol under RCW 9.41.040.

3 The application shall contain a warning substantially as follows:

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

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

13 The dealer shall, by the end of the business day, sign and attach
14 his or her address and deliver (~~the original~~) a copy of the
15 application and such other documentation as required under subsection
16 (1) of this section to the chief of police of the municipality or the
17 sheriff of the county of which the purchaser is a resident. The
18 triplicate shall be retained by the dealer for six years. The dealer
19 shall deliver the pistol to the purchaser following the period of time
20 specified in this section unless the dealer is notified of an
21 investigative hold under subsection (4) of this section in writing by
22 the chief of police of the municipality or the sheriff of the county,
23 whichever is applicable, denying the purchaser's application to
24 purchase and the grounds thereof. The application shall not be denied
25 unless the purchaser is not eligible to possess a pistol under RCW
26 9.41.040 or 9.41.045, or federal law.

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

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

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

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

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

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

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

9 (c) For issuing a concealed pistol license to a person ineligible
10 for such a license;

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

13 (e) For revoking or failing to revoke an issued concealed pistol
14 license; ((or))

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

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

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

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

24 (a) Directing an issuing agency to issue a concealed pistol license
25 wrongfully refused;

26 (b) Directing a law enforcement agency to approve an application to
27 purchase wrongfully denied; ((or))

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

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

33 The application for the writ may be made in the county in which the
34 application for a concealed pistol license or to purchase a pistol was
35 made, or in Thurston county, at the discretion of the petitioner. A
36 court shall provide an expedited hearing for an application brought
37 under this subsection (2) for a writ of mandamus. A person granted a
38 writ of mandamus under this subsection (2) shall be awarded reasonable
39 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*
15 *to 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. 12 was vetoed. See message at end of chapter.

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

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

16 (a) Any firearm;

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

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

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

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

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

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

1 appropriate school authority shall promptly notify law enforcement and
2 the student's parent or guardian regarding any allegation or indication
3 of such violation.

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

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

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

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

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

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

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

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

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

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

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

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

37 **Sec. 14.** RCW 9.41.800 and 1994 sp.s. c 7 s 430 are each amended to
38 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.

Passed the House March 5, 1996.

Passed the Senate March 1, 1996.

Approved by the Governor March 30, 1996, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 30, 1996.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 7 and
3 12, Substitute House Bill No. 2420 entitled:

4 "AN ACT Relating to possession of firearms;"

5 Substitute House Bill No. 2420 makes a number of substantive and
6 technical changes to state law relating to the sale, transfer, and
7 possession of firearms. This legislation is the result of a great deal
8 of hard work by legislators and others concerned with this important
9 issue. I commend their efforts.

10 Under current law, if a person is issued a concealed pistol license
11 and it is later determined that the person was ineligible, the person
12 is required to lawfully transfer any pistols purchased during the
13 period he or she possessed the license. These requirements are based
14 on good public policy aimed at reducing firearms' possession by people
15 with a criminal history. Section 7 of this bill removes these
16 requirements. This is a step backward in protecting the public against
17 potentially dangerous people.

18 Section 12 of Substitute House Bill No. 2420 amends the prohibition
19 against the possession, ownership, sale, purchase, and manufacture of
20 machine guns, short-barreled shotguns, short-barreled rifles, and the
21 parts for these weapons. Current law exempts federal, state, county,
22 or municipal law enforcement agencies from this prohibition. Section
23 12 expands this exemption to include employees of these agencies. As
24 drafted, this section would allow private individuals to own machine
25 guns in their homes. This is totally unacceptable. Public safety

1 demands stringent control over these dangerous weapons, with few and
2 carefully tailored exceptions.

3 For these reasons, I have vetoed sections 7 and 12 of Substitute
4 House Bill No. 2420.

5 With the exception of sections 7 and 12, Substitute House Bill No.
6 2420 is approved."